

Corporate Governance Code

Enhancing the Governance, Culture and Conduct
of MFSA Authorised Entities

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PREAMBLE

Corporate governance: *“the system by which all companies are directed and controlled”*,¹ or more widely *“the social, legal, and economic process through which companies function and are held accountable”*. It is strategically crucial to ensure that all Authorised Entities operate transparently, efficiently and effectively, and achieve a judicious balance between their own interest and the various constituents in the environment in which they operate. Corporate governance ensures the Board of Directors and management are discharging their functions effectively when it comes to building and satisfying stakeholders’ confidence.

It is the responsibility of the Board to ensure there is good corporate governance, by setting culture, managing stakeholders and ensuring that adequate systems for control and oversight of the business are in place, thus delivering satisfactory outcomes.

Good corporate governance fosters mutual trust with stakeholders, including customers, employees, intermediaries and the general public, as well as with the jurisdiction as a whole. It is conducive to value creation for all stakeholders, ensuring the financial soundness of firms, the protection of investors, as well as the integrity of the market. Conversely, governance shortcomings may lie at the heart of failure in financial services entities, whether that is a failure to treat customers fairly, a failure to ensure appropriate anti-money laundering (AML) and other regulatory compliance/controls, or failure to abide with good business practices. This may in turn have repercussions on the business sector in which the entity operates and, consequently, on the economy in general and on the reputation of the jurisdiction. Furthermore, good governance is also considered a key enabler for entities to generate business benefits, shareholder value and higher trust, enhancing their strategic competitive advantage.

Internal governance structure and arrangements are considered as key indicators of the compliance culture and performance readiness of Authorised Entities. In this respect, as outlined in its [Strategic Update](#) published in 2021 and the [Supervisory Priorities](#) for 2022, the Malta Financial Services Authority (MFSA or the ‘Authority’) places a lot of emphasis on ensuring that Boards of Authorised Entities adopt a governance system that delivers satisfactory and high quality outcomes.

In this light, the Authority is issuing this Corporate Governance Code (Code), applicable cross-sectorally to all unlisted entities authorised by the MFSA, inter alia to:

- set out best practice in corporate governance for entities falling within the MFSA’s regulatory remit;
- enhance governance structures, improve relations and strengthen trust with stakeholders;

¹ The Financial Aspects of Corporate Governance (The Cadbury Report), December 1992, available online at: <https://ecgi.global/sites/default/files//codes/documents/cadbury.pdf>.

- ensure effective operation of Authorised Entities' Boards and management;
- assist directors and Senior Management to fulfil their duties, including in advancing the growth and development of the entities they are entrusted to direct and manage;
- ensure that Authorised Entities have adequate and effective internal controls, and procedures to discharge their responsibilities and monitor outcomes
- enhance stakeholder and public confidence in the financial services sector in general; and
- assist entities to put in place improved governance standards to achieve enhanced resilience and sustainable operations going forward, as well as ensuring ethical behaviour.

This Corporate Governance Code shall not apply to Listed Entities falling within the scope of the Capital Market Rules given that these contain more specific provisions in this regard.

In structuring the revised corporate governance framework, the Authority conducted a public consultation exercise, and the views put forward by stakeholders were taken into consideration in devising this document. Further to such consultation, and best practices set by international bodies such as the European Commission and the OECD, the resultant framework shall comprise of a combination of elements of 'soft law' mechanisms, such as this Code and other sectoral initiatives that may be implemented, together with mandatory provisions incorporated in the respective regulatory frameworks.

The Code provides a set of principles, complemented by supporting provisions, which are to be applied on a 'best effort basis'. These are organised into four main sections, as follows: [i] the Effective Board; [ii] Internal Controls; [iii] Stakeholder Engagement; and [iv] Corporate Culture, CSR and ESG. The Authority believes that this approach ensures efficacy and proportionality in the Code's application and is in line with corporate governance policies and approaches advocated by international bodies such as the European Commission and OECD.

These principles are designed to enhance the legal, institutional and regulatory framework for good governance in the Maltese financial services sector. They thus complement the current provisions already in force in the legal and regulatory framework. Entities should endeavour to adopt these principles, thereby fostering an environment of trust, transparency and accountability necessary for long-term investment, financial stability and business integrity.

Title 1 **Scope and High-Level Principles**

Section 1 **Scope and Application**

- 1.1.1 This Code shall apply to all Persons authorised by the MFSA to provide financial services in or from within Malta.
- 1.1.2 This Code shall also apply *mutatis mutandis* to Authorised Entities which are not limited liability companies. The term 'Board of Directors', for example, is meant to encompass the different models of Board structures and management bodies.
- 1.1.3 Given the wide range of entities falling within its scope, this Code's application is based on the principle of proportionality. Rather than providing a rigid set of rules, the Code is comprised of principles, complemented by supporting provisions, which Authorised Entities are expected to comply with on a 'best-effort basis'.
- 1.1.4 All entities are expected to endeavour to adhere to the Code – albeit in a manner that is commensurate with the nature, size and complexity of the entity concerned. This is, of course, without prejudice to any requirements or obligations set out in the applicable regulatory frameworks.
- 1.1.5 In applying the principle of proportionality, as set out in 1.1.4, Authorised Entities should, as far as applicable, consider the following criteria:
- i. the size of the institution in terms of the balance sheet total, client assets held or managed, and/or the volume of transactions processed by the institution or its subsidiaries within the scope of prudential consolidation;
 - ii. the legal form of the institution;
 - iii. the type of authorised activities and services performed by the institution;
 - iv. the geographical presence of the institution and the size of the operations in each jurisdiction;
 - v. the underlying business model and strategy, the nature and complexity of the business activities, and the institution's organisational structure;
 - vi. the risk strategy, risk appetite and actual risk profile of the institution, also taking into account the result of the annual capital adequacy assessment;
 - vii. the type of clients; and
 - viii. the nature and complexity of the products, contracts or instruments offered by the institution.

1.1.6 Boards of Directors are ultimately responsible for the governance of their companies. Where this Code sets out expectations on an entity, this should also be considered a reference to the responsibility of the Board of Directors for the overall governance of the entity and for the policies and procedures adopted for the better governance of the organisation.

1.1.7 This title outlines the high-level principles which should guide Authorised Entities in the exercise of their financial services activity in or from Malta.

1.1.8 Title 2 of this Code sets out the principles of good corporate governance. It is organised into four main sections, as follows:

- i. the Effective Board;
- ii. Internal Controls;
- iii. Stakeholders Engagement; and
- iv. Corporate Culture, CSR and ESG.

Each section provides a number of core principles which are considered essential for good governance. These are then complemented by supporting provisions that provide guidance on achieving the principles' objectives.

