



# Financial Services in Malta

An Overview

November 2024



# Contents

Foreword	6	Virtual Financial Assets	31
Executive Summary	7	Collective Investment Schemes	33
Introduction	9	Investment Services Providers	40
The Malta Financial Services Authority	10	Capital Markets	44
Malta's Financial Services Sector - A Snapshot	12	Trustees and Other Fiduciaries	47
The Maltese Regulatory Environment	13	Company Service Providers	50
The MFSA's Regulatory Approach	14	Central Bank of Malta	53
Credit Institutions	17	The Financial Intelligence Analysis Unit	56
Insurance	20	The Malta Business Registry	61
Pensions	23	Taxation	64
Financial Institutions	28		

# Revisions Log







## Foreword

# Kenneth Farrugia

Chief Executive Officer

Malta - an EU member state, geographically located at the cross-roads of Europe, Africa, and the Middle East – is considered to be an attractive financial services hub. The island has a comprehensive and robust regulatory framework, whilst its small size and accessible business environment have proven to be advantageous to foster innovation. The Malta Financial Services Authority is the single regulator for financial services in Malta.

## The Malta Financial Services Authority – An effective and efficient regulator

The Authority is statutorily obliged and responsible to set the tone for the sector through regulation and supervision, taking enforcement action if and where necessary. In undertaking its role, the Authority keeps the protection of consumers of financial services and the safeguarding of the integrity and stability of the financial system at the forefront of its agenda. Whilst these may be deemed as the MFSA's primary objectives, as a secondary objective the Authority has a moral obligation to advance the competitiveness and sustainable growth of Malta's financial services sector. In this respect, the jurisdiction's focus is on attracting reputable market players – a focus on quality rather than on quantity.

## The Authority's commitment towards innovation

Historically, innovation has been a key driver of the MFSA's regulatory strategy. The development of innovative frameworks, such as that for Virtual Financial Asset (VFA) service providers in the past, more recently that for Notified PIFs (NPIFs) and the identification and ongoing implementation of new opportunity areas such as 'family offices' and 'collective investment schemes structured as limited partnerships without separate legal personality', demonstrate the Authority's commitment to innovative regulation.

## Stakeholder Engagement

The engagement with stakeholders is also central to the Authority's commitment towards upholding Malta's reputation as a dynamic, reliable and trustworthy financial services jurisdiction. In this respect, the Authority takes a proactive approach, participating in discussions, committees and working groups with supra-national institutions, liaising with its counterparts in other jurisdictions/sectors, as well as engaging with industry stakeholders through consultations, meetings, conferences and workshops.

In this context, this document seeks to provide an overview of Malta's financial services sector, without delving into the intricacies of all frameworks falling within the Authority's regulatory perimeter. Of course, interested parties seeking additional information are invited to reach out to the Authority with any queries they may have.

## Kenneth Farrugia

Chief Executive Officer

## Executive Summary

Malta, a small island state, strategically located at the heart of the Mediterranean Sea, is an attractive jurisdiction for financial services. A key pillar of the local economy, the financial services sector facilitates trade, drives investment, and creates employment. The Malta Financial Services Authority is the single regulator for financial services in Malta.

This document provides a high-level overview of each of the sectors regulated by the Authority. However, prior to doing so, it provides a snapshot of the sector in general and the MFSA's regulatory approach.

An outline of the various market players regulated by the Authority is provided hereunder.

### Credit Institutions

Malta has a resilient banking sector which has continuously demonstrated remarkable stability, even during global financial crises.

### Insurance

The insurance sector in Malta is a rapidly growing industry which plays an important and significant role in the country's financial landscape. Overall Malta has managed to develop a strong insurance sector which incorporates insurance and reinsurance undertakings, insurance agents, insurance brokers, insurance managers, tied insurance intermediaries and ancillary insurance intermediaries, protected cell companies, as well as insurance linked securities.

### Pensions

The MFSA is responsible for the regulation of the operators in the Maltese pensions industry including Retirement Schemes, Retirement Funds, Retirement Scheme Administrators, Investment Managers and Custodians.

### Virtual Financial Assets

Malta was one of the first jurisdictions to develop a clear and comprehensive regulatory framework for the rapidly evolving virtual financial assets space, providing legal certainty in an area which previously operated in a regulatory vacuum. The MFSA regulates persons engaging in the issuance of VFAs, as well as providers of services related to VFAs, including brokers, portfolio managers, custodians and nominee service providers, investment advisors, and operators of VFA exchanges.

### Trustees and other fiduciaries

Trustees and other fiduciaries are deemed to be gatekeepers to Malta's financial system as the structures which they set up or administer, may have wide-ranging effects and uses within the financial sector as a whole. Such entities are regulated by the Authority and their scrutiny is taken very seriously in view of the heightened risks which they may pose.

### Financial Institutions

The MFSA regulates all entities authorised in terms of the Financial Institutions Act, including Payment Institutions and Electronic Money Institutions.

### Investment Services Providers

The MFSA authorises and supervises investment firms, fund managers, registered tied agents, and recognised fund administrators.

### Collective Investment Schemes

Malta offers a variety of regulatory options for funds. These can be tailored to suit different investor requirements and investment strategies. Of course, based on a proportionate risk-based approach, the different frameworks are subject to varying degrees of regulation.

### Capital Markets

In relation to capital markets, the MFSA regulates trading venues and central securities depositories, processes applications for admissibility to listing on regulated markets, and approves prospectuses. The MFSA is also responsible for the supervision of entities falling under the scope of EMIR and SFTR, the supervision of the continuing obligations of listed companies on regulated markets in Malta, and the supervision of the capital markets to identify any market abuse. Crowdfunding Platforms, Securitisation Vehicles, Benchmark Administrators, DLT market infrastructures, Data Reporting Services Providers, Central Counterparties, and Credit Rating Agencies also fall within the remit of the Authority.

### Company Services Providers

CSPs are a vital component of the Maltese financial services sector, offering a wide range of corporate services to local businesses as well as international corporations looking to establish or manage a corporate presence in Malta. They are regarded as gatekeepers to the financial system, often serving as the first point of contact for individuals and entities looking to invest in Malta.

This comprehensive outline of Malta's financial services sector is then followed by an overview of other regulatory bodies which industry stakeholders may interact with, namely the Financial Intelligence Analysis Unit, the Malta Tax and Customs Administration, the Malta Business Registry, and the Central Bank of Malta.



# 1. Introduction

Malta, an island nation strategically located between Europe and North Africa, in the heart of the Mediterranean, is widely recognised as a dynamic financial centre. As a financial services jurisdiction, Malta has developed a comprehensive and robust legal framework which is diverse and multifaceted, incorporating banking, capital markets, financial institutions, insurance, asset management, investment services, pension schemes, trustees and company service providers, and crypto-assets service providers.

A full member of the European Union, and part of the Eurozone, Malta's offering as a financial services centre is founded on a set of policies that have been strongly influenced by European legislation and the development of a single European market in financial services. Moreover, the country has always taken a proactive stance towards regulatory development facilitating innovation and developing various unique products and frameworks.



## 2. The Malta Financial Services Authority

The Malta Financial Services Authority ('the MFSA' or 'the Authority') is the single regulator for financial services in Malta. It was established by law, on 23 July 2002, through an Act of Parliament (Chapter 330 of the Laws of Malta - MFSA Act).

The MFSA took over the regulatory functions previously attributed to the **Malta Stock Exchange**, the **Malta Financial Services Centre** and the **Central Bank of Malta**\*.

The MFSA is a fully **autonomous** organization, with legal personality. It reports directly to Parliament,

presenting a yearly report of its activities and audited financial statements.

The Authority promotes market integrity and fair competition practices among market participants, whilst complementing the Central Bank of Malta in its role to ensure the stability of the financial system.<sup>1</sup> The MFSA also acts as the Resolution Authority and is responsible for the approval of prospectuses and admissibility to listing of securities on regulated markets in Malta. The Authority fosters an environment which balances rigorous oversight with a flexible approach based on the principle of proportionality.

### MFSA's Vision

*"To be a leading, forward-looking financial services regulator, having the respect and trust of the industry and the general public, contributing towards a strong and dynamic financial sector."*

### MFSA - Main Objectives

**A**

To regulate, **monitor and supervise** financial services in Malta;

**B**

To promote financial **market integrity**, to promote fair competition practices to ensure the stability of the financial system;

**C**

To monitor trading and business practices and to provide relevant information and guidance to the public;

**D**

**Enforcement of laws** that directly or indirectly affect consumers of financial services in Malta;

**E**

To **advise** and to make **recommendations** to Government in relation to matters falling within the regulatory remit of the Authority

**F**

To investigate activities detrimental to consumers of financial services, to keep under review trading practices and take measures to suppress and prevent, any practices which may be unfair;

**G**

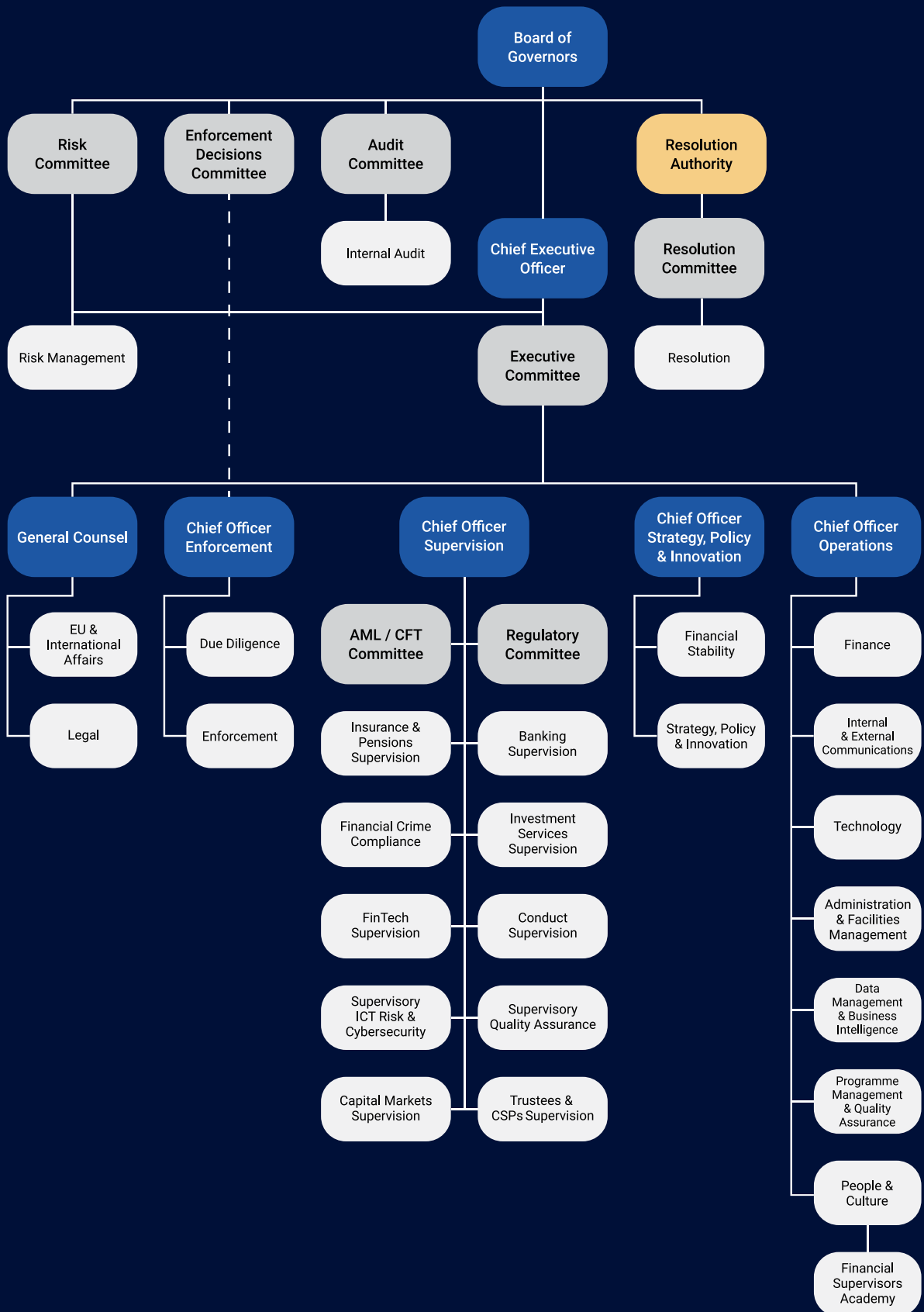
To **ensure high standards** of conduct and management throughout the financial system;

**H**

To provide and foster further training, knowledge and education on all matters relating to financial services;

\*The Central Bank remained responsible for the Regulation and Supervision of payment and security settlement system.

