

03 January 2023

## Circular to Investment Firms in relation to the Publication of four Investment Firm Guidelines by ESAs

### Introduction

The purpose of this Circular is to bring to the attention of all licensed investment firms a number of developments related to the ESA Guidelines that have been recently published as outlined hereunder:

- i. [EBA/GL/2022/10 Guidelines on the criteria for the exemption of investment firms from liquidity requirements in accordance with Article 43\(4\) of Regulation \(EU\) 2019/2033](#) applicable as from **28 November 2022**. These Guidelines apply to Class 3 Investment Firms. They establish the criteria to be taken into consideration when determining whether a Class 3 investment firm may be exempt from the liquidity requirements stipulated in Article 43 of the IFR.
- ii. [EBA/GL/2022/07 Guidelines on the benchmarking exercises on remuneration practices and the gender pay gap under Directive \(EU\) 2019/2034](#) applicable as from **31 December 2022**. These Guidelines apply to Class 1 and 2 Investment Firms. These Guidelines are to be read in conjunction with the EBA Guidelines on sound remuneration policies under Directive (EU) 2019/2034 and define the information that needs to be submitted to the MFSA to enable it to assess remuneration and the gender pay gap. The Guidelines include proportionate provisions whereby as a minimum Member States are required to submit to the EBA: (a) remuneration data of at the three largest firms in terms of asset volume; and (b) gender pay gap data as submitted within the remuneration data stated in (a) above.
- iii. [EBA/GL/2022/08 Guidelines on the data collection exercises regarding high earners under Directive 2013/36/EU and under Directive \(EU\) 2019/2034](#) are applicable as from **31 December 2022**. [The EBA Guidelines issued on 16 July 2014 \(EBA/GL/2014/07\)](#) were revised to apply to Class 1 as well as Class 2 Investment Firms. Over and above the confirmation requested in the “Confirmations” Tab in the MiFID Quarterly Return, investment firms falling within the scope of these Guidelines are required to submit the relevant data in relation high income earners within the firm to ensure that the data submitted to the MFSA is of high quality in accordance with Annex I and II of the revised Guidelines as applicable. This data shall be submitted on an annual basis.

- iv. [EBA/GL/2022/09 Joint EBA and ESMA Guidelines on common procedures and methodologies for the supervisory review and evaluation process \(SREP\) under Directive \(EU\) 2019/2034](#) published on 20 July 2022 and whose applicability date still needs to be issued. These Guidelines are applicable to all Investment Firms. SREP is one of the main tools for supervision to assess an investment firm in a complete manner by considering the business model and risk profile of the supervised entity, its overall viability and sustainability, the capital requirements and liquidity requirements.

The MFSA is currently working on updating the Part BI: Rules applicable to Investment Services Licence Holders which qualify as MiFID Firms to align the Rules with Guidelines. The MFSA will issue further communication in relation to the Rulebook updates and the submission deadlines.

Investment Firms should familiarise themselves with such Guidelines, undertake an appropriate analysis, and ensure that any deficiencies are addressed as soon as possible.

### **Conclusion**

Should you have any queries in relation on the contents of this circular, please contact the Investment Services Supervision Function on [investmentfirms@mfsa.mt](mailto:investmentfirms@mfsa.mt) or [isspolicy@mfsa.mt](mailto:isspolicy@mfsa.mt).