1.1.9 This Code should not be deemed to override the applicable laws, regulations or rules which regulate Authorised Entities, neither should it be considered or construed as advice or any other form of commitment on the part of the MFSA. Should a conflict arise between this Code and the applicable laws, regulations or rules, the respective laws, regulations or rules are to prevail. Indeed, where more onerous/mandatory provisions are prescribed in the applicable regulatory framework, the more onerous/mandatory provisions are to apply.

Section 2 High-level Principles

1.2.1 This Code is aimed at all those entities authorised by the MFSA to carry on regulated activity. They shall act in an ethical manner taking into consideration the best interests of their clients and the integrity and reputation of Malta's financial system, with the tone being set from the top.

1.2.2 Authorised Entities shall act honestly, fairly and professionally and shall comply with all relevant applicable legislative and regulatory frameworks.

1.2.3 Authorised Entities are inter alia also expected to:

- i. conduct their business with integrity;
- ii. adequately consider their clients' interests and treat them fairly;
- iii. conduct their business with due skill, care and diligence;
- iv. manage conflicts of interests;
- v. organise and control their affairs effectively, inter alia establishing an adequate risk management framework;
- vi. maintain adequate financial resources; and
- vii. cooperate with the MFSA in an open and honest manner and disclose to the Authority any information which the Authority would reasonably expect to be made aware of.

1.2.4 Authorised Entities are to:

- i. make reference to and, as applicable, comply with the applicable Maltese laws, regulations and rules issued thereunder as well as any Guidance Notes which may be issued by the MFSA or other relevant body to assist the said entities in complying with their legal and regulatory obligations.
- ii. cooperate in an open and honest manner with the MFSA and any other relevant regulatory authority; and
- iii. take due account, and as applicable, comply with any relevant EU legislation as well as any Guidance Notes/Statements/Industry Best Practices which may be issued by international standard-setting bodies.

Section 3 Definitions

1.3.1 For the purposes of this Code, the definitions set out under this section should be read in conjunction with the provisions of the MFSA Act and any other law administered by the Authority for the time being in force in Malta.

1.3.2 In the event that any of the definitions contained hereunder conflict with a definition under the MFSA Act or any other law administered by the Authority for the time being in force in Malta, the definitions set out in the Act or in any other such law shall prevail, unless otherwise specified herein.

Authorised Entity	'Authorised Entity' or 'entity' shall refer to a Person, as defined in the MFSA Act, authorised by the Authority, under any framework for which it is designated as the competent authority.
Capital Market Rules	'Capital Market Rules' means those Rules issued by the competent authority under Part III of the Financial Markets Act.
Chairperson	'Chairperson' shall refer to the chair of the Board of Directors.
Chief Executive Officer	'Chief Executive Officer' or 'CEO' means the person who is responsible for managing and steering the overall business activities.
Client	'Client' means any natural or legal Person to whom an Authorised Entity provides a service.
Corporate Governance Code	the 'Corporate Governance Code' or 'Code' shall refer to this Code.
Committee	'Committee' shall refer to a committee of the Board.
Company	'Company' shall have the same meaning assigned to it by the Companies Act, Chapter 386 of the Laws of Malta.
Companies Act	'Companies Act' shall refer to the Companies Act, Chapter 386 of the Laws of Malta.
Corporate Social Responsibility	'Corporate Social Responsibility' or 'CSR' means the commitment by entities to behave ethically and to contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society in general.
Director	'Director' or 'Director sitting on the Board' refers to any person occupying the position of director of a company by whatever name such person may be called carrying out substantially the same functions in relation to the direction

of the company as those carried out by a director.

ESG 'ESG' stands for Environmental, Social and Governance.

Executive Director an 'Executive Director' is a Director who is engaged in the management of the entity.

Financial Markets Act 'Financial Markets Act' or 'FMA' shall refer to the Financial Markets Act, Chapter 345 of the Laws of Malta.

Financial Services 'Financial services' means the business of credit and financial institutions, the business of insurance and the activities of insurance intermediaries, the provision of investment services and collective investment schemes, pensions and retirement funds, regulated markets, central securities depositories, the provision of services related to virtual financial assets and such other areas of activity or services as may be placed under the supervisory and regulatory competence of the Authority by the Minister or by any other law.

ICT and Security Risk 'ICT and security Risk' refers to the risk of loss caused by breach of confidentiality, failure of integrity of systems and data, inappropriateness or unavailability of systems and data or the inability to change information technology within a reasonable time and with reasonable costs when the environment or business requirements change. It includes security risks resulting from inadequate or failed internal processes or external events including cyber-attacks or inadequate physical security.

Independent Director An 'Independent Director' is a Non-Executive Director who is free from any present and past business, family, or other relationship of any nature – with the entity, its controlling shareholder/s or the management of either – that could influence the Director's objective and

balanced judgment and reduce the member's ability to take decisions independently.

Listed Entity 'Listed Entity' means an entity whose financial instruments have been admitted to listing on a trading venue in accordance with the provisions of the Financial Markets Act.

Malta Financial Services Authority 'Malta Financial Services Authority' or 'MFSA' refers to the Malta Financial Services Authority, as established by the Malta Financial Services Authority Act, Chapter 330 of the Laws of Malta.

MFSA Act 'MFSA Act' or 'the Act' shall refer to the Malta Financial Services Authority Act, Chapter 330 of the Laws of Malta.

Management Body 'Management Body' means the body or bodies of an institution which are appointed in accordance with the law, which are empowered to set the institution's strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the persons who effectively direct the business of the entity.

Non-Executive Director A 'Non-Executive Director' is a Director who is not engaged in the daily management of the entity. A Non-Executive Director has an important role in overseeing and monitoring management decision making within the entity.

Person 'Person' shall refer to the term Person as defined in Article 2 of the MFSA Act, i.e., any entity corporate or unincorporated which may hold a licence or other authorisation issued by the Authority or which falls within the supervisory or regulatory authority of the Authority.

Senior Management 'Senior Management' or 'senior executives' shall refer to those natural persons who exercise executive functions within the Authorised Entity and who are responsible, and

accountable to the Board, for the day-to-day management of the Authorised Entity.

Ultimate Beneficial Owner 'Ultimate Beneficial Owner' or 'UBO' refers to the natural person(s) who ultimately owns or controls an entity and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal Person or arrangement.

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Title 2 Principles of Good Corporate Governance

Section 1 The Effective Board

2.1.1 *The Role and Function of the Board*

2.1.1.1 Core Principles

2.1.1.1.1 Authorised Entities should be led and controlled by an effective Board that is collectively responsible for the entity's long-term sustainable success.

2.1.1.1.2 The Board of Directors holds the ultimate and overall responsibility for an entity's corporate governance arrangements. The Board therefore has the first level responsibility for executing the following essential pillars of corporate governance:

- i. accountability;
- ii. oversight and monitoring;
- iii. risk management;
- iv. transparency;
- v. strategy formulation; and
- vi. policy development.