<sup>1</sup> The functions of the Authority are stipulated by law. Reference should be made to Article 4 of the MFSA Act.



## MFSA Organisational Structure

The MFSA is an active member of the European System of Financial Supervision (ESFS)<sup>2</sup>, the International Organisation of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS) and the International Organisation of Pension Supervisors (IOPS). The Authority is also part of the Single Supervisory Mechanism (SSM) and participates in the decision-making mechanism of the SSM Supervisory Board established within the European Central Bank (ECB). It is also a member of a number of EU regulatory committees.

<sup>2</sup> The European System of Financial Supervision is composed of the three European Supervisory Authorities (ESMA, EIOPA and the EBA), the European Systemic Risk Board (ESRB) and national competent authorities.



### 3. Malta's Financial Services Sector - A Snapshot

Malta's experience has shown that the readiness of competent authorities to encourage the development of the financial services sector through adequate and appropriate regulation can deliver results. A statistical overview of Malta's authorised person population is provided hereunder:

#### Banking

21 Credit Institutions  
(inc. branches)

#### Insurance

68 Life and Non-Life undertakings (78 cells); and over 200 Insurance intermediaries (Agents, Brokers and Managers)

#### Pensions

47 Retirement Schemes

#### Securities and Investment Services

Over 170 Investment Services Providers; 503 Funds (inc. Sub-Funds) and 36 Securitisation Vehicles

#### Trust and Company Services

Over 150 authorised Trustees and Other Fiduciaries; over 284 registered Corporate Service Providers

#### Crypto-Assets Services and Financial Institutions

15 VFA service providers and 56 Financial Institutions

Source: MFSA Authorised Persons Report – Q2 2024 (updated quarterly and published [here](#))  
MFSA Funds Report Q2 2024 (published [here](#))





## 4. The Maltese Regulatory Environment

Over the past few decades in particular, Malta has undertaken significant efforts to establish itself as a financial services centre of repute, including through the establishment of the Malta Financial Services Authority in 2002 and accession to the European Union in 2004. Since then, it has worked incessantly on building a robust regulatory environment for financial services whilst remaining approachable and without becoming unduly prescriptive.

The Maltese regulatory framework is proactive and adaptable, allowing participants to innovate and to develop new products to meet the changing needs of the industry without compromising on the enforcement of standards of conduct in the market.

The factors that position Malta as a competitive and attractive international financial services centre are summarised below:

### Language

Coupled with the native Maltese language, English is one of Malta's two official languages. Legislation and regulations are published and accessible in both languages.

### Economic Stability

Highly developed financial sector accounting for approximately 11% of the country's Gross Domestic Product.

### Taxation

The corporate tax rate is 35% but under Malta's tax imputation system shareholders are entitled to either a full or partial refund of tax paid at company level. Malta also has a network of over 70 double taxation agreements.

### Cost Competitiveness

Affordable set-up and running costs with competitive offerings from law and accountancy firms upholding international service standards.

### Re-domiciliation

Existing foreign companies from other financial centres to Malta without the need to close the existing overseas company ensuring continuity of track record and performance history.

### Market Access

Benefit of all EU passporting rights and party to a number of bilateral MoU's with counterparts in other EU and non-EU jurisdictions that provide for mutual recognition of regulatory standards and exchange of information.

### Speed to Market

A robust regulatory framework allowing for high standards of vigilance and a transparent authorisation process implemented through the MFSA's Authorisation Process Service Charter.

### Skilled Workforce

Highly trained, motivated and multilingual, Malta's workforce is highly productive and service-oriented, supported by strong academic institutions at vocational and University level.



# The MFSA's Regulatory Approach

# 1. Authorisation

The MFSA is the competent authority in Malta responsible for granting authorisation to persons seeking to carry out financial services activities in or from Malta. As the local gatekeeper, the MFSA's objective in this respect is to assess authorisation applications to ensure that the relevant criteria set out in the respective regulatory frameworks are satisfied at authorisation stage and are capable of being fulfilled on a continuing basis.

The authorisation process is undertaken by the relevant sectoral supervisory function together with feedback provided by other cross-sectoral functions within the MFSA and other national and/or international competent authorities, as applicable. Whilst the overall authorisation process will depend on various factors including inter alia [i] the type of authorisation being sought, and [ii] its nature, scale and complexity, the entire process comprises four distinct stages:



In parallel with the authorisation process, the MFSA also conducts a Fitness and Propriety Assessment of the respective involvements and the applicant as a whole. This is carried out by way of [i] a Personal Questionnaire for persons who take up positions which can influence the direction of an entity or who occupy certain positions of trust, and [ii] a Corporate Questionnaire filled in by qualifying shareholders or other controllers that have a legal personality and are proposed as an involvement with an authorised entity.

As part of its commitment to provide a clear, open and transparent authorisation process whilst still ensuring a

rigorous assessment of the applicable regulatory standards, the MFSA issued its [Authorisation Process Service Charter](#) in 2021. The Charter [i] explains and provides guidance on the MFSA's authorisation process [ii] identifies the MFSA's expectations in terms of applicable regulatory standards; and [iii] sets out the timeframes applicable to the MFSA and applicants for the effective conclusion of the authorisation process.

Applicants seeking authorisation from the MFSA to carry out financial services activities are highly encouraged to refer to the Charter for further information.

## 2. Supervision

A key aspect of the MFSA's role is the supervision of the persons and entities it regulates. In this regard, the MFSA adopts a risk-based approach to supervision where each supervisory function runs its own risk-assessment model, the results of which subsequently determine the necessity of carrying out supervisory interactions on the respective regulated entities. Under risk-based supervision, the most significant regulated entities, i.e. those with the ability to have the greatest impact on financial stability and the consumer,

are afforded a higher level of attention under structured supervisory interaction plans guided by the principle of proportionality.

The MFSA employs a number of tools to effectively carry out its supervision, ranging from inspections and supervisory meetings to thematic reviews and the submission of returns. The theme of the supervisory interaction is based on the MFSA's Supervisory Priorities, which are identified and published annually, with each interaction resulting in a set of findings.

### Supervisory Tools



Inspections



Thematic Reviews



Supervisory Meetings



SREP



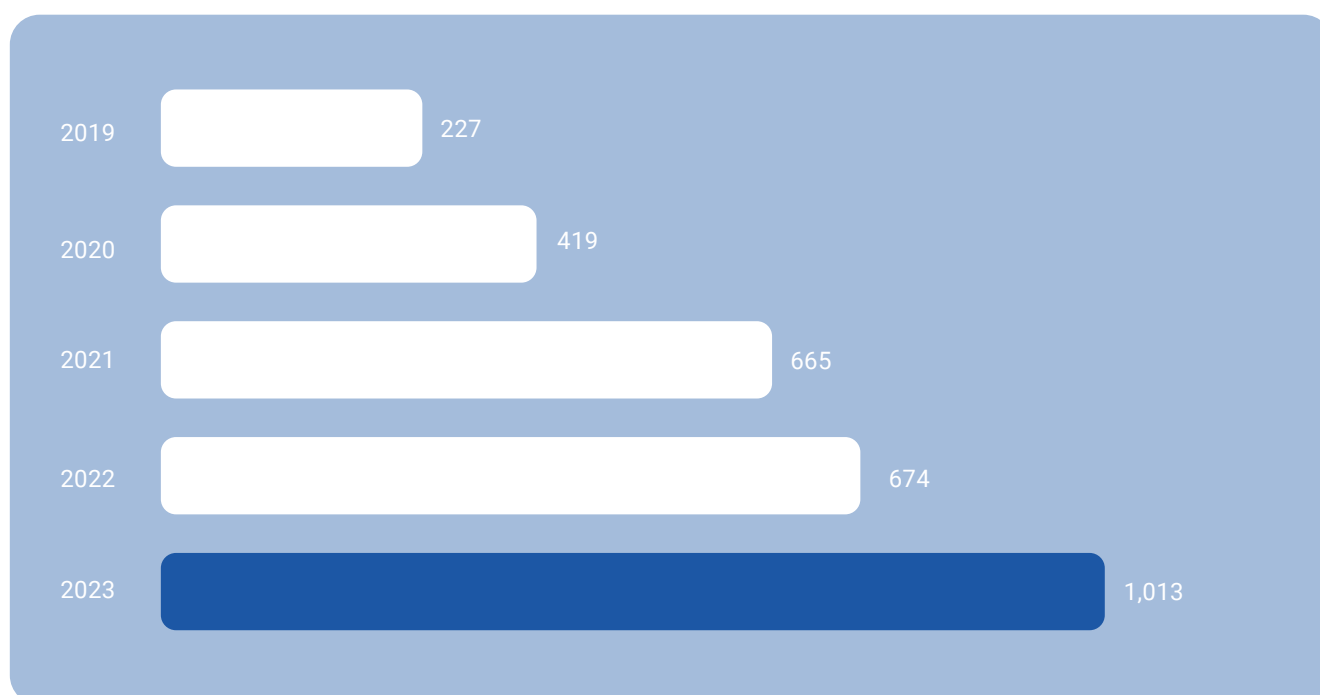
Desk-Based Reviews

To this end, outcomes-based supervision is another important element of the MFSA's supervisory remit, where the focus is narrowed down to the findings from supervisory interactions, including how these may possibly be grouped and analysed to identify 'systemic' problems in a particular sector. The MFSA

intends to utilise this approach to respond to industry concerns about excessive regulation and to highlight that materialising the focus areas of the current year may enhance the industry's improvements in the subsequent year, in a measurable and effective way.



## Total Supervisory Interactions



## 3. Enforcement

### Enforcement - An Overview

The MFSA has a range of enforcement powers emanating from the MFSA Act (Cap. 330 of the Laws of Malta) and the various other sectorial financial services legislation. The Enforcement Function is, inter alia, responsible for reviewing the actions and where necessary conducting investigations of licence holders who have or are suspected to have committed compliance failures, misconduct, market abuse or any other breaches of the laws administered by the Authority, or of any regulations or rules made thereunder. It furthermore investigates the actions of persons carrying out or suspected of carrying out financial services activities without having the necessary licence or authorisation. The Enforcement Function also investigates suspicious or dubious schemes and takes appropriate action in such cases.

In carrying out its investigative duties, the Enforcement Function may identify from time-to-time evidence or suspicion of financial crime such as money laundering, fraud, misappropriation, or other criminal conduct by both licenced and unauthorised persons. This is reported to the appropriate law enforcement agencies such as the Financial Intelligence Analysis Unit (FIAU ) and/or the Malta Police in accordance with the respective legal requirements.

The Enforcement Function is also responsible for the publication of warnings and notices to the public as and when appropriate about the activities of persons or entities, often operating through the internet, that are providing unauthorised financial services or operating dubious or possible fraudulent schemes.

### Enforcement Action

The Enforcement Function communicates its findings to the decision-making body within the MFSA and makes recommendations for remedial action and/or the imposition of any appropriate enforcement action. The decision-making body considers these recommendations and takes a

decision. The Enforcement Function is then responsible for the implementation and follow-up of enforcement decisions.

The separation of the Enforcement Function from the decision-making body ensures independence and fairness in the Authority's decision-making process.

