

# Conduct-Related Data Return for Credit Institutions

The document provides feedback to the industry following the consultation on the proposed Conduct-Related Data Return to be submitted by Credit Institutions

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# 1. Introduction

On 06 December 2022, the Authority published a Consultation Document on the Conduct-Related Data Return ('Return') for Credit Institutions ("Credit Institutions" or "Institutions") servicing Retail clients with a consultation period expiring on 6 January 2023.

The MFSA received various feedback from the industry for the Authority's consideration. The feedback has been categorised as follows:

1. Applicability of the Return
2. Definitions and guidance
3. Financial Innovation Survey
4. Complaints Survey
5. Cross-border activity Survey
6. Products & Marketing Survey
7. Branches tab
8. Additional details tab

The MFSA reviewed the feedback received and the conclusions can be found in Section 2.

Each feedback category is covered in a dedicated sub-section. For each feedback category, a summary of the feedback received, as well as the position taken by the Authority on the feedback, is provided.

The position taken by the Authority includes, where applicable, whether the feedback resulted into any amendment/s to the material published for consultation.

## 2. Feedback Statement

### 2.1 Applicability of the Return

#### Feedback Received

One respondent stated that Credit Institutions which do not target the retail market, even though they may have a small number of individual customers, should be exempted from submitting the Return and that, given that reference to retail clients or retail products and services is not indicated in each Survey of the Return, it is therefore not clear if, where retail clients are not specifically mentioned, the data should be provided in relation to all clients.

#### MFSA Position

The Authority is of the view that Credit Institutions which do not target retail clients should be required to submit the Return including “N/A” in the Surveys. In case where the requested information is not available the Company should include “Not available”. In this, regard the “Important!” section in the Cover Sheet of the Return has been amended accordingly.

Furthermore, the information requested in the Return shall be applicable in relation to **Retail clients only**. In this regard, the Return template has been amended as to refer to “Retail clients” instead of “Clients”.

### 2.2 Definitions and Guidance

#### Feedback Received

More respondents highlighted the need of a guidance document related to the compilation and submission of the Return. Furthermore, more respondents required clarifications on certain terms and definitions included in the Return, such as the definition of “Retail clients”, “Value of Deposits”, and “Residence”.

#### MFSA Position

The Authority agrees on the importance of a guidance related to the compilation and submission of the Return and the [Guidelines on the compilation and submission of the Conduct Related Data Return for Credit Institutions](#) is being issued accordingly.

The Authority is issuing a [Glossary](#) as to ensure a common understanding of the main terms used in the Return.

The guidance and glossary documents also aim to provide clarification on the main queries raised by Credit Institutions within the context of the Consultation. However, Credit

Institutions are informed that any further queries related to submission or compilation of the Conduct Related Data Return can be submitted via email to [financialpromotion@mfsa.mt](mailto:financialpromotion@mfsa.mt), as well as any other additional information that can explain the figures and data reported in the Return.

In relation to the definition of Retail clients, the Authority clarifies that this definition includes any client meeting any of the following criteria:

- (a) a natural person making use of Retail Products who is acting for purposes of his/her personal accord (personal client), including instances whereby he/she is carrying out a business venture, trade or profession under his/her own personal name (sole trader);
- (b) an enterprise which employs fewer than ten persons and whose annual turnover and, or annual balance sheet total does not exceed two million euro (€2,000,000) (Micro-Business).

In relation to the definition of Value of Deposits, the Authority clarifies that Credit Institutions should report the available amount and not the actual amount of deposits.

In relation to the definition of Residence, the Authority clarifies that the criteria of the permanent address should be followed to determine the Country of residence of the client.

## 2.3 Financial Innovation Survey

### **Feedback Received**

More respondents required clarification on the definition of “New technologies” and “digital means” included in the Survey.

### **MFSA Position**

The Authority clarifies that digital means include any provisions of banking products or services not involving partly or full face to face communication or telephone calls. Furthermore, new technologies should be considered as any of the technologies mentioned in question 2 of the Financial Innovation Survey, which were adopted during the reporting year.

### **Feedback Received**

One respondent required clarification on how to fill in questions 2.1, where the Company is required to provide more information on the answers included in the table 2.

## **MFSA Position**

Wording of question 2.1 in the Return has been amended to clarify that the Company is required to include more information if “Other” was selected in question 2.

## 2.4 Complaints Survey

### **Feedback Received**

One respondent highlighted that row 16 makes reference to “None of the above” however this option is not included in the preceding list. Furthermore, row 35 refers to “other investment products/funds”.

### **MFSA Position**

The Return has been amended accordingly as to remove reference to “None of the above” and replace “other investment products/funds” with “Other banking products”.

## 2.5 Cross-Border Activity Survey

### **Feedback received**

One respondent highlighted that if a prospective customer would like to start a banking relationship with the Credit Institution, he or she can apply via the online onboarding portal, however, once onboarded the customer is then requested to visit one of the Bank’s branches to complete and sign the relevant documentation. Therefore, it would be very difficult to onboard (new) customers unless they are not currently in Malta.