2.1.1.2 Supporting Provisions

2.1.1.2.1 Quality leadership is essential to performance. The Board's primary role is to set the strategy and to provide leadership for the entity, directing and supervising its affairs, enabling it to meet its strategic and sustainable aims, and enhancing value for shareholders. The Board should fulfil its responsibilities to all stakeholders.

2.1.1.2.2 Directors sitting on the Board are expected to provide leadership, integrity, and judgment in directing the entity, both collectively and individually.

2.1.1.2.3 The Board should set the purpose, values and strategy of the entity and satisfy itself that these are aligned with its culture. It should ensure that a culture of compliance is embedded into the entity's policies, procedures, practices and behaviours.

- 2.1.1.2.4 The Board should regularly review and evaluate corporate strategy, significant operational and financial plans, risk policies and performance objectives, and monitor implementation and corporate performance within the parameters of all relevant laws, regulations and codes of best business practice.
- 2.1.1.2.5 The Board should clearly define and document its remit and power and ensure that these are known by all Directors and the Senior Management of the entity. Delegation of authority to management should also be clearly documented and defined. Independently of any powers and functions that the Directors may from time to time validly delegate to management, it remains a fundamental responsibility of Directors to effectively monitor the implementation of strategy, risks and policy by management.
- 2.1.1.2.6 The Board should apply high ethical standards and take into account the interests of stakeholders. Its members should act:
- i. responsibly and with the highest degree of integrity when exercising independent objective judgment; and
 - ii. on a fully informed basis, exercising the duty of care and in good faith, with due diligence and in the best interests of the entity and its shareholders.
- 2.1.1.2.7 The Board should inter alia:
- i. define in clear and concise terms the entity's strategy, risk appetite, policies, business policies, management performance criteria which can be measured in a precise and tangible manner;
 - ii. ensure that the necessary resources are in place for the entity to meet its objectives;
 - iii. continuously assess and monitor the entity's present and future operations, opportunities, threats and risks in the external environment, and current and future strengths and weaknesses;
 - iv. establish an effective decision-making process to develop the entity's business efficiently. Where decisions may impact different shareholder groups in different ways, the Board should ensure the shareholders' equitable treatment and that shareholders' interests are appropriately considered;

- v. evaluate the management's implementation of corporate strategy and financial objectives. The strategy, risks, processes and policies adopted for its implementation should be regularly reviewed by the Board using key performance indicators so that corrective measures can be taken to address any deficiencies, mitigate any risks and ensure the future sustainability of the enterprise;
- vi. establish an adequate internal control framework, which inter alia enable risks to be identified and managed;
- vii. ensure that the entity has appropriate policies and procedures for the entity and its employees to maintain the highest standards of corporate conduct, including compliance with applicable laws, regulations, and business and ethical standards. The Board should ensure that such policies and procedures are kept under review to ensure effectiveness;
- viii. establish a transparent internal and external reporting system so that the Board has continuous access to accurate, relevant and timely information such that the Board can discharge its duties, exercise objective judgment on corporate affairs, take pertinent decisions and ensure that an informed assessment can be made of all issues facing the entity;
- ix. recognise and support innovation within the entity. The Board should play an important role in guiding transformation, by challenging basic assumptions within the entity and helping in fostering a culture of change to keep the business evolving as the dynamics of its environment develop and enable it to tap into new opportunities;
- x. strike a balance between enterprise risks and control in the entity;
- xi. ensure the integrity of accounting and financial reporting systems, including financial and operational controls.
- xii. recognise that the entity's success depends upon its relationship with all groups of its stakeholders, including employees, suppliers, customers, and the wider community in which the entity operates. The Board should maintain an effective dialogue with such groups in the best interests of the entity;
- xiii. develop a succession policy for the future composition of the Board of Directors and particularly the executive component

thereof, for which the Chairperson should hold key responsibility;
and

- xiv. ensure that the financial statements of the entity and the annual audit thereof have been completed within the stipulated time periods.

2.1.1.2.8 Directors are to act honestly and in good faith in the best interests of the entity.

2.1.1.2.9 Directors are to promote the well-being of the entity. They are responsible for the general governance of the entity, its proper administration and management, and the general supervision of its affairs.

2.1.1.2.10 Directors are expected to:

[a] exercise the degree of care, diligence and skill which would be exercised by a reasonably diligent person having both:

- (i) the knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by or entrusted to that Director in relation to the entity; and
- (ii) the knowledge, skill and experience that the Director has;

[b] not make secret or personal profits from their position without the consent of the entity, nor make personal gain, whether directly or indirectly, from confidential information;

[c] disclose all actual and potential conflicts of interest and implement steps to mitigate those conflicts of interest to ensure that their personal interests do not conflict with the interests of the entity;

[d] not use any property, information or opportunity of the entity for their own or anyone else's benefit, nor obtain benefit in any other way in connection with the exercise of their powers, except with the consent of the company in a general meeting or except as permitted by the company's memorandum or articles of association;

[e] exercise the powers they have for the purposes for which the powers were conferred and should not misuse such powers; and

[f] not bring the entity into disrepute through their conduct.

2.1.1.2.11

In order to fulfil their responsibilities efficiently and effectively, all Directors should inter alia:

- i. have adequate knowledge of the business of the entity and a clear understanding of its risks, keeping abreast of any new developments. This should at least be commensurate with their responsibilities;
- ii. be cognisant and conversant with the statutory and regulatory requirements that apply to them and the business of their entity;
- iii. regularly attend and actively participate in meetings of the Board;
- iv. exercise prudent and effective controls which enable risk to be assessed and managed in order to achieve the continued prosperity of the entity;
- v. be accountable for all actions or omissions attributable to them or their delegates;
- vi. determine the entity's strategic aims and the organisational structure;
- vii. regularly review management performance and ensure that the entity has the appropriate mix of financial and human resources to meet its objectives and to improve the economic and commercial prosperity of the entity;
- viii. set the entity's values and standards in order to enhance and safeguard the interests of shareholders;
- ix. declare any conflicts of interest and abstain from meetings, discussions and decisions that potentially give rise to such conflicts;
- x. act with integrity and due diligence while discharging their duties as Directors and in particular in the decision and policy-making process of the entity, which should be reflected in all the entity's dealings and at every level of the organisation; and
- xi. exercise accountability to shareholders and be responsible to other relevant stakeholders;
- xii. devote sufficient time to perform their functions and responsibilities as a Director, including the functions and

responsibilities of understanding the business of the entity, the main risks and the implications of the business and risk strategy.

2.1.1.2.12 In cases where a Director is unable to acquiesce to a decision of the Board because a proposed course of action is not deemed to be in accordance with their statutory or fiduciary duties and responsibilities, and all reasonable steps have been taken to resolve the issue, the Director may feel that resignation may be a better alternative than acquiescence. In such instances, the shareholders are entitled to an honest account of any such disagreements between Directors. In this instance, Directors should also specifically consider their regulatory obligations and whether to report any malpractice to the Authority.