## 4. Regulatory Development and Innovation

The Authority seeks to be proactive in the face of new opportunities, perceived risks and changing international standards in the financial services sector, whilst fostering innovation. It assesses the external environment and emerging trends by undertaking analyses on selected market practices in the sector, assessments of how existing regulatory frameworks may be strengthened in view of market and regulatory developments, as well as evaluations of how potential new frameworks may be promulgated. The Authority also engages with external stakeholders, to ensure the adoption of optimal policy decisions, and transparency in terms of its work.

Specifically in relation to Regulatory development work, this may inter alia include:

- Strengthening Malta's regulatory framework for financial services;
- Enhancing the competitiveness of the Maltese financial services framework;
- The regulation of areas of the financial services market which would have been previously unregulated;
- Advice, analyses, and reviews of current and prospective strategies/policies.







# Credit Institutions

# 1. Credit Institutions - An Overview

Malta has a resilient banking sector which has continuously demonstrated remarkable stability, even in the midst of global financial crises. Strong capitalisation, adequate risk management, highly liquid balance sheets, a stable macroeconomic environment, amongst other factors, have all supported the resilience and sustained growth of the local banking sector.

In Malta, credit institutions are regulated through the Banking Act (Chapter 371 of the Laws of Malta), which inter alia transposes and implements the [Capital Requirements](#)

[Directive \(CRD\)](#) and [Capital Requirements Regulation \(CRR\)](#). These provide for the authorisation and prudential requirements for credit institutions across the European Union (EU). Whilst the CRR is directly applicable to Maltese banks, the CRD has been transposed into local legislation through amendments to the Banking Act, the Banking Rules issued by the MFSA, and other subsidiary legislation. The local regulatory framework is therefore fully aligned with that of the EU.

The Banking Act (the Act) defines the business of banking as the business of a person who:

*“...accepts deposits of money from the public withdrawable or repayable on demand or after a fixed period or after notice or who borrows or raises money from the public (including the borrowing or raising of money by the issue of debentures or debenture stock or other instruments creating or acknowledging indebtedness), in either case for the purpose of employing such money in whole or in part by lending to others or otherwise investing for the account and at the risk of the person accepting such money.”*

The Act permits credit institutions to accept and hold deposits from retail or institutional customers and to originate loans and overdraft facilities. Besides this core mandate, the Second Schedule of the Act lays out additional activities that banks may carry out, inter alia including financial leasing, payment services, portfolio management and advice, money broking, issuing of electronic money and foreign exchange, amongst other services.






## 2. Licensing of Credit Institutions in Malta

The Act prescribes that no business of banking shall be transacted in or from Malta except by a company which is in possession of a licence granted under the Act or a credit institution licenced in a Member State in exercise of its passporting right under the EU laws.

The Malta Financial Services Authority is responsible for the licensing of banks in Malta, a role it plays in conjunction with the European Central Bank (ECB) which has the ultimate power to grant an authorisation based on the Single Supervisory Mechanism (SSM) regulatory framework<sup>3</sup>.

## 3. Statutory Criteria for Authorisation

An applicant must satisfy the following statutory minimum requirements in order to be granted a banking licence in Malta:

-  A minimum initial share capital of €5,000,000;
-  At least two individuals who effectively direct the business of the company in Malta;
-  Notifying the MFSA regarding the identity of shareholders/members who have qualifying holdings<sup>4</sup> or where there are no qualifying holdings, of the 20 largest shareholders;
-  Satisfaction of requirements of the ‘fit and proper’ test for the shareholders/members;
-  Confirmation that no links with the company will hinder MFSA’s supervision over the company ensuring that all the shareholders and directors of the business meet the qualifying criteria.

<sup>3</sup>The SSM framework contains operational arrangements for the implementation of supervisory tasks and responsibilities of the European Central Bank (ECB) in its supervisory capacity and the national competent authorities (NCAs).

<sup>4</sup>According to the ECB, participation in a bank can be described as a “qualifying holding” when it represents 10% or more of the shares and/or voting rights in the bank or crosses the other relevant thresholds (20%, 30% or 50%).

## 4. Granting of Authorisation - MFSA and ECB Procedures

The SSM Framework has established a number of procedures, known as the “common procedures”, which set out how authorisations of credit institutions are coordinated between the ECB and the NCAs regardless of the significance of the credit institutions concerned. These procedures are highlighted below:

- ☐ Applications for authorisations are sent by the applicant entity to the relevant NCA of a Member State (MFSA in the case of Malta) for the granting of new banking licences;
- ☐ The NCA notifies the ECB of receipt of an application for authorisation within 15 working days. Applicants should therefore ensure that their applications are complete and well-structured. If the first review of an application reveals omissions or inconsistencies, the receiving NCA shall immediately request that the applicant makes the necessary amendments;
- ☐ Once applications have been submitted and their completeness verified, they are subject to a complementary assessment by the receiving NCA, the ECB and any other NCAs concerned (if applicable). The assessment seeks to ensure that all relevant parties gain a thorough understanding of the business model and its viability. To this end, the assessment covers all the criteria set out in relevant national and EU laws;
- ☐ If the NCA is satisfied that the application complies with national conditions for authorisation, it proposes a draft decision to the ECB containing its assessment and recommendations. Once a final decision has been reached, the applicant is notified by the NCA processing the application.

## 5. Establishment of Branch Offices

### Branches of Maltese Banks

When a bank is licensed in Malta, it automatically gains passporting rights to establish branches in other EU/EEA States. The bank is however required to provide the MFSA with a ‘branch passport notification’ to be able to exercise such a right.

A Maltese bank seeking to establish branches or subsidiaries in non-EEA states is required to obtain the written consent from the MFSA. The Authority may grant such permission when it is established that it will receive regular information,

from the bank, on the operations and situation of such establishments, and that such establishments will be adequately supervised by the host country. Additionally, the Authority would need to establish that adequate supervisory arrangements exist in the host country, and that the host country regulations would not inhibit adequate flows of information to the Authority about the establishment, in particular, to enable the Authority to exercise full consolidated supervision.

### Branches of EEA Banks

Banks licensed in EEA states can establish branches or provide cross-border services in Malta under passporting rights provided the regulatory authority of the home Member State has been given a written notification to that effect. The activities that may be carried out in Malta by such a bank in exercise of a European passport right shall be limited to the activities it is authorized to undertake in the home Member State.

For banks licensed in non-EEA states to set up a branch or subsidiary in Malta, a licence from the MFSA would be required.





# Insurance

# 1. Insurance - An Overview

The insurance sector in Malta is a rapidly growing industry, playing an important and significant role in the country's financial landscape. Since joining the EU in 2004, Malta's insurance sector has developed into a cross-border industry, taking advantage of European legislation which allows insurance companies to operate across all Member States through the single passporting regime.

Joining the EU has opened the door to new opportunities for Malta's insurance sector where over a number of years Malta has seen an influx of insurance and reinsurance undertakings seeking to obtain a license from the MFSA to establish their head office in Malta. Some of these insurance and reinsurance companies represent large international groups as well as international brand names which established insurance captives to insure group risks.

Malta has built a solid reputation over the years, following the experience acquired in authorising and supervising the insurance sector, the collaborative nature the MFSA adopts with the license holders, as well as the establishment of a robust regulatory environment which provides unique advantages to the insurance sector. This led to other large and well-known groups outside of the EU to replicate insurance models in Malta, to penetrate and distribute insurance products, and offer reinsurance facilities across the EU.

The insurance sector has shown steady growth, contributing to the strength and stability of Malta's financial ecosystem. The insurance sector contributes significantly to the country's Gross Value Added. It has also been one of the sectors that

has been contributing towards the increase in employment in the financial services industry in Malta which is growing year after year.

Overall, Malta has managed to develop a strong insurance sector which is financially sound holding adequate levels of Solvency Capital Ratios and Minimum Capital Ratios. This is leading to potential and constant interest from a number of stakeholders engaging with the MFSA seeking to obtain a license to establish their insurance/reinsurance operations in Malta. This places Malta amongst the EU countries whose business model relies primarily on cross-border business.

Malta's insurance regulatory infrastructure incorporates the standards set by EU Insurance Directives (such as the Solvency II Directive and the Insurance Distribution Directive). Whilst insurance and reinsurance undertakings (including captives) are licensed and regulated under the Insurance Business Act (Chapter 403 of the Laws of Malta), insurance intermediaries fall under the Insurance Distribution Act (Chapter 487 of the Laws of Malta). These laws are in turn supplemented by subsidiary legislation that provide further detail and granularity.

The MFSA is responsible for the authorisation and subsequent supervision of insurance and reinsurance undertakings carrying out the business of insurance, as well as insurance agents, insurance brokers, insurance managers, tied insurance intermediaries and ancillary insurance intermediaries.

## 2. A regulatory environment which provides unique advantages to the insurance sector

### 2.1 Protected Cell Companies

Malta has developed a unique segregated cell regime within the EU through the introduction of Protected Cell Company (PCC) legislation. This PCC structure regime ensures that it is fully compliant with the requirements and obligations emanating from the Solvency II Directive and applicable EU legislation.

Through a PCC structure, the core insurance company creates one or more cells for the purpose of segregating the assets and liabilities of each cell from those of other cells and from the assets of the core itself, thus enabling the cells to be run as separate businesses. In other words, the objective of these corporate vehicles is to ring-fence the

assets of the cells such that they will only be available to the creditors and shareholders of each cell. This allows various stakeholders to participate in one insurance business through the creation of cells. The setting up of an insurance business in Malta as a PCC offers cell owners the benefit of leveraging the use of the same licence obtained by the core company as against having to obtain separate licences.

It is worth noting that a number of PCCs are authorised and supervised by the MFSA, some of which are owned and operated by well-known global insurance groups.



## 2.2 Insurance Managers

To further enhance the insurance regulatory environment, the MFSA has introduced the authorisation and supervision of insurance management firms whose main objective is to provide insurance services to insurance companies and insurance intermediaries. Insurance managers activities are regulated by the Insurance Distribution Act (IDA). For a person to carry on insurance intermediary activities in Malta, they are required to be registered or enrolled by the MFSA.

The authorisation of insurance managers in Malta is quite unique within the EU as very few other jurisdictions have a similar concept. This concept has been quite successful as it

is of particular benefit to new insurance set-ups or to existing businesses that want to set foot in Malta. These insurance managers are able to facilitate the application and supervision process through their experience, and highly qualified and competent individuals who are approved and monitored by the MFSA.

It should be noted that all major global insurance broking and risk management groups have well-established insurance management operations in Malta.

## 2.3 Insurance Linked Securities (ILS)

Malta is an emerging European ILS jurisdiction, with fully-fledged legislation for the formation and authorisation of Reinsurance Special Purpose Vehicles (RSPVs). Malta is also the only European jurisdiction to have enacted legislation for the formation of Securitisation Cell Companies (SCCs).

As a result of its robust ILS legal framework, Malta is able to offer a European-based ILS solution, that can be used by an insurance or reinsurance undertaking to cede risk by funding potential liabilities through the capital markets.

Malta's robust ILS legislation has been a cause of significant interest in the setting up of local ILS structures in the past years. The ILS legislation permits the setting up of an RSPV for catastrophe bond issues and longevity risk transfer transactions. An RSPV may also be set up in Malta as a reinsurance sidecar.

The MFSA is committed to a timely turnaround of ILS applications in line with industry expectations, as these instruments are well aligned with its regulatory risk appetite.