### **MFSA Position**

The Authority clarifies that the criteria of the permanent address should be used to determine whether a client should be considered a cross-border client. Therefore, if a client has a permanent address in an EU/EEA country, it should be reported in the Cross-border Survey, irrespective of whether he or she had attended a local branch in Malta to conclude the contract.

### **Feedback Received**

One respondent required clarification on how the Cross-border activity Survey should be populated. The respondent made the example one client resident in Austria that decided to open 3 savings accounts with the Credit Institution, the return will contain ‘1’ under ‘Saving Account’, ‘1’ under ‘Total number of clients per jurisdiction’ in the row ‘Austria’.

The respondent also required confirmation as to whether a client that terminated his/her relationship with the Credit Institution during that reporting period should be reported in the Return.

### **MFSA Position**

Following the example provided by the respondent, the Authority clarifies that if one client residing in Austria decided to open 3 savings accounts during the reporting period, the Return will contain "1" under "Saving Accounts" (column C) and "1" under 'Total number of clients per jurisdiction' (column B) in the row related to 'Austria'.

The Authority also clarifies the example of 1 client resident in Austria that opened 1 Current Account and 1 different client resident in Austria that opened 1 Current Account and 1 Term Deposit Account. In this case, the Credit Institutions should include "2" under column B, "2" under column E and "1" under column F.

The Authority clarifies that if a client terminated his/her relationship with the Credit Institution during the reporting period, it should still be reported in the Cross-border Survey. Therefore, the Credit Institution is required to include information of Retail clients that were serviced during the reporting period, including those who opened and terminated the relationship over the same year.

Finally, the Authority reiterates that the criteria of the permanent address should be followed to determine the Country of residence of the client.

## **2.6 Products & Marketing Survey**

### **Feedback Received**

One respondent required clarification on whether all products sold during the reporting period should be reported, even though they may have been cancelled, stopped or terminated.

### **MFSA Position**

The Authority clarifies that all products sold during the reporting period, even though they may have been cancelled, stopped or terminated should be reported.

### **Feedback Received**

One respondent required clarification on how to report secondary accounts that were opened through internet banking by existing customers.

## **MFSA Position**

The Authority clarifies that in order to determine if the product was provided via Branches, Online applications or Credit Intermediaries the Company should consider where the agreement for the product was concluded.

## **2.7 Branches Tab**

### **Feedback received**

One respondent required clarification on the count of staff member that should be reported and what type of deposit machines are referred to in the Survey.

### **MFSA Position**

The Authority clarifies that the Company should report the total number of employees considering all type of employment. Staff members should be considered in whole if working full-time and decimal if working part-time (e.g. 0.5 for a part-timer).

In relation to the deposit machines, the Company should refer to machines used specifically for deposits, even if such service is given through the bank's ATMs which are available to retail clients.

## **2.8 Additional Details Tab**

### **Feedback received**

One respondent required clarification on how the 'value of deposits' and the 'number of retail clients' should be reported if a joint account is held by two customers who are not both resident in Malta? For example, a joint account having a value of Eur10,000 is owned by a person residing in Malta and the other person is residing in Italy.

### **MFSA Position**

Following the example provided by the respondent, the Authority clarifies that if a joint account having a value of Eur 10,000 is held by a person residing in Malta and another person is residing in Italy, then the Credit Institution should report "5,000" for "Value of deposits" under columns D and F and "1" for number of clients under column D and F.

### **Feedback Received**

One respondent required clarification on the statement the "If you have serviced clients in jurisdictions located outside the EU/EEA" and if this refers to where the service is being



offered or where the Company has branches. The respondent provided an example of a client who has a permanent residence in Jordan.

### **MFSA Position**

The Authority clarifies that the statement “If you have serviced clients in jurisdictions located outside the EU/EEA” refers to situations where the Credit Institutions is offering services to clients having a permanent address in countries located outside EU/EEA, irrespective of whether the Company has a branch in such country or where the Company is offering the service.

In case the Credit Institution has a client having a permanent address in Jordan, it needs to select ‘Jordan’ under column D and enter the number of clients who reside in Jordan (e.g. ‘1’) under column F.

### **Feedback Received**

One respondent required clarification on how clients making use of Internet Banking should be treated. For example, a customer who is currently residing in another jurisdiction can make use of BOV Internet Banking to open a secondary account or transfer funds.

### **MFSA Position**

A client having a permanent address in another Jurisdiction should be reported as a cross-border client (EU/EEA client or third country client depending on the country of residence) irrespective of whether he or she operates through Internet Banking.

### **Feedback Received**

One respondent enquired whether ‘Pending closure accounts’ should be disregarded.

### **MFSA Position**

Pending closure accounts should not be taken into consideration.