2.1.1.2.13 Each Director should apply the necessary time and attention to his duties and should undertake to limit the number of directorships or other commitments held in other companies to such an extent that the proper performance of his duties is assured. The Director should also openly inform the Board and the entity when taking on additional directorships during his/her tenure as a Board member.

2.1.2 ***Structure and Composition of the Board of Directors***

2.1.2.1 *Core Principles*

2.1.2.1.1 The Board's structure and composition should ensure that it can fulfil its fundamental responsibilities and ensure adequate oversight of the entity's operations, taking into account the nature, size, and complexity of its business.

2.1.2.1.2 The Board should be composed of persons who, as a group, have the required diversity of knowledge, judgment, and experience to complete their tasks in an appropriate and professional manner.

2.1.2.1.3 The Board should be composed of a combination of Executive and Non-Executive Directors, including Independent Non-Executive Directors.

2.1.2.1.4 The composition and structure of the Board should ensure that no member or group of members can dominate decision making, influencing the entity disproportionately.

2.1.2.1.5 Responsibilities, accountabilities and reporting lines within the entity should be clearly established and documented.

2.1.2.2 Supporting Provisions

2.1.2.2.1 The Board should be of sufficient size that the balance of skills and experience is appropriate for the type of business and that changes to the Board's composition can be managed without undue disruption. The Board composition should ensure timely and effective decision making.

2.1.2.2.2 The Board should, collectively and individually, be of the appropriate calibre, with the necessary skills, diversity of knowledge, judgment and experience to contribute effectively to the decision-making process.

2.1.2.2.3 An assessment or re-assessment of the collective suitability of the Board should be carried out on a regular basis, particularly in the case of events that can materially affect such collective suitability

2.1.2.2.4 The composition of the Board should:

- i. Provide an adequate combination of Executive and Non-Executive Directors, in accordance with the entity's nature, size and complexity;
- ii. Ensure a level of diversity of knowledge, judgment, and experience to properly complete their tasks, commensurate with the sophistication and scale of the organisation; and
- iii. Ensure that there is a balance of expertise and experience to allow it to contribute effectively to any debate or action.

2.1.2.2.5 The exact composition and balance on a Board will depend on the circumstances and business of each enterprise. Entities should ensure a balance such that independence is ensured, and challenge is facilitated. Furthermore, there should not be undue reliance on particular individuals.

2.1.2.2.6 Non-Executive Directors and Executive Directors have the same responsibilities in terms of law. However, as the Non-Executive Directors are not involved in the day-to-day running of the business, they can bring fresh perspectives and contribute more objectively to supporting – as well as constructively challenging, questioning and monitoring – the management team.

2.1.2.2.7 The entity should appoint Non-Executive Directors of sufficient calibre whose standing would offer a balance and a mix of required skills to the Board. They are expected to possess a broad range of skills and demonstrate their capacity to operate in difficult situations.

2.1.2.2.8 Independent Directors should be free from any business or other relationship, which could interfere with the exercise of their independent and impartial judgment. A formal notification should be provided to the Board of Directors should a Director no longer remain independent.

2.1.2.2.9 All Directors, including Non-Executive Directors, should:

- i. maintain in all circumstances their independence of analysis, decision and action;
- ii. not seek or accept any advantages that could be considered as compromising of their independence;
- iii. constructively challenge and help develop proposals on strategy;
- iv. monitor the reporting of performance;
- v. scrutinise the performance of management in meeting agreed goals and objectives;
- vi. satisfy themselves of the integrity of financial information and that financial controls and risk management systems are well established; and
- vii. clearly express their opposition in the event that they find that a decision of the Board may harm the entity or contravene any law or regulation.
- viii. monitor and oversee the implementation of a code of conduct or similar policies to mitigate the risk of conflicts of interest.

2.1.2.2.10 Every company is to have a company secretary. Under the direction of the Chairperson, the company secretary's responsibilities include ensuring good information flows within the Board and its Committees and between Senior Management and Non-Executive Directors, as well as facilitating induction and assisting with professional development as required. The company secretary should also be responsible for advising the Board, through the Chairperson, on all governance matters and for the proper record keeping and minutes of all Board proceedings.

2.1.2.2.11 All Directors should have access to the advice and services of the company secretary who is responsible to the Board for ensuring that Board procedures are complied with.

2.1.2.2.12 Boards are encouraged to set up Committees to assist them in adequately carrying out their duties. Where Committees are set up: [i] their composition should be set up in accordance with the criteria outlined for the Board's composition; [ii] they should be provided with any relevant information in a timely manner; and [iii] the Board should establish and approve clear terms of reference of the Committee.

2.1.2.2.13 Where the Board appoints Committees, it should determine their terms of reference and ensure that these are provided with sufficient resources to undertake their duties.

2.1.3 ***Appointment and Succession***

2.1.3.1 *Core Principles*

2.1.3.1.1 Authorised Entities should have a formal, rigorous, and transparent process for the appointment of Directors. This process is to be based on merit and objective criteria.

2.1.3.1.2 Authorised Entities should ensure that the Board is composed of persons who are fit and proper. Entities are expected to perform their own assessment and due diligence prior to proposing such person, and on a regular basis thereafter, to ensure these individuals are, in the entity's opinion, fit and proper persons.

2.1.3.1.3 Each entity should have an effective succession plan in place to avoid, inter alia, key person risk.

2.1.3.2 *Supporting Provisions*

2.1.3.2.1 The process of appointment of Directors should be transparent and adequately documented. They should be appointed for an adequate period of time. Any nomination for re-appointment should take account of past performance.

2.1.3.2.2 Upon being appointed to the Board and throughout the term of their appointment, Directors should ensure that they have sufficient and adequate information about the entity, its affairs and their fiduciary duties, responsibilities, and liabilities. It is desirable that periodic information sessions are organized to ensure that Directors are familiar with, inter alia:

- i. their statutory and fiduciary duties;
- ii. the entity's operations and prospects;

- iii. the skills and competence of Senior Management;
- iv. the general business environment; and
- v. the Board's general expectations.

2.1.3.2.3 Directors should be knowledgeable of the firm's values and risk appetite. New Directors should be provided with an adequate induction programme. Adequate human and financial resources should be dedicated to the Board's induction and training.

2.1.3.2.4 Authorised Entities should ensure that the Board is composed of persons who are fit and proper. Fitness and properness are assessed against the following four criteria: [i] Competence; [ii] Reputation; [iii] Conflicts of Interest and Independence of Mind; and [iv] Time Commitment. Further information is provided through the [MFSA's Guidance on the Fitness and Properness Assessments applied by the Authority](#).

2.1.3.2.5 The entity should ensure that Directors sitting on the Board continually update their skills and knowledge and keep abreast with developments in order to fulfil their role, both on the Board and on any Board Committees. The entity should provide the necessary resources for developing and updating its Directors' knowledge and capabilities and ensure that there is adequate training therefor.