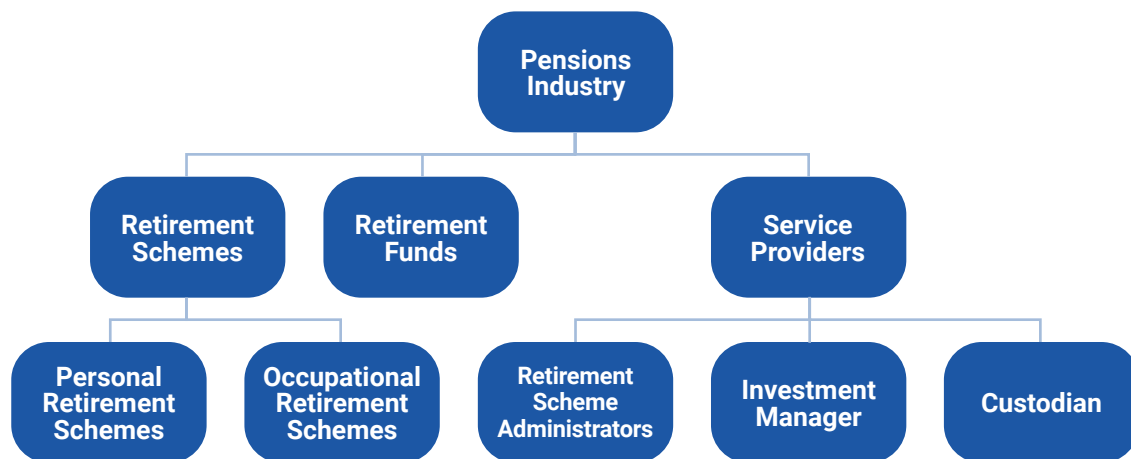


# Pensions

# 1. Introduction

The robust local regulatory framework, together with Malta's full EU Member status and established financial services industry all contribute to Malta's success as an attractive jurisdiction for operators in the pensions industry. The pensions industry in Malta is regulated by a mix of local legislation and EU directives, with a framework designed to ensure the safety, transparency and effectiveness of the various stakeholders involved. [The Retirement Pensions Act \(Chapter 541 of the Laws of Malta\) \(RPA\)](#) - the primary legislation for the pensions industry – inter alia transposes Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on activities and supervision of institutions for occupational retirement provisions. Other subsidiary legislations and rules also exist to supplement the legal framework for effective regulation of the industry.

The MFSA is responsible for the authorisation and subsequent oversight of the operators in the Maltese pensions industry including Service Providers (Retirement Scheme Administrators, Investment Managers and Custodians), Retirement Schemes as well as Retirement Funds in line with the RPA, subsidiary legislation and the Pension Rules. In exercising its function and duties under the RPA, the MFSA ensures that these duties are carried out in a transparent and accountable manner, taking into consideration the protection of members and beneficiaries, the promotion of competition and choice and the reputation and suitability of the license holders and other connected parties. In addition, the supervision of Service Providers, Retirement Schemes and Retirement Funds is carried out in a proportionate manner and comprises an appropriate combination of off-site and on-site supervision. An overview of the pensions industry in Malta is presented hereunder.



## 2. Overview of the Nature and Operations of License Holders

### 2.1. Retirement Scheme

A Retirement Scheme may be a Personal Retirement Scheme, or an Occupational Retirement Scheme established for the principal purpose of providing retirement benefits.

#### I. Personal Retirement Scheme (PRS)

A Personal Retirement Scheme is established with the purpose of providing retirement benefits to an individual or a number of unrelated individuals. It is set up by a Retirement Scheme Administrator, with membership open to a number of individuals acceptable to the Retirement Scheme Administrator, thus implying that access to the scheme is not offered through the employment of the individuals concerned. A PRS operates in accordance with a written instrument (known as the "Scheme Document") which lays down the rules stipulating the Retirement Benefits and the conditions under which these are granted.



## II. Occupational Retirement Scheme (ORS)

An Occupational Retirement Scheme is established with the purpose of collecting contributions made by an employer(s), or by an employer(s) and employees, by employees through an employment relationship, or by an association representing employers, including self-employed persons, and investing these contributions in assets earmarked to provide retirement benefits to members and beneficiaries thereof. Similar to the PRS, an ORS operates in accordance with the Scheme Document which lays down the rules stipulating the Retirement Benefits and the conditions under which these are granted.

Furthermore, an ORS may be established either as a **Closed Scheme** (which is established at the initiative of a single employer or a group of related employers or an association representing employers, such that membership of the Scheme is limited thereto) or an

**Open Scheme** (established at the initiative of a Retirement Scheme or Retirement Scheme Administrator, with membership open to a number of unrelated employers and self-employed persons acceptable to the Retirement Scheme Administrator).

In addition, an ORS is also required to have in place a risk-management function and internal audit function. In case where the scheme is of a defined benefit nature, an actuarial function must also be in place. Furthermore, an ORS is to have a sound remuneration policy in place and is to carry out an own-risk assessment every three years or prior to when there is a significant change in the risk profile of the Retirement Scheme or Retirement Scheme Administrator.

Other attributes applicable to both types of Schemes are highlighted in the table below.

### Personal and Occupational Retirement Schemes

#### Governance Arrangement

Shall be effectively directed or managed by at least two individuals in satisfaction of the 'dual control' principle

#### Legal Form

- As a trust, by trust deed under the Trusts and Trustees Act (Chapter 331 of the Laws of Malta);
- By contract in terms of the Civil Code (Chapter 16 of the Laws of Malta); or
- Any other legal form as may be approved by the MFSA.

#### Set-up

May be set up as either a Defined Benefit Scheme<sup>5</sup> or a Defined Contribution Scheme<sup>6</sup>.

#### Investment Restrictions

Different depending on the type of scheme.

### Service Providers

#### Retirement Scheme Administrator

Required

#### Investment Manager

Required<sup>7</sup>

#### Custodian

Required

#### Investment Advisor

Optional

#### Auditor

Required

#### Actuary

Required for a PRS or ORS established as a Defined Benefit Scheme

<sup>5</sup>A Defined Benefit Scheme provides fixed or determinable retirement benefits.

<sup>6</sup>In a Defined Contribution Scheme, retirement benefits are established by reference to the contributions and the returns that are received on the invested contributions less expenses and any losses in relation thereto.

<sup>7</sup>Depending on the type of Scheme

The payment of benefits in a PRS and an ORS, may commence at the age of fifty, but no later than seventy-five years. Retirement Benefits for defined contributions schemes can be paid in the following forms (except for benefits paid on death or permanent invalidity):

- a. Initial cash lump sum (Optional): a member may elect to take up to 30% of the assets held within a member's retirement scheme as a cash lump sum. The lump sum is determined at retirement date<sup>8</sup> and can be paid either as one lump sum or a series of tranches within one year from retirement date;
- b. Programmed withdrawals and/or Life Annuity (Mandatory): the remaining assets of a member that are not paid in a cash lump sum can be used:
  - i. Programmed withdrawals which are to be based on publicly available annuity/drawdown rates and based on sound and prudent actuarial principles;
  - ii. To purchase a life annuity;
- c. Additional cash lump sum (Optional): this option may only be opted for after three years from commencement of retirement benefits and every year thereafter. This option is applicable when the remaining assets in a member's retirement scheme generate sufficient retirement income<sup>9</sup> throughout the Member's lifetime. In this case, 50% of the excess value may be withdrawn as an additional cash lump sum. Where a member is domiciled in Malta, this option shall only apply if the annual retirement benefit from an annuity exceeds €50,000.<sup>10</sup>

## 2.2. Retirement Fund

A retirement fund is an arrangement established for the principal purpose of holding and investing the contributions made to one or more retirement schemes. The main purpose of a retirement fund is to act as a pooling vehicle through which one or more retirement schemes licensed under the RPA may channel the investments of the contributions received.

The legal structure of a retirement fund may take the form of an investment company with variable share capital (SICAV) under the Companies Act (Chapter 386 of the Laws of Malta).

It may also be established as a multi-fund company with various sub-funds or pools of assets. This means that a retirement fund may be composed of several pools of assets to match the varying objectives of different retirement schemes pooling their assets in the retirement fund.

The appointment of an Investment Manager, a Custodian, and an Auditor is mandatory for a retirement fund whilst the appointment of an Investment Advisor is optional.



<sup>8</sup>The date between the age of fifty and seventy-five when retirement benefits commence.

<sup>9</sup> The annual national minimum wage, or if not available, the mean or median income as determined in the country where the Member is resident.

<sup>10</sup>This value is adjusted annually to consider the changes in the index of inflation as published by the National Statistics Office.

## 2.3. Service Providers

A service provider means any person licensed under the RPA to provide any one or more of the licensable activities<sup>11</sup> in relation to a Retirement Scheme or Retirement Fund.

### I. Retirement Scheme Administrator

A Retirement Scheme Administrator is responsible for the overall operation of a Retirement Scheme in accordance with the Scheme's Constitutional Document, Scheme Document and Scheme Particulars. The RPA requires a Retirement Scheme Administrator to be an entity duly licensed to administer the operation of a Retirement Scheme, and to have the business organisation, systems, experience and expertise deemed necessary by the MFSA for it to act as Retirement Scheme Administrator. In addition, the Retirement Scheme Administrator may be licensed to carry out either the role of an investment manager or a custodian to a retirement scheme (but not both) where it is fit and proper and has the required expertise and competence.

### II. Investment Manager

An Investment Manager is an entity licensed under the RPA to provide investment management services to a Retirement Scheme or a Retirement Fund.

The following may be appointed as an Investment Manager:

- In the case of a retirement scheme, the Retirement Scheme Administrator if it is not undertaking the custody function for the Scheme itself and if duly licensed under the RPA to carry out investment management services for a scheme;
- An entity licensed to carry out investment management services to retirement schemes or retirement funds under the RPA;
- An entity already licensed under the Investment Services Act (Chapter 370 of the Laws of Malta) subject to an abridged application process; or
- An investment manager established in another Member State or EEA State.

### III. Custodian

A Custodian is an entity licensed under the RPA to provide custody services to a Retirement Scheme or Retirement Fund. The Custodian in general shall ensure that the Scheme's cash flows are properly monitored and shall, in particular, ensure that all payments made by or on behalf of members of a Scheme have been received and that all cash of the Scheme has been booked in cash accounts opened in the name of the Scheme or of the Retirement Scheme Administrator, acting on behalf of the Scheme.

The following may be appointed as a Custodian:

- In the case of a retirement scheme, the Retirement Scheme Administrator if it is not undertaking the investment management function for the scheme itself and if duly licensed under the RPA to carry out custody services to a scheme;
- An entity licensed to carry out custody services to schemes or retirement funds under the RPA;
- An entity already licensed under the Investment Services Act to act as a Custodian subject to an abridged application process;
- A credit institution licensed under the Banking Act (Chapter 371 of the Laws of Malta) to act as a Custodian subject to an abridged application process; or
- Custodians or depositaries established in another Member State or EEA State and duly authorised for this activity.

<sup>11</sup>Activities listed in the Schedule of the RPA are: 1. Retirement Scheme Administration administering the operation of a Retirement Scheme 2. Custodian or Trustee Services acting as custodian or trustee of a Retirement Scheme or of a Retirement Fund 3. Investment management of the assets of a Retirement Scheme or of the assets of a Retirement Fund.





# Financial Institutions

# 1. Financial Institutions – An Overview

The MFSA is responsible for the authorisation and supervision of all entities authorised or registered in terms of the Financial Institutions Act (Cap. 376) (FIA), including Payment Institutions (PIs) and Electronic Money Institutions (EMIs).

The definition of these institutions emanates from the Payments Services Directive (PSD2) and the Electronic Money Directive (EMD2) and the services which these institutions may provide as denoted in the said Directives.

Given that some of these activities may be similar to those carried out by credit institutions that are authorised under the Banking Act, the FIA specifically makes a distinction on the method by which a Financial Institution (FI) may fund its activities. An FI may not fund its activities through the taking of deposits or other repayable funds from the public as defined in the Banking Act.

In Malta, FIs fall into three broad categories, as delineated in the respective Schedules in the FIA, that may be licenced to provide:

- I. Activities of Financial Institutions such as lending, financial leasing, the provision of guarantees and commitments, foreign exchange services and money brokering;
- II. Payment Services<sup>12</sup> and/or the provision of operational and closely related ancillary services, the operation of payment systems, business activities other than the provision of payment services and granting credit related to payment services; and
- III. Issuance of Electronic Money.