2.1.3.2.6 Authorised Entities should monitor the fitness and properness of their Directors and senior executives on an ongoing basis making sure an adequate process for assessing the suitability of Directors is in place.

2.1.3.2.7 The Board should consider establishing a Nomination Committee to lead the process for Board appointment and succession of Directors and senior executives.

2.1.3.2.8 Where established, the Nomination Committee is to:

- i. propose Board candidates for the position of Director, taking into account any recommendations in this regard received from shareholders;
- ii. periodically assess the structure, size, composition and performance of the Board, and make recommendations to the Board with regard to any changes;
- iii. properly consider issues relating to succession planning; and
- iv. review the policy of the Board for the selection and appointment of Senior Management.

2.1.4 ***Chairperson of the Board and Chief Executive Officer***

2.1.4.1 *Core Principle*

2.1.4.1.1 There should be a clear division of responsibilities at the head of the entity between the running of the Board and the executive responsibility for the entity's day-to-day management.

2.1.4.2 *Supporting Provisions*

2.1.4.2.1 The Chairperson plays a pivotal role in ensuring that the Board achieves its full potential. The Chairperson should encourage every Director to be constructively engaged in the affairs of the entity.

2.1.4.2.2 The Chairperson should facilitate, particularly, the effective contribution of Non-Executive Directors and ensure constructive relations between Executive and Non-Executive Directors.

2.1.4.2.3 The Chairperson is inter alia responsible to:

- i. lead the Board and set its agenda, and possibly facilitate the efficient resolution of issues;
- ii. ensure that the entity is directed effectively;
- iii. ensure that the Directors receive precise, timely, relevant and objective information so that they can take sound decisions and effectively monitor the entity's performance;
- iv. ensure effective communication with shareholders;
- v. ensure that Directors have equal opportunity to express their point of view;
- vi. ensure that Board Committees operate in an effective and efficient manner;
- vii. encourage active engagement by all Members of the Board for discussion of complex or contentious issues;
- viii. ensure that the Board effectively sets and implements the entity's direction and strategy, promotes a culture of openness and debate; and

- ix. ensure that the individual and collective suitability assessments of the board are carried out effectively, that the composition of the Board of Directors is appropriate, and that the Board of Directors performs its functions effectively

2.1.4.2.4 The person exercising the role of Chairperson of the Board should not also take on the role of Chief Executive Officer to avoid the concentration of authority and power in one individual and to differentiate the leadership of the Board from the running of the business. The Chairperson is also expected not to be the Ultimate Beneficial Owner of the entity.

2.1.4.2.5 Where, in exceptional cases, the roles of the Chairperson and Chief Executive Officer or Ultimate Beneficial Owner are combined, more Non-Executive Directors should be appointed and it should be ensured that they are able to bring independent judgment and appropriate challenge during Board meetings.

2.1.4.2.6 The responsibilities of the Chairperson and the Chief Executive Officer should be clear, set out in writing and agreed by the Board.

2.1.4.2.7 The Chairperson is appointed by the shareholders or by the Board from among its Non-Executive Directors and acts as the Board's chair. He should demonstrate objective judgment throughout his tenure and promote a culture of openness and debate.

2.1.4.2.8 The Chief Executive Officer should:

- i. be appointed by the Board;
- ii. not hold the role of Chairperson of the Board;
- iii. lead the implementation of the strategy set by the Board;
- iv. ensure that systems are in place to:
 - a. provide for the development and training of the management and employees generally so that the entity remains competitive and compliant with all relevant laws and regulations;
 - b. provide additional training for individual Directors where necessary;
 - c. monitor management and staff morale; and

d. establish a succession plan for Senior Management.

v. be responsible for the recruitment and appointment of Senior Management.

2.1.5 ***Remuneration of the Board and Senior Management***

2.1.5.1 *Core Principles*

2.1.5.1.1 Entities should implement formal, fair and transparent policies, and processes to determine the remuneration of the Board and Senior Management.

2.1.5.1.2 Remuneration policies and processes should be aligned with the firm's business strategy, objectives, values, and aimed at ensuring the entity's long-term success.

2.1.5.2 *Supporting Provisions*

2.1.5.2.1 When deciding remuneration packages, independent judgment and discretion is to be exercised, and account taken of collective and individual performance.

2.1.5.2.2 Remuneration policies should:

- i. ensure that no person is involved in deciding their own remuneration outcome;
- ii. enhance an entity's risk management system and avoid excessive risk-taking;
- iii. include measures to avoid conflicts of interest;
- iv. be evaluated and reviewed regularly;
- v. be gender-neutral.

2.1.5.2.3 The entity should consider establishing a Remuneration Committee, composed of Non-Executive Directors, to advise on appropriate remuneration packages to attract, retain and motivate Directors, whether executive or not, as well as senior executives with the right qualities and skills for proper management of the entity, and to ensure that remuneration policy incentivises a strong compliance culture and ethical

behaviour. In carrying out this function, the Remuneration Committee should assess where to position its entity relative to other entities in the marketplace.

2.1.5.2.4 Where established, the Remuneration Committee's main duties are:

- i. to make proposals to the Board on the remuneration policy for Directors and senior executives;
- ii. to make proposals to the Board on the individual remuneration to be attributed to Directors, ensuring that they are consistent with the remuneration policy adopted by the entity and the evaluation of the performance of the Directors concerned;
- iii. to monitor the level and structure of remuneration of the Non-Executive Directors on the basis of adequate information provided by the Executive Directors; and
- iv. to ensure that performance measures and KPIs assess against the entity's compliance culture and ethical values and that – where there are failures in this area – these have consequences.

2.1.5.2.5 No Member of the Remuneration Committee may be present while his remuneration is being discussed at a meeting of such Committee.

2.1.6 ***Evaluation of Board Performance***

2.1.6.1 *Core Principles*

2.1.6.1.1 The performance of a Board, and any Committee it may have, should be evaluated, possibly through a self-assessment, but ideally by an independent, external third party.

2.1.6.2 *Supporting Provisions*

2.1.6.2.1 The evaluation should inter alia assess:

- i. how effectively the Board is working, collectively, to achieve the entity's objectives; and
- ii. the Board's structure and composition, particularly the balance of skills, experience and competencies.

- iii. the Board's effectiveness in strengthening the compliance culture and reinforcing ethical values.

2.1.6.2.2 The Board should, collectively and individually, act on the results of the evaluation by recognising the strengths and weaknesses identified and each Director should engage with the process and take appropriate action where development needs are identified.

2.1.6.2.3 Supporting provisions 2.1.6.2.1 and 2.1.6.2.2 are *mutatis mutandis* applicable to the Committees of the Board.

2.1.6.2.4 The Board should consider appointing a Committee chaired by a Non-Executive Director to carry out this evaluation.

2.1.7 ***Board Meetings***

2.1.7.1 *Core Principles*

2.1.7.1.1 Regular and well-structured Board meetings are crucial to ensure the Board discharges its duties effectively.

2.1.7.1.2 During meetings, all Directors should be given ample opportunity to express their opinions and discuss the issues set on the Board agenda so that they honour their responsibilities at all times. Sufficient time for deliberations should be also provided for during these meetings.

2.1.7.2 *Supporting Provisions*

2.1.7.2.1 The Board, supported by the company secretary, should set procedures or terms of reference to determine the frequency, purpose, conduct and duration of meetings, and meet regularly – at least once every quarter –, in line with the nature and demands of the entity's business.

2.1.7.2.2 The efficient working and effectiveness of Board meetings is primarily the responsibility of the Chairperson, who should ensure that all relevant issues on the agenda are supported by all available information.

2.1.7.2.3 The Board agenda should strike a balance between long-term strategic and shorter-term performance issues.

2.1.7.2.4 The attendance to Board meetings and Board Committees should be reported to shareholders at annual general meetings.

- 2.1.7.2.5 Notice of the dates of the forthcoming meetings, agendas and supporting material should be circulated, by the company secretary, well in advance to the Directors so that they have ample opportunity to appropriately consider the information prior to the next scheduled Board meeting. Advance notice should be given of ad hoc meetings of the Board to allow all Directors sufficient time to re-arrange their commitments in order to be able to participate.
- 2.1.7.2.6 The Chairperson should lead Board meetings, facilitating and encouraging the presentation of views pertinent to the subject matter discussed. The Chairperson should give Directors every opportunity to contribute to the relevant issues on the agenda.
- 2.1.7.2.7 After each Board meeting and before the next meeting, the company secretary should prepare Board minutes and make them available to all Directors as soon as practicable. Entities are also to comply with any other legal obligations, including those relating to recording keeping and proceeding of Board meetings.
- 2.1.7.2.8 Board minutes should provide a true and accurate record of discussions held, decisions taken and resolutions made. Key decision makers and dissenting views are to be clearly identified. The minutes should enable external parties such as external auditors and regulatory bodies to understand Board discussions and decision-making processes.
- 2.1.7.2.9 Directors sitting on the Board should review and comment on the minutes prepared, within a reasonable time. Once approved, these are to be signed off by the Chairperson
- 2.1.7.2.10 The Core Principles and Supporting Provisions of 2.1.7 shall *mutatis mutandis* apply to meetings of the Board's Committees.

2.1.8 ***Conflicts of Interest and Confidentiality***

2.1.8.1 *Core Principles*

- 2.1.8.1.1 The Board's primary responsibility is always to act in the best interest of the entity and its shareholders, irrespective of who appointed them to the Board.
- 2.1.8.1.2 The Board is responsible for identifying, recording and appropriately managing conflicts of interest. It is to ensure that the influence of third parties does not negatively impact the independent judgment of

Directors. If a conflict of interest cannot be avoided, it should be disclosed.

2.1.8.1.3 The Board should ensure that the entity has in place and maintains an effective policy to identify, assess, manage and mitigate or prevent actual or potential conflicts of interest that may arise. The Board is responsible for the entity's conflicts of interest policy approval and oversight.

2.1.8.1.4 The Board is expected to ensure that any confidential information relating to its business, or its clients is protected, in accordance with any applicable law.

2.1.8.2 Supporting Provisions

2.1.8.2.1 The entity should have in place and maintain adequate internal alert policies and procedures for staff to report on potential or actual conflicts of interest or breaches of the conflicts of interest policy.

2.1.8.2.2 The entity should implement appropriate organisational measures to ensure conflicts of interests do not harm its clients' interests.

2.1.8.2.2 The entity should document the measures adopted to manage conflicts of interests.

2.1.8.2.3 A Director that has an interest that conflicts with the interests of the entity should, following consultation with the Chairperson, take adequate measures to eliminate the conflict. If these measures do not eliminate or mitigate the conflict, the Director should consider resigning.

2.1.8.2.4 A register of all Directors' interests, including those giving rise to conflict, should also be maintained.

2.1.8.2.5 A Director should avoid conflicts of interest at all times and make a declaration at the first Board meeting if he or she is aware that he or she has an actual conflict of interest.

2.1.8.2.6 Should an actual or potential conflict arise during the tenure of a directorship, a Director should disclose the conflict in its entirety, in a timely manner, to the Board. A Director should not participate in a discussion concerning matters in which he or she has a conflict of interest unless the Board finds no objection to the presence of such Director. In any event, the Director should refrain from voting on the matter.

- 2.1.8.2.7 The personal interest of a Director should not take precedence over those of the entity and its shareholders.
- 2.1.8.2.8 Each Director should declare to the entity his or her interest in the share capital of the entity distinguishing between beneficial and non-beneficial interest and should only deal in such shares as allowed by law.
- 2.1.8.2.9 The conflict of interest policy should address the conflicts of interest inherent to related-party transactions with the aim of protecting the interests of the entity and its shareholders, and the appropriate management of the said conflicts of interest.
- 2.1.8.2.10 Authorised Entities should have policies, procedures, and mechanisms in place to ensure confidentiality of its own and its clients' information and to prevent any leakage of information.

2.1.9 ***Ethics Framework***

2.1.9.1 Core Principles

- 2.1.9.1.1 All officials should act honestly, professionally and with utmost integrity, in the entity's best interest.

2.1.9.2 Supporting Provisions

- 2.1.9.2.1 Entities should have a code of conduct and/or ethics framework which promotes an ethical and professional culture.
- 2.1.9.2.2 The standards established by this document should seek to reduce the entity's exposure to reputational and operational risks, which may adversely affect the entity's profitability and sustainability.
- 2.1.9.2.3 Entities should ensure that this document is adhered to by its staff. Entities should promote and ensure awareness of this document, inter alia by providing its officials with adequate training.

Section 2 Internal Controls

- 2.2.1 Risk Management, Compliance, Internal Audit, ICT and Security Risk Management, Business Continuity.