The MFSA's supervisory approach to the sector has been published through the [MFSA Supervision Priorities 2024](#) wherein the shift to an outcome based approach to supervision was introduced. The supervisory outcomes that were identified are:

- I. Adequate arrangements relating to Safeguarding/Safekeeping of Assets;
- II. Adequate Governance arrangements and Compliance with Passporting Rules; and
- III. Strong Business Reliance.

Having transposed the provisions of the Payments Services Directive (PSD2) and the Electronic Money Directive into its national law, Malta proactively enhances its framework with clarity on regulatory compliance updates both at national level and EU level. These updates enable Compliance functions and Board of Directors of licence holders to prioritise regulatory areas as part of their overall business strategy.

From a policy and legislative perspective, the MFSA is monitoring developments that are on the horizon, including the PSD3 and PSR proposal which is poised to impact Payment and Electronic Money Institutions. In addition to the PSD3 and PSR proposals, various other EU legislative proposals are currently ongoing, including the legislative proposal on instant payments, that seeks to amend the SEPA Regulation.

In view of the various regulatory developments currently taking place in the field of payment services and electronic money, the MFSA recognises the importance of a clear regulatory framework in fostering a strong compliance culture within the Payment and Electronic Money Institutions sector.

In view of the above, the MFSA aims to publish a new set of rules that shall apply to Payment and Electronic Money Institutions, which will inter alia replace Financial Institutions Rule 3 (FIR03) later on this year. The MFSA intends to publish further consultations relating to the other existing Financial Institutions Rules.

The MFSA is also supportive of the Fintech workstream under the [MFSAC strategy](#) to support the development of the national payment ecosystem.

<sup>12</sup> The Second Schedule of the FIA considers the following activities as payment services: (a) services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account; (b) services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account; (c) execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider: (i) execution of direct debits, including one-off direct debits; (ii) execution of payment transactions through a payment card or a similar device; (iii) execution of credit transfers, including standing orders; (d) execution of payment transactions where the funds are covered by a credit line for a payment service user: (i) execution of direct debits, including one-off direct debits; (ii) execution of payment transactions through a payment card or a similar device; (iii) execution of credit transfers, including standing orders; (e) issuing of payment instruments and, or acquiring of payment transactions; (f) money remittance; (g) payment initiation services; and (h) account information services.



## 2. Application for Licencing or Registration

The MFSA has worked closely with industry to streamline, refine, and standardise its authorisation processes while still maintaining rigorous regulatory standards. In this respect, in June 2021, the MFSA issued the **Authorisation Process – Service Charter**<sup>13</sup>, which is underpinned by the implementation of a revised authorisation process to enhance its supervisory and regulatory approach in relation to authorisations. The Authority's expectations in term of governance have been published through the **MFSA Corporate Governance Code**<sup>14</sup>. As a result, the MFSA can deliver a clear, open and transparent authorisation process to any prospective applicant.

More on the MFSA's Authorisation Process and Authorisation Catalogue can be found on the MFSA's [website](#).

The MFSA is well equipped to authorise and supervise groups that require multiple licences simultaneously such as EMI/PSP and CASP<sup>15</sup>. The MFSA consolidates processes and when possible, assigns single point of contacts at Authorisation and Supervision stage to ensure a streamlined process and harmonise requirements.



<sup>13</sup>Website Link: <https://www.mfsa.mt/wp-content/uploads/2021/06/MFSA-Authorisation-Process-Service-Charter.pdf>

<sup>14</sup>Website Link: <https://www.mfsa.mt/wp-content/uploads/2022/08/MFSA-Corporate-Governance-Code.pdf>

<sup>15</sup>Crypto-asset service provider





# Virtual Financial Assets

# 1. Introduction

Malta was one of the first countries to develop a comprehensive regulatory framework to regulate the rapidly evolving virtual financial assets space. Through the [Virtual Financial Assets Act \(VFA Act\)](#), enacted in 2018, Malta developed a clear and comprehensive regulatory framework, to provide legal certainty for businesses and investors operating within the VFA<sup>16</sup> ecosystem to regulate persons engaging in the issuance of VFAs (**VFA Issuers**<sup>17</sup>), as well as providers of services related to VFAs (**VFA Service Providers**), including brokers, portfolio

managers, custodians and nominee service providers, investment advisors, and operators of VFA exchanges.

Malta's initiatives in this area underscore the jurisdiction's commitment to fostering innovation and highlights the Malta Financial Services Authority's commitment to ensuring investor protection, financial market integrity and financial stability, by regulating an area which previously operated in a regulatory vacuum.

## 2. Markets in Crypto-Assets Regulation (MiCA)

At the EU level, the Markets in Crypto-assets Regulation came into force in 2024, becoming entirely applicable on 1st January 2025. Like the VFA Act, MiCA was designed to provide legal certainty for the regulatory treatment of all crypto-assets, whether they qualify as financial instruments or e-money under existing legislation or were previously unregulated (e.g. utility tokens<sup>18</sup>). The framework also lays down requirements for 'stablecoins', a category of crypto-assets which aims to maintain a stable value in relation to a single official currency (e-money tokens - 'EMTs') or to a combination of assets and/or currencies (asset-referenced tokens- 'ARTs').

For the entities operating within this space, the regulation covers the supervision of crypto-assets issuers (CAIs) as well as crypto-asset services providers (CASPs) such as firms that keep customers' crypto-assets in custody (custodian wallets) and entities that allow customers to buy or sell crypto-assets for fiat money or other crypto-assets (crypto-asset exchanges). The introduction of MiCA allows a larger take up of crypto-asset related business even by traditional financial services providers, like credit institutions, e-money institutions and investment service providers.

## 3. Transitory Initiatives of the MFSA

The MFSA built a significant amount of experience in this sector, culminating into a healthy level of preparedness for the transition from the VFA framework to the MiCA Regulation.

Acknowledging the impact of MiCA on the Maltese VFA regime, the MFSA embarked on various initiatives to align its rules with the requirements of MiCA. As part of its efforts towards ensuring readiness for the implementation of MiCA, in 2023, the Authority issued an [updated version](#) of Chapter 3 of the VFA Rulebook which sought to align the requirements applicable to VFA Service Providers to those found in MiCA. As per the [Circular](#) issued by the Authority, the new rules became progressively applicable in January 2024 and July 2024.

Similarly, the publication of the [Virtual Financial Assets \(Amendment\) Act, 2024](#) which came into force on the 16th April 2024, marked a pivotal step in aligning the domestic legislation (VFAA, 2018) with MiCA. The amended VFA Act now incorporates the terms "asset-referenced token" and "electronic money token" whilst also making reference to MiCA.

The new "Markets in Crypto-Assets" Bill, once passed into law, will give full effect to the provisions of MiCA in Malta whilst repealing the VFA Act. The transition experience for current licence holders is expected to be seamless as there are only a few discrepancies between the VFA framework and MiCA owing to the fact that both regulations drew heavily from MiFID.

## 4. Treatment of New Requests for Authorisation

As stipulated in the [Virtual Financial Assets \(Amendment\) Act, 2024](#), the Authority has suspended the acceptance of new requests for authorisation under the VFA since 1 August 2024.

New applications in line with the MiCA Regulation will start being accepted as from 1st January 2025. Applicants interested in applying under MiCA should approach the Authority directly to seek authorisation.

<sup>16</sup>VFA means any form of digital medium recordation that is used as a digital medium of exchange, unit of account, or store of value and that is not electronic money, financial instruments, or virtual token.

<sup>17</sup>VFA Issuer means a legal person duly formed under any law in force in Malta which issues or proposes to issue virtual financial assets in or from within Malta.

<sup>18</sup>Utility token is a type of crypto asset that is only intended to provide access to a good or a service supplied by its issuer.





# Collective Investment Schemes

# 1. Collective Investment Schemes in Malta – An Overview

Malta has established itself as a European financial services hub, offering a variety of regulatory options for funds. Whilst certain fund structures/frameworks are reflective of EU regulatory frameworks, others are “homegrown” regimes. Nevertheless, Malta’s regulatory toolbox for funds is fully aligned with European regulation. Malta offers a range of fund vehicles which can be tailored to suit different investor requirements and investment strategies, which are subject to varying degrees of regulation based on a proportionate risk-based approach. Malta’s accession to the EU served as a springboard to its success as a funds jurisdiction since EU membership conferred passporting rights to those structures/funds modelled on EU frameworks, and thus allows fund managers to gain instant access to the EU internal market.

The Investment Services Act (Chapter 370 of the Laws of Malta) (ISA) is the legislative instrument that establishes the regulatory framework for licensing and supervision of Collective Investment Schemes (CISs) in Malta. As per the ISA, a CIS is not permitted to issue or create any units or carry on any activity in or from within Malta unless it is authorised by the MFSA either by means of a licence, notification or recognition, depending on the type of fund. For an investment fund to be authorised as a CIS by the MFSA, it must meet the definition outlined in the ISA, which provides for specific criteria to be satisfied for a structure to qualify as such. The definition is as follows:

*“collective investment scheme” means any scheme or arrangement which has as its object or as one of its objects the collective investment of capital acquired by means of an offer of units for subscription, sale or exchange and which has the following characteristics:*

- a) The scheme or arrangement operates according to the principle of risk spreading; and either*
- b) The contributions of the participants and the profits or income out of which payments are to be made to them are pooled; or*
- c) At the request of the holders, units are or are to be re-purchased or redeemed out of the assets of the scheme or arrangement, continuously or in blocks at short intervals; or*
- d) Units are, or have been, or will be issued continuously or in blocks at short intervals:*

*Provided that an alternative investment fund that is not promoted to retail investors and that does not have the characteristic listed in paragraph (a) hereof shall only be deemed to be a collective investment scheme if the scheme, in specific circumstances as established by regulations under this Act, is exempt from such requirement and satisfies any conditions that may be prescribed.*

## 2. How CISs may be structured in Malta

In Malta, CISs may be established as one of the following legal structures:

### ■ Investment company with variable share capital (SICAV)

A SICAV is typically established as an open-ended fund, meaning that its capital is variable and can increase or decrease as investors buy or redeem shares. It can however also accommodate closed-ended fund structures should the constitutional document provide for it. SICAVs can also be established as umbrella funds having multiple sub-funds with segregated assets and liabilities.

### ■ Investment company with fixed share capital (INVCO)

An INVCO is inherently a closed-ended fund, to which particular rules on distribution and capitalisation of profits apply. In addition to that, INVCOs are public companies required to invest primarily in securities and allocate at least 85 per cent of their income derived therefrom.

## **Contractual Fund**

A Contractual Fund is a CIS that is set up by a deed of constitution entered into by the fund manager and the depository of the fund. This type of fund does not have separate legal personality. A contractual fund is a structure regulated by the MFSA as a CIS under the Investment Services Act, and it may be an open-ended or closed-ended scheme. The contractual fund structure is available to both licensed and notified fund frameworks. The liabilities of a unit holder are limited to the amount agreed to be contributed by the unit holder for the subscription of units in the contractual fund.

## **Limited Partnership**

A limited partnership consists of one or more general partners, who have unlimited liability towards the partnership, and one or more limited partners, whose liability is restricted to the amount they have contributed. Each of the general partners must satisfy the MFSA that they are fit and proper persons to carry out the activities or functions of the partnership. A limited partnership has a legal personality that is separate and distinct from that of its partners. Funds structured as limited partnerships can be constituted as a multi-class or multi-fund CISs.

## **Incorporated Cell Company (ICC)**

An ICC allows the establishment of a structure comprising multiple incorporated cells under a single incorporated cell company. Each cell within the ICC has its own legal personality and must be constituted as a licensed or notified CIS, separate from other cells and the ICC itself. The assets and liabilities of each cell are ring-fenced from those of other cells and the ICC, providing a clear segregation of risks.

## **Investment company being an incorporated cell of a recognised incorporated cell company (RICC)**

The recognised incorporated cell company (RICC) was introduced in Malta to directly support fund platform providers. In a RICC structure, the Incorporated Cells would be established as separate licensed or notified CISs - each one with its own separate legal personality - under the Recognised Incorporated Cell Company, whose activities are instead limited to providing certain administrative services. RICC's are required to apply for a recognition certificate in terms of the ISA.

## **Unit Trust**

A CIS can also be structured in form of a unit trust, that is a contractual agreement entered into between a trustee - holding the assets of the trust on behalf of unit holders - and a management company, according to the terms of a trust deed. The trust deed sets out the rights of the unit holders, as well as the duties and powers of the trustee and the fund manager. Unit trusts are required to seek the MFSA's authorisation to operate as a CIS.

## **Special Limited Partnership Fund (SLPF)**

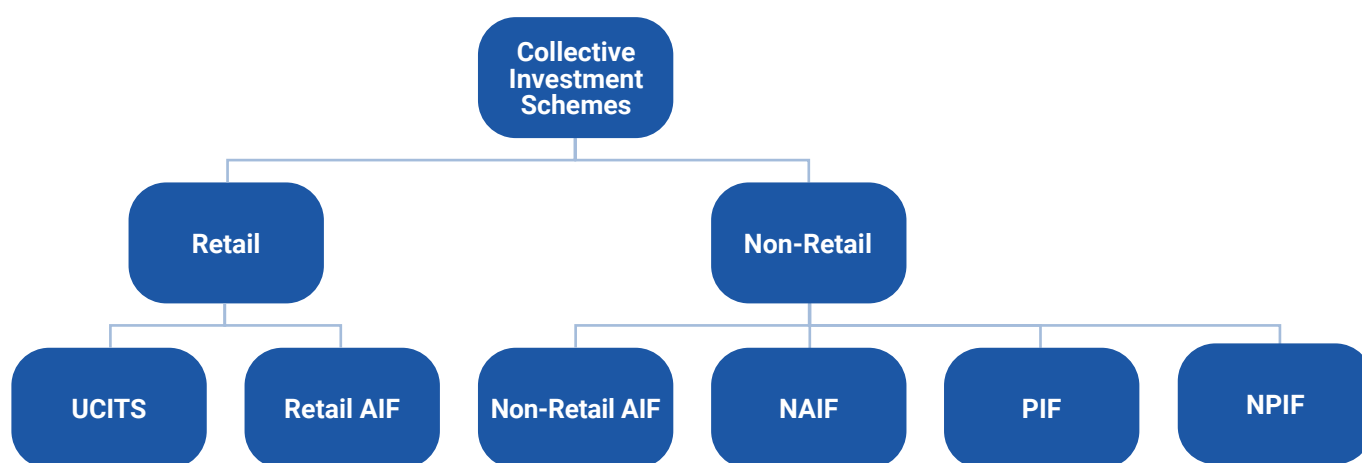
The MFSA is in the process of promulgating a new legal structure available solely to regulated CISs, to complement the limited partnership vehicle outlined above. This new framework will provide the possibility of CISs setting up as limited partnerships without separate legal personality. As a result, the SLPF would be constituted by means of a partnership deed entered into between at least one general partner and one or more investors who participate as limited partners. The internal dynamics broadly replicate those currently applicable to the Limited Partnerships with legal personality aforementioned. Accordingly, general partner(s) would be responsible for the management of the funds' business and unlimitedly liable for its debts and obligations. Any legal action against the CIS structured as an SLPF would have to be instituted against the general partner/s individually. Specific provisions with respect to assets segregation are also envisaged.



### 3. Classification of Collective Investment Schemes in Malta

Collective Investment Schemes are broadly classified into retail and non-retail schemes, each with specific regulatory frameworks and investor profiles. When compared to their non-retail counterparts which are marketed to professional and institutional investors, retail CISs are generally subject to more stringent

regulations regarding diversification, liquidity and the nature of investments since they are designed for investors who are deemed to be less sophisticated. An overview of the various regulatory frameworks applicable to CISs is presented below.



#### A. Undertakings for Collective Investment Schemes in Transferable Securities (UCITS)

UCITS funds are retail schemes licenced in accordance with the provisions of the ISA, which transposes the related EU UCITS framework. UCITS funds must be open-ended funds and are subject to specific investment restrictions that aim to ensure their ongoing liquidity. UCITS funds benefit from passporting rights and can hence be marketed in other EU or EEA Member States.

#### B. Alternative Investment Funds (AIFs)

This category of funds includes non-UCITS retail schemes, designed to be marketed to **retail investors**, and the non-retail AIFs, which are marketed to **professional investors** (i.e. 'professional clients' as defined in the Directive on markets in financial instruments, 'MiFID) and/or highly experienced and net-worth individuals that fall within the homegrown definition of **qualifying investors**<sup>19</sup>. AIFs are indirectly regulated by the Alternative Investment Funds Managers Directive (AIFMD) through their fund managers (i.e. the Alternative Investment Fund Managers - 'AIFMs'<sup>20</sup>) who must comply with specific requirements insofar as their organisation and ongoing

operations are concerned. The AIFMD seeks to create a harmonised framework for the management and marketing of AIFs across the EU. As is the case for UCITS, the AIF framework allows funds targeting professional investors to benefit from the EU passport, and therefore allows AIFMs to market units of such AIFs throughout the EU/EEA. However, it should be noted that the EU passport does not automatically extend to the marketing of AIFs to retail investors as such may only be allowed subject to national provisions applicable in the respective jurisdiction as prescribed in Article 43 of the AIFMD.

<sup>19</sup>A qualifying investor is an investor that fulfills the following criteria: i. invests a minimum of EUR 100,000 or its currency equivalent in the AIF which investment may not be reduced below this minimum amount at any time by way of a partial redemption; and ii. declares in writing to the AIFM and the AIF that it is aware of and accepts the risks associated with the proposed investment; and iii. satisfies at least one of the following: (a) is a body corporate which has net assets in excess of EUR 750,000 or which is part of a group which has net assets in excess of EUR 750,000 or, in each case, the currency equivalent thereof; (b) is an unincorporated body of persons or association which has net assets in excess of EUR 750,000 or the currency equivalent; (c) is a trust where the net value of the trust's assets is in excess of EUR 750,000 or the currency equivalent; (d) is an individual whose net worth or joint net worth with that of the person's spouse, exceeds EUR 750,000 or the currency equivalent; or (e) is a senior employee or director of a service provider to the AIF.

<sup>20</sup>AIFMs means legal persons whose regular business is managing one or more AIFs. These can also be regarded as full-scope AIFMs to differentiate them from de minimis AIFMs which are exempted from AIFMD but registered with the competent authorities of member states.

## C. Professional Investor Funds (PIFs)

The PIF is a homegrown regime designed for non-retail CISs that are specifically designed to target 'qualifying investors'. PIF structures generally allow for more flexibility, are not subject to any investment or borrowing restrictions (unless investing in immovable property or through loan) and are exempt from any risk spreading and/or diversification requirements. The inherent flexibility applicable to PIFs (as compared to AIFs) emanates from the fact that PIFs must necessarily be managed by a *de minimis* AIFM<sup>21</sup>, i.e. a manager exempt from the requirements emanating from the

AIFMD. PIFs can also be managed by third-country managers, i.e. based in a non-EEA country, provided that the said manager is authorised in a country with whom the MFSA has signed a cooperation agreement in terms of the AIFMD. It should be noted that PIFs do not benefit from the EU passporting rights provided under the AIFMD, and that the marketing of their units outside of Malta is subject to the provisions applicable in the respective jurisdiction of interest. PIFs are subject to a minimum investment amount per investor of EUR 100,000, or its currency equivalent.

## D. Notified Alternative Investment Funds (NAIFs)

NAIFs are a category of CIS that are exempt from licensing in terms of the ISA subject to inclusion in the List of NAIFs maintained by the MFSA in terms of the Investment Services Act (List of Notified AIFs) Regulations. The NAIF framework aims to provide AIFMs with a quick time-to-market for the establishment of their funds whilst maintaining the ability to market the funds within the EU in terms of the AIFMD passporting regime. A NAIF may be eligible for notification if the following conditions are satisfied:

- The NAIF is promoted to Professional Investors and/or Qualifying Investors only;
- The NAIF is managed by a full-scope EU AIFM authorised and regulated under the AIFMD;
- The board of directors of a NAIF is to be composed of at least three members, one of whom must be resident in Malta;
- At least one of the directors of the NAIF is independent from the AIFM, the custodian, the promoter and all other service providers appointed by the NAIF and/or the AIFM; and
- The AIFM assumes regulatory responsibility for that NAIF.

As aforesaid, a NAIF is not subject to the licensing process but a notification procedure which entails the submission of a notification pack by the AIFM to the MFSA. Within ten (10) working days from the date of submitting a duly completed notification pack, the MFSA would proceed to include the AIF in the list of NAIFs, following which, the NAIF is permitted to commence business.

## E. Notified Professional Investor Funds (NPIFs)

On 18 December 2023, the MFSA issued a new regulatory framework for Notified Professional Investor Funds. The framework provides an additional fund structure in Malta that benefits from a streamlined onboarding process and complements other existing fund frameworks. A NPIF is a special type of non-retail collective investment scheme, which is notified to the Authority and solely available to Professional and/or Qualifying Investors. The regulatory framework for NPIFs includes both legislation (the Investment Services Act (Notified CISs) Regulations) and rules (the NPIF Rulebook).

Similar to NAIFs, NPIFs are a category of CIS that are exempt from undergoing the licensing process under the ISA but are subject to a notification process which will result in their inclusion in the List of Notified PIFs maintained by the Authority. A NPIF can be set up and managed by either an EEA *de minimis* AIFM or by certain third country AIFMs, provided that the regulatory framework they are subject to has been previously assessed and approved by the MFSA.

<sup>21</sup>De minimis AIFM manages portfolios of AIFs whose assets under management do not exceed a threshold of EUR 100 million (for leveraged funds) or EUR 500 million (where the funds are unleveraged and have no redemption rights exercisable within a period of 5 years following the date of initial investment in the fund).

## 4. Comparison of the various CIS frameworks in Malta

The below table provides a high-level comparison between the various CIS frameworks available in Malta.

	UCITS	AIFs	NAIFs	PIFs	NPIFs
Authorisation	Licence Required	Licence Required	Notification Required	Licence Required	Notification Required
Target Investors	Retail	Retail, Professional and/or Qualifying	Professional and/or Qualifying	Qualifying	Professional and/or Qualifying
Service Providers					
Fund manager	May be self-managed or may appoint a third party UCITS Management Company	May be self-managed or may appoint a third party EU/EEA AIFM	Must appoint a third party EU/EEA AIFM	May be self-managed or may appoint a third party de minimis AIFM or a third-country AIFM	Must appoint third party EU/EEA de minimis AIFM or a third country AIFM from an approved jurisdiction
Administrator	Fund Manager may act as Administrator or may appoint a third-party Administrator	Fund Manager may act as Administrator or may appoint a third-party Administrator	Fund Manager may act as Administrator or may appoint a third-party Administrator	Retail Fund Manager may act as Administrator or may appoint a third-party Administrator	Must appoint a third-party Administrator
Depository	Must appoint a Depository	Must appoint a Depository	Must appoint a Depository	Appointment of Depository is not compulsory, but arrangements must be made for the safekeeping of assets	Appointment of Depository is not compulsory, but arrangements must be made for the safekeeping of assets
Investment Adviser	May be appointed	May be appointed	May be appointed	May be appointed	May be appointed
Auditor	Required	Required	Required	Required	Required
Due Diligence Service Provider	n/a	n/a	n/a	n/a	Required
Other Functionaries					
Compliance Officer	Required	Required	Required	Required	A Director of the NPIF that is resident in Malta will be responsible for Compliance
Money Laundering Reporting Officer	Required	Required	Required	Required	Required

## 5. Listing of a Collective Investment Scheme

A Maltese CIS that has been granted or has applied for a CIS licence may apply for authorisation for admissibility to listing with the Authority, as may a European scheme. The relevant requirements in this instance are laid out in the MFSA's Capital Markets Rules.