2.2.1.1 Core Principles

- 2.2.1.1.1 The Board should ensure that appropriate internal control mechanisms are in place in order to ensure that the risks that the entity is exposed to, are identified, understood, managed and, where appropriate, disclosed. The Board should also be responsible to oversee all business lines and internal affairs.
- 2.2.1.1.2 As per the MFSA's update "[the Three Lines Model Promotes Strong Governance and Risk Management](#)", Authorised Entities are expected to embed the principles of the updated Three Lines Model in their controls, operation and culture. Entities should adapt the Three Lines Model to their needs and business priorities, facilitating the identification of structures and processes that best assist the achievement of the entity's objectives, stronger governance and risk management.
- 2.2.1.1.3 Non-Executive Directors should satisfy themselves that financial controls and risk management systems are solid. Non-Executive Directors should also play a crucial role in ensuring that the entity accounts show a true and fair reflection of its actions and financial performance and that adequate internal control systems are established and that these are monitored regularly.
- 2.2.1.1.4 The Board should ensure that appropriate internal control mechanisms are in place to ensure that all legal and regulatory requirements, including those relating to AML/CFT, are abided by.
- 2.2.1.1.5 The Board should satisfy itself that an effective and robust Information and Communication Technology (ICT) and security risks management process is in place, establishing inter alia a sound internal control framework that sets clear responsibilities for the Authorised Entity's staff, including the management bodies. The ICT strategy should be also aligned and embedded in the entity's overall business strategy.
- 2.2.1.1.6 The Board is responsible for:
- i. the establishment of policies and procedures to identify and manage risks;
 - ii. the determination of the amount and type of risk the entity is willing to accept to achieve its strategic objectives;
 - iii. the oversight of the internal controls' framework;
 - iv. the independence of the internal control functions; and
 - v. the maintenance of the internal control system.

- 2.2.1.1.7 Authorised Entities are expected to take all reasonable measures to have appropriate contingency plans in place to deal with any foreseeable eventuality. Entities should have a governance framework for the development and deployment of the business continuity arrangement and disaster recovery
- 2.2.1.2 Supporting Provisions
- 2.2.1.2.1 Risk Management
- 2.2.1.2.1.1 Authorised Entities are expected to have in place an adequate and company-wide risk management framework, extended across its business lines and internal functions, to provide awareness and consideration of the risks exposure and to enable fully informed decisions on risk taking.
- 2.2.1.2.1.2 The risk management framework should ensure that the risks to which the entity is exposed are identified, understood, managed and, where appropriate, disclosed.
- 2.2.1.2.1.3 The Board is responsible for risk management. Existing and emerging risks should be identified and managed. The Board should also establish the entity's risk appetite, and monitor, review and report on the risk management and internal control system.
- 2.2.1.2.1.4 The Board should understand and fully appreciate the business risks which may affect the ability of the entity to achieve its objectives.
- 2.2.1.2.1.5 The Board should regularly assess any circumstances, whether actual or potential, that could expose the entity or its Directors and its clients to risk and should take appropriate action.
- 2.2.1.2.1.6 The business risk and performance of the entity should be benchmarked against industry norms so that the entity's performance can be effectively evaluated.
- 2.2.1.2.1.7 The effectiveness of the risk management policies and procedures should be regularly reviewed.
- 2.2.1.2.1.8 The Board should require management to constantly monitor performance and report, at least quarterly, fully and accurately thereon. With respect to reporting, a regular and transparent mechanism should be established, and all staff must be made aware of this, so that the Board

and relevant business lines are provided with reports in a timely and accurate manner.

2.2.1.2.2 Compliance

2.2.1.2.2.1 Authorised Entities are to establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the entity to comply with its legal and regulatory obligations, taking also into account potential changes to their business model and shall put in place adequate measures and procedures designed to minimise such risk.

2.2.1.2.2.2 Entities are to establish and maintain a permanent and effective compliance function which operates independently of the business lines, and which has the following responsibilities:

- i. to monitor and, on a regular basis, to assess the adequacy and effectiveness of the measures and procedures put in place in accordance with 2.2.1.2.2.1, and the actions taken to address any deficiencies in the entity's compliance with its obligations;
- ii. to draw up and implement at least on an annual basis a compliance monitoring plan; and
- iii. to advise and assist the entity and its officials in complying with legal and regulatory obligations.

2.2.1.2.2.3 In order to enable the compliance function to discharge its responsibilities properly, entities should ensure that:

- i. the compliance function has the necessary authority, resources, expertise and access to all relevant information;
- ii. a Compliance Officer with sufficient knowledge, skills and experience in relation to compliance and relevant procedures, responsible for the compliance function and for any compliance-related reporting, is appointed;
- iii. the relevant persons involved in the compliance function shall not be involved in the performance of services or activities which they monitor; and
- iv. the method of determining the remuneration of the relevant persons involved in the compliance function shall not compromise their objectivity and shall not be likely to do so.

2.2.1.2.3 Internal Audit

2.2.1.2.3.1 Where appropriate and proportionate, in view of the nature, scale and complexity of businesses, entities should consider having an internal audit function. An effective and independent internal audit function should be designed to add value and improve the operations of the entity, particularly by strengthening the internal control framework. Audit engagements should provide independent and objective assurances to the Board.

2.2.1.2.3.2 Entities should establish an Audit Committee, composed of Non-Executive Directors which independently assists the Board in its oversight responsibilities for the internal governance, internal controls, financial statements, risk management and internal audit function.

2.2.1.2.4 ICT and Security Risk Management

2.2.1.2.4.1 Authorised Entities should establish an ICT and security risk management framework that includes the performance of regular risk assessments, audit and reporting activities.

2.2.1.2.4.2 All internal stakeholders are expected to be aware and have adequate knowledge of the risks emanating from the dependency placed on technology arrangements, and their impact on the entity's operational functioning.

2.2.1.2.4.3 The management bodies of Authorised Entities should also be cognisant of the extent of reliance their entities have on third party service providers and consider the risks arising from possible interruptions of the technological arrangements within their respective contingency plans.

2.2.1.2.4.4 The effectiveness of the risk management framework should also be ensured when outsourcing. This should be defined in contracts and service level agreements. This notwithstanding, the Board should monitor and seek assurance of the level of compliance by third party providers.

2.2.1.2.4.5 Further detailed guidance is provided through [the Guidance on Technology Arrangements, ICT and Security Risk Management, and Outsourcing Arrangements](#), issued by the MFSA.

2.2.1.2.5 Business Continuity and Disaster Recovery

2.2.1.2.5.1 Authorised Entities are expected to establish, implement and maintain effective contingency plans for business continuity and disaster recovery. Such plans should aim to minimise losses, ensure continuity of critical

functions, mitigate risks of damage to Clients, investors, and the entity's reputation.

- 2.2.1.2.5.2 Directors are expected to understand the key dependencies that are required to maintain the business operational. Directors should question how the entity is protecting itself from the impact of disruption and also the plans for responding and recovering from such disruptions, and whether appropriate resources are being employed.

Section 3 Stakeholder Engagement

2.3.1 *Engagement with Shareholders*

2.3.1.1 Core Principles

2.3.1.1.1 The Board should serve the legitimate interests of the entity and account to shareholders fully. Entities should use the general meeting to communicate with shareholders.

2.3.1.1.2 The Board should promote effective engagement with shareholders and ensure the proper exercising of the rights attributed to them.

2.3.1.1.3 The shareholders, as the owners of the entity, should be able to influence corporate decision making. They should inter alia have the jurisdiction and discretion to appoint or remove Directors on the Board.