Opting for a listing very often translates into enhancing the international profile of the listed scheme, whilst some institutional investors may only acquire units in a CIS that is listed. Accordingly, a listing increases the "marketability" of the CIS.







# Investment Services Providers

# 1. Investment Services Licence Holders – An Overview

The MFSA authorises and supervises investment firms, fund managers, registered tied agents, and recognised fund administrators. Through its supervision, the Authority assesses compliance with prudential requirements emanating from European Directives and local legislation and regulations, as well as the adequacy of systems and controls, governance arrangements, risk management and risk mitigation, within licensed entities falling within its remit. The Authority carries out supervisory interactions, collects regulatory data, and makes use of desk-based supervisory tools and data intelligence to achieve its objectives. To support its supervisory work, the MFSA actively participates in European Supervisory Authorities' committees and working groups. It also dedicates resources to the transposition and implementation of European Directives and Regulations to ensure integration in the Maltese legal and regulatory framework and develops policy intended to supplement this framework.

## 2. Investment Firms

The Maltese framework for investment services is provided within the Investment Services Act (ISA). The Act provides that no person shall provide, or hold himself out as providing an investment service in or from within Malta unless in possession of an investment services licence. Firms are authorised, and are supervised, based on the type of services they offer. In terms of the EU Investment Firms Regulation (IFR) and EU Investment Firms Directive (IFD), jointly the 'IFS package', investment firms are classified into the following classes:

- I. Class 1 and the sub-class Class 1 Minus;
- II. Class 2; and
- III. Class 3 firms.

### Class 1 and Class 1 minus

According to Article 1 of the IFR, Class 1 Firms are those firms which [i] deal on own account and/or underwrite financial instruments and/or place financial instruments on a firm commitment basis; and [ii] have total consolidated assets equal to or in excess of EUR 15 billion. A Class 1 minus firm's total value of consolidated assets is equal to or exceeds EUR 5 billion but is less than EUR 15 billion. Similarly to Class 1 Firms, Class

1 Minus firms must also deal on own account and/or underwrite financial instruments and/or place financial instruments on a firm commitment basis. Unlike the Class 1 status, the Class 1 minus categorisation is not automatic, but is subject to the Authority's discretion. Both Class 1 and the sub-class Class 1 Minus Firms must apply the CRR Package<sup>22</sup> in full.

### Class 2 and Class 3

Class 2 and Class 3 Firms are neither systemic, nor bank like, nor of a significant size. Class 2 Firms may be referred to as small and interconnected firms, whilst Class 3 Firms may be referred to as small and non-interconnected firms. Class 3 Firms are defined under Article 12 of the IFR. The determination on whether an Investment Firm is defined as Class 2 or Class 3 is based on various factors.

Class 3 Firms must, at all times, satisfy all the following conditions: [i] assets under management are less than EUR 1.2 billion; [ii] Client orders handled are less than either: [a] EUR 100 million/day for cash trades; or [b] EUR 1 billion/day for derivatives; [iii] Assets safeguarded and administered are zero; [iv] clients' money held are zero; [v] daily trading flow is zero; [vi] Net Position Risk or Clearing Margin Given is zero; [vii] Trading Counterparty

Default is zero; [viii] the on- and off-balance sheet total of the investment firm is less than EUR 100 million; [ix] the total annual gross revenue from investment services and activities of the investment firm is less than EUR 30 million calculated as an average on the basis of the annual figures from the two-year period immediately preceding the given financial year.

Class 2 firms are the residual class and, unlike Class 1 Firms, Class 1 Minus Firms, and Class 3 Firms there is no specific list within the IFS package which they have to adhere to. They are firms which do not classify as Class 1, Class 1 Minus, or Class 3 firms.

For Class 2 and Class 3 firms, the prudential requirements emanate from the IFR/IFD.



<sup>22</sup>The Capital Requirements Regulation and the Capital Requirements Directive

### 3. Fund Managers

#### Alternative Investment Fund Managers (AIFMs)

An AIFM is a Licence Holder whose regular business is managing one or more Alternative Investment Funds (AIFs) and is responsible for ensuring compliance of the AIFs it manages with the applicable regulatory framework. The AIFM shall be either:

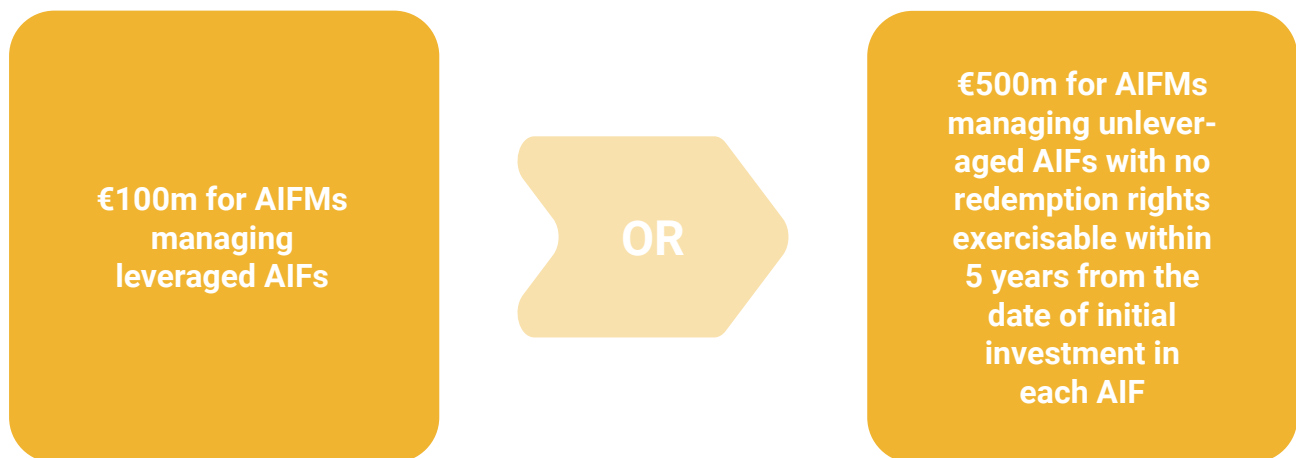
- a. An external AIFM, which is the legal person appointed by the AIF or on behalf of the AIF and which through this appointment is responsible for managing the AIF; or
- b. Where the legal form of the AIF permits an internal management and where the AIF's governing body chooses not to appoint an external AIFM, the AIF may be authorised as self-managed.

An external AIFM may manage more than one AIF and may also be authorised to carry out discretionary portfolio management services and non-core services comprising investment advice, safe-keeping and administration in relation to the shares/units of collective investment schemes and the reception and transmission of orders in relation to financial instruments. On the other hand, the authorisation of a self-managed AIF will only allow it to engage in activities specifically related to the management of that particular AIF.

Additionally, the AIFMD allows the AIFM to benefit from the EU passport throughout the EU (i.e. AIFMs may engage in cross-border management of AIFs or cross-border sale of AIF units to eligible investors).

#### De Minimis AIFMs (Below-threshold AIFMs)

De Minimis AIFMs are fund managers managing portfolios of AIFs that, in aggregate, fall below the assets under management thresholds established in the AIFMD, as follows:



Whilst the AIFMD allows member states to choose merely to register rather than licence de minimis AIFMs, the MFSA requires them to be licensed as de minimis fund managers in terms of the ISA. Once authorised, a de minimis AIFM will be exempt from complying with the provisions of the AIFMD with the exception of certain reporting requirements<sup>23</sup>. De minimis AIFMs do not benefit from passporting rights under the Directive.

#### UCITS Management Companies (UCITS ManCo):

UCITS ManCos are Licence Holders whose regular business is the management of Undertakings for Collective Investments in Transferable Securities (UCITS). The UCITS Directive allows the UCITS Management Company to benefit from the EU passport throughout the EU (i.e. the UCITS ManCo may engage in cross-border management of UCITS or cross-border sale of the UCITS units to retail investors).

<sup>23</sup>The reporting requirements include: the investment strategies of the AIFs under management; the main instruments in which the AIFs under management are trading; as well as the principal exposures and most important concentrations of the AIFs under management.



## 4. Custodians / Depositaries

### Depositary

These are Licence Holders authorised to act as trustees or custodians in relation to all types of Collective Investment Schemes in Malta. They are responsible for safe-keeping of the CIS' assets and are required to have an established place of business in Malta.

### Depositary Lite

These are Licence Holders authorised to act as trustees or custodians in relation to:

- a. AIFs which have no redemption rights exercisable during the five-year period from the date of initial investment and which generally do not invest in assets that must be held in custody in terms of the Investment Services Rules; or
- b. Non-EU AIFs marketed in Malta in terms of regulation 7 of the Investment Services Act (Alternative Investment Fund Manager) (Third Country) Regulations.

## 5. Recognised Persons - Fund Administrators

The ISA provides that any person who provides Licence Holders in Malta or other equivalent authorised persons overseas with administrative services<sup>24</sup> (which do not themselves constitute licensable activity under the Act) shall require the MFSA's recognition.

## 6. The Registration of Tied Agents

Tied Agents are required to register with the MFSA. MiFID defines a Tied Agent as

*"a natural or legal person who, under the full and unconditional responsibility of only one investment firm on whose behalf it acts, promotes investment and/or ancillary services to clients or prospective clients, receives and transmits instructions or orders from the client in respect of investment services or financial instruments, places financial instruments or provides advice to clients or prospective clients in respect of those financial instruments or services."*

Investment firms may appoint tied agents, however, they remain fully and unconditionally responsible for any action or omission on the part of the tied agent when such a tied agent is acting on its behalf. Investment firms are to ensure that a tied agent discloses the capacity in which they are acting and the investment firm which they are representing when contacting, or before dealing with, any client or potential client. Tied agents may not hold or control clients' money and/or assets.





# Capital Markets

# 1. Capital Markets – An Overview

Since the enactment of the Malta Stock Exchange (MSE) Act in 1990 and the first equity listing two years later, the local capital markets have experienced steady and significant growth, achieving circa 300 listed securities by the end of 2023.

The MFSA's remit in relation to capital markets is relatively vast and ranges from the authorisation and supervision of trading venues and central securities depositories to the processing of applications for admissibility to listing on regulated markets and the approval of prospectuses. The MFSA is also responsible for the supervision of entities falling under the scope of the

European Market Infrastructure Regulation (EMIR) or the Securities Financing Transactions Regulation (SFTR), the supervision of the continuing obligations of listed companies on regulated markets in Malta, and the supervision of the capital markets to identify any market abuse.

Crowdfunding Platforms, Securitisation Vehicles, Benchmark Administrators, Distributed Ledger Technology (DLT) market infrastructures, Data Reporting Services Providers, Central Counterparties, and Credit Rating Agencies also fall within the remit of the Authority.

## 2. Market Infrastructures

The regulatory framework applicable to trading venues, central securities depositories (CSDs) and data reporting services providers is comprised of the Financial Markets Act (the 'FMA', Cap. 345 of the Laws of Malta), the relevant subsidiary legislation issued thereunder and the MFSA's Financial Markets Rules.

By virtue of the provisions of the FMA, the MFSA is responsible for the regulation of trading venues operating from or within Malta. At present, there are three trading venues, all operated by the Malta Stock Exchange (MSE), and authorised by the Authority:

- I. The Main Market - a regulated market;
- II. The Institutional Financial Securities Markets (IFSM) - a regulated market targeting wholesale investors; and
- III. The Prospects MTF - a multilateral trading facility.

The MSE's Main Market is the largest contributor to the local capital markets, allowing for financial instruments whose value is in excess of €8 million and catering for corporate equity and bond issuances, collective investment schemes, exchange-traded funds, securities issued by the Government of Malta and, most recently, green bonds which are listed and traded on a specific segment thereof.

The Prospects MTF has provided a novel route of access to financing for SMEs, where such companies may apply for admission of up to €8 million, whilst the IFSM is a regulated market specifically designed for institutional investors given that the minimum denomination of financial instruments which may be quoted is that of €100,000 per financial instrument.