2.3.1.2 Supporting Provisions

2.3.1.2.1 The Board should primarily endeavour to protect and enhance the interest of the entity and, accordingly, of its shareholders, present and future. The entity should therefore provide shareholders with regular, timely, accurate, comprehensive and comparable information in sufficient detail to enable investors to make informed investment decisions.

2.3.1.2.2 The Board should engage in continuous dialogue with the shareholders and ensure that they are treated equitably, through appropriate measures. Shareholders should have the opportunity to obtain effective redress for any violation of their rights.

2.3.1.2.3 The Board should utilise the annual general meeting to communicate effectively with the shareholders. It should also ensure compliance with company law provisions regulating the convening of extraordinary general meetings.

- 2.3.1.2.4 Barriers that limit the shareholders' exercise of their voting rights are to be eliminated.
- 2.3.1.2.5 The Board should always ensure that all holders of each class of capital are treated fairly and equally.
- 2.3.1.2.6 The agenda for general meetings of shareholders and the conduct of such meetings should not be arranged in a manner to frustrate valid discussion and decision making.
- 2.3.1.2.7 Provision should be made for shareholders who do not attend a general meeting to appoint a proxy of their choice to attend and vote on any matter either in favour of, or against, any proposal presented at a general meeting of shareholders, or to abstain.
- 2.3.1.2.8 The entity should consider making available for inspection to its shareholders for a period of not less than 15 days particulars of service contracts and particulars of any contract in which a Director of the entity is materially interested, and which is significant in relation to the business of the company and its subsidiaries taken as a whole.
- 2.3.1.2.9 The entity should disclose the total of any outstanding loans granted by the entity or any of its subsidiaries or the parent of such entity to the Directors of the entity and of any guarantees provided for their benefit. This is without prejudice to the provisions of Article 144 of the Companies Act.
- 2.3.1.2.10 The Board should consider whether, from time to time, disclosure should be made by the entity to other stakeholders other than its shareholders, but in other respects treating them equally as regards content and timeliness.
- 2.3.2 ***Engagement with Employees and other Stakeholders***
- 2.3.2.1 *Core Principles*
- 2.3.2.1.1 The Board should encourage active cooperation between the entity and its stakeholders, including suppliers, customers, employees and public authorities.
- 2.3.2.1.2 Entities should be aware that effective cooperation with its stakeholders, including employees, customers, business partners, creditors and local communities, contributes to their sustainable growth and success.

2.3.2.1.3 Entities are to employ personnel with the skills, knowledge and expertise necessary for the discharge of responsibilities allocated to them.

2.3.2.1.4 The Board should:

- i. actively participate in the appointment of Senior Management, and establish a succession plan therefor;
- ii. ensure that there is adequate training in the entity for Directors, Senior Management and employees; and
- iii. ensure that policies and practices which are to be adopted by its officials and employees are consistent with the entity's strategy and values.

2.3.2.1.5 Entities are to cooperate in an open and honest manner with the MFSA and any other relevant regulatory authorities, including the FIAU.

2.3.2.2 Supporting Provisions

2.3.2.2.1 The Board should be constantly aware of stakeholders' views. Entities should have processes and mechanisms in place to ensure constant dialogue.

2.3.2.2.2 The rights of stakeholders are to be respected and effective remedies for any violation of such rights should be in place.

2.3.2.2.3 Entities should ensure that systems, processes and mechanisms are in place to:

- i. recruit, retain and motivate high quality staff;
- ii. to provide for the continuous professional development of personnel by ensuring that adequate and relevant training is received; and
- iii. to monitor management and staff morale.

2.3.2.2.4 Entities should provide for employee participation, *inter alia* giving staff the possibility of freely communicating any matter of concern, even anonymously, and participating in the decision-making process.

2.3.3 **Disclosures**

2.3.3.1 Core Principles

2.3.3.1.1 The Board is to ensure that timely and accurate disclosure/reporting is made on material matters regarding the entity, including inter alia the financial situation, performance, ownership and governance of the entity, in accordance with the applicable regulatory frameworks.

2.3.3.2 Supporting Provisions

2.3.3.2.1 The preparation and/or, disclosure of information should be done in accordance with any applicable standards and requirements.

Section 4 Corporate Culture, CSR and ESG

2.4.1 **Corporate Culture, CSR and ESG**

2.4.1.1 Core Principles

2.4.1.1.1 The Board is responsible for establishing a corporate culture aligned with the entity's strategy, which enhances trust, integrity and ethics and preserves the enterprise's long-term value.

2.4.1.1.2 The Board should endeavour to embrace Environmental, Social and Governance (ESG) standards and Corporate Social Responsibility (CSR) principles in the entity's strategy, leading to an enhanced focus on sustainable finance activities and projects, and long-term value creation for all stakeholders.

2.4.1.1.3 ESG-specific criteria should be incorporated into strategies, business models and overall governance practices with the aim of supporting economic efficiency, sustainable growth and financial stability.

2.4.1.1.5 Sustainable finance aims at orienting investments in the financial services industry towards an economic growth that reduces pressures on the environment and considers social and governance aspects. Authorised Entities are expected, as part of their agenda, to embed sustainability criteria into their core values, and consider them in their decision-making process, fostering a sustainable economic growth.

2.4.1.2 Supporting Provisions

2.4.1.2.1 Entities should have a ESG strategy in place and should adequately report on ESG initiatives.

- 2.4.1.2.2 Entities are expected to act as corporate citizens in the local community, working closely with suppliers, customers, employees and public authorities.
- 2.4.1.2.3 In their day-to-day management of the entity, the Board should seek to adhere to principles of sustainable finance and CSR. In this respect, this does not only mean fulfilling legal expectations, but also going beyond compliance and investing in human capital, the environment and relations with stakeholders.
- 2.4.1.2.4 Entities are encouraged to take up initiatives aimed at augmenting investment in human capital, health and safety issues, and managing change, while adopting environmentally responsible practices related mainly to the management of natural resources used in the production process.
- 2.4.1.2.5 Entities are inter alia encouraged, to:
- i. participate in and contribute to ESG initiatives and events;
 - ii. issue public reports on their ESG commitments and performance; and
 - iii. communicate the impact of their business, especially on sustainability issues.
- 2.4.1.2.6 Entities should inter alia identify, understand, manage and report on environmental impacts, risks and opportunities.
- 2.4.1.2.7 Entities should play a crucial role in ensuring a fair and transparent market, providing its participants with adequate, reliable and consistent information on risks related to ESG factors that may have an impact on the financial system, and the measures adopted to mitigate such risks.
- 2.4.1.2.8 Entities should provide consumers of financial services with sustainable finance products and services which genuinely meet their sustainability preferences.
- 2.4.1.2.9 Entities are encouraged to keep abreast with initiatives being taken in the local and international scenario in relation to the themes of ESG and sustainable finance.

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