The MSE also operates a fully dematerialised direct holding CSD which provides a variety of services related to the maintenance of company registers, including the registration of new issues, transfers, clearance, settlement and custody.

## 3. Admissibility to Listing and Approval of Prospectuses

Pursuant to the provisions of the FMA, which is also the primary legislative instrument regulating the admissibility to the listing of financial instruments in Malta, prospective issuers seeking to obtain a listing on a regulated market in Malta must apply to the MFSA for authorisation for admissibility to listing.

The requirements of the FMA are complemented by different sets of rules which are issued by the MFSA and are dependent on the regulated market on which admissibility to listing is being sought. More specifically, the general Capital Markets Rules apply to listings on the Main Market, whilst the Capital Markets Rules for Wholesale Securities Markets are applicable to listings on the IFSM. In addition, the MFSA Listing Policies set out additional requirements which prospective issuers must satisfy under certain circumstances, including the requirement

for a sinking fund, and by demonstrating financial soundness to the MFSA (where applicable).

Save for certain exemptions, the approval and subsequent publication of a prospectus which is compliant with the [Prospectus Regulation](#) is also required when securities are offered to the public or admitted to trading on a regulated market in Malta. Subject to the relevant notification procedures, prospectuses which are approved by the MFSA gain passporting rights to other EU or EEA jurisdictions, allowing the issuer/offeree to offer securities to the public or seek admission to trading on a regulated market in other EU or EEA jurisdiction without having to also seek approval of the prospectus by the competent authorities of the host jurisdiction.



## 4. Securitisation

The securitisation framework in Malta offers an innovative and flexible solution for securitisation transactions, predominantly via the Securitisation Act (the 'Act', Cap. 484 of the Laws of Malta) and the Malta Financial Services Authority Act (Securitisation) Regulations (S.L. 330.14). Whilst the latter primarily implement the relevant provisions of the [Securitisation Regulation](#) and define the designation and powers of the competent authority (the MFSA), the Act inter alia allows for clear provisions on securitisation transactions centred around the elements of true sale, bankruptcy remoteness and creditor privilege.

Securitisation vehicles established under the Act may be set up in various forms as permitted by the MFSA, including as companies, commercial partnerships and trusts. Furthermore, the Securitisation Cell Companies Regulations (S.L. 386.16) allow for securitisation cell companies to be established inter alia for the purpose of entering into securitisation transactions (subject to certain restrictions).

Whilst the MFSA is the Authority responsible for the regulation of securitisation in Malta, licensing is only required for

securitisation vehicles that issue or intend to issue financial instruments to the public on a continuous basis (public securitisation vehicles). A private securitisation vehicle is only required to notify the MFSA of its intention to enter into a securitisation transaction prior to commencing business via a prescribed form, including disclosures pertaining to the basic corporate information of the securitisation vehicle together with the details of the securitisation transaction.

Irrespective of the type of activities carried out, the Act exempts securitisation vehicles from authorisation requirements which would ordinarily emanate from other regulatory frameworks (e.g. the Banking Act or the Financial Institutions Act), save for securitisation vehicles established as Reinsurance Special Purpose Vehicle in terms of the Reinsurance Special Purpose Vehicle Regulations (S.L. 403.19) to which the Act does not apply. The Act additionally provides that securitisation vehicles are not to be considered collective investment schemes and are therefore generally exempt from the local regulatory framework applicable to collective investment schemes, subject to any provisions which the MFSA may determine.

## 5. Crowdfunding

Following the rise in popularity of crowdfunding as an alternative means of raising capital, the [Crowdfunding Regulation](#) came into force in 2021 with the aim of harmonising investment-based and lending-based crowdfunding services across the EU. Pursuant to the Crowdfunding Regulation, crowdfunding platforms are able to offer their services across the EU with a single authorisation given their right to an EU passport, whilst investors in such platforms are afforded protection based on clear rules on information disclosures, governance and risk management of crowdfunding platforms.

In 2023, the Crowdfunding Service Providers Act (the 'CSPA', Cap. 637 of the Laws of Malta) was enacted to implement the

relevant provisions of the Crowdfunding Regulation, which is further supplemented by the MFSA's Crowdfunding Rules. In terms of the CSPA, and without prejudice to Article 18 of the Crowdfunding Regulation, no crowdfunding services shall be provided in Malta unless they are provided by a legal person duly authorised by the MFSA or any other European regulator as a crowdfunding service provider. In this respect, the MFSA is bound to adopt a decision granting or refusing authorisation as a crowdfunding service provider within three (3) months from the date of receipt of a complete application and after having assessed whether the prospective applicant satisfies the requirements of the Crowdfunding Regulation.

## 6. The DLT Pilot Regime

The DLT Pilot Regime for Market Infrastructures, which is directly applicable in Malta, started applying across the EU in 2023 following the introduction of the [DLT Regulation](#). It essentially comprises a legal framework for the trading and settlement of transactions in crypto- assets which qualify as financial instruments under MiFID II, whilst facilitating the establishment of innovative forms of market infrastructures such as DLT multilateral trading facilities, DLT settlement systems and DLT trading and settlement systems.

The regime introduced a regulatory sandbox which allows operators to experiment with DLT within the financial market

space, whilst ensuring an adequate level of compliance with other EU legislative instruments such as MiFID II, MiFIR and the Central Securities Depository Regulation. Applicants may obtain authorisation as either an investment firm, market operator or CSD, depending on the DLT market infrastructure they intend to operate. Notwithstanding this, the regime also allows access to new entrants not in possession of the aforementioned authorisations, provided that they simultaneously apply for authorisation whilst seeking inclusion in the regime.





# Trustees and Other Fiduciaries



# 1. Introduction

Trustee and other fiduciary services in Malta are regulated by the Trusts and Trustees Act (Cap. 331 of the Laws of Malta, hereinafter referred to as 'the Act'), the provisions of which inter alia incorporate the Hague Convention on the Law Applicable to Trusts and on their Recognition which Malta has ratified. Trustees are persons in whom property is vested for the benefit of specific persons who are effectively the beneficiaries of the said property administered by the trustee. Similarly, other fiduciary service providers include persons who act for and on behalf of another person in the context of other legal relationships which include acting as mandataries for another person, and also as administrators of private foundations. All fiduciaries are subject to fiduciary obligations as set out in Article 1124A of the Civil Code (Chapter 16, Laws of Malta).

Trustees and other fiduciaries are deemed to be gatekeepers of Malta's financial system in view of the fact that structures which they set up or administer, may have wide-ranging effects and uses within the financial sector as a whole. For the purposes of the Act, the Malta Financial Services Authority is the competent Authority responsible for the authorisation and supervision of trustees and other fiduciaries, including administrators of private foundations. The overall aim of the Authority is to ensure compliance of trustees and other fiduciaries with the applicable legislative and regulatory framework whilst providing a degree of protection for the clients of persons carrying on such regulated activities. In this respect, the MFSA's scrutiny of trustees and other fiduciaries is taken very seriously in view of the heightened risks which these sectors may pose.

## 2. Authorisation of Trustees & Other Fiduciaries

Aside from the categories of persons granted exception under the Act, any person operating in or from Malta, who receives property upon trust or accepts to act as trustee of a trust, requires the authorisation of the MFSA irrespective of whether or not the trust property is in Malta, if the person:

- Receives or is entitled to receive remuneration for so acting;
- Does so on a habitual and regular basis; or
- Holds himself out to be a trustee.

Similarly, persons intending to act as a mandatory or administrator of private foundations must apply for authorisation in terms of the Act.

Furthermore, the Act provides for specific conditions that must be satisfied by natural or legal persons wishing to take on the role of a trustee or to provide other fiduciary services. The Authority may grant an authorisation if it deems that the conditions stipulated within the Act and any other rules have been satisfied.





### 3. Family Trustees

Without prejudice to any other relevant provisions of the Act, a trustee who (a) acts as a trustee to specific family trusts, and (b) does not otherwise hold itself out as providing trustee services to the public; and (c) does not habitually act as a trustee, does not require authorisation in terms of the Act but is instead eligible to apply for registration by the MFSA. A “family trust” is accordingly defined as “... a trust created to hold property settled by the settlor or settlors for the present and

future needs of family members or family dependants who are definite and can be ascertained”.

In this regard, the respective definitions for “family members” and “family dependants” together with additional registration requirements applicable to family trusts are set out in the MFSA’s Rules for Trustees of Family Trusts.

### 4. Supervision of Trustees & Other Fiduciaries

The Authority is also responsible for the ongoing prudential and conduct supervision of trustees and other fiduciaries.

In this regard, trustees and other fiduciaries are subject to the requirements of the Code of Conduct for Trustees and Other Fiduciaries which outlines their obligations and requirements that must be adhered to on an ongoing basis. In order to ensure compliance with applicable legislative and regulatory

frameworks, the Authority is empowered to use a number of supervisory tools, including supervisory inspections, supervisory meeting and thematic reviews, in order to assess such compliance and guide trustees, together with other fiduciaries, as necessary.

### 5. Trusts Ultimate Beneficial Ownership Register (TUBOR)

Malta has set up a register of beneficial ownership register of trusts since 2018. The MFSA has developed an online platform for the Trusts Ultimate Beneficial Ownership Register (“[TUBOR](#)”), in order to facilitate the electronic submission of beneficial ownership information of trusts as well as to provide online access to the said beneficial ownership information to the entitled parties in terms of law, at differing levels.

The Trusts and Trustees Act (Register of Beneficial Owners) Regulations require all trustees licensed in Malta to report

beneficial ownership information of all trusts under their administration. The declaration to be reported includes the details set out by law, including those related to the trustee, settlor, protector, beneficiaries or class of beneficiaries as well as any other person exercising control over the said trust. Moreover, where a trustee whose place of establishment or residence is outside of the EU enters into a business relationship, or acquires real estate in Malta, this shall also trigger the reporting requirements of beneficial ownership of such a trust in the central register in Malta.



**Company Service Providers**



# 1. Introduction

Company Service Providers (CSPs) are a vital component of the Maltese financial services sector, offering a wide range of corporate services to local businesses as well as international corporations looking to establish or manage a corporate presence in Malta. The Company Service Providers Act (Cap. 529 of the Laws of Malta, hereinafter referred to as 'the Act') provides the statutory basis for the authorisation of persons providing or intending to provide certain company services as defined in the said Act. The Act defines CSPs as those persons which, by way of business, provide any of the following services to third parties:

- a) Formation of companies or other legal entities;
- b) Acting as or arranging for another person to act as director or secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities; and
- c) Provision of registered office, a business correspondence or administrative address and other related services for a company, a partnership or any other legal entity.

CSPs are regarded as gatekeepers to Malta's financial system, often serving as the first point of contact for individuals and entities looking to invest in Malta. The Malta Financial Services Authority is responsible for the authorisation and supervision of CSPs with the overall aim of monitoring their level of compliance with the applicable legislative and regulatory frameworks and ensuring an appropriate degree of protection for the clients of persons carrying on such regulated activity.

Notably, CSPs play a crucial role in preventing criminals from establishing legal entities and process transactions using funds or assets derived from criminal activities and thereby gaining access to the wider financial sector. Therefore, the fitness and properness assessment of the persons providing such services together with CSPs' ongoing supervision is fundamental to Malta in the safeguarding of the financial sector's soundness.

## 2. Authorisation of CSPs

The Act requires any individual or entity operating in or from Malta that either acts, or holds himself/itself out as acting, as a CSP by way of his/its business to apply for authorisation from the Authority, unless falling within specific exemptions provided by law<sup>25</sup>. The authorisation of CSPs entails the MFSA's classification of the CSP, which reflects the services they provide or intend to provide, thus allowing for a more tailored regulatory approach that aligns with the nature, level and complexity of the CSP's activities. The classifications of the authorisation which may be granted to a CSP are presented in the table below:

Classes	Activities
Class A CSP	(i) Formation of companies or other legal entities; and/or (ii) Provision of a registered office, a business correspondence or administrative address and other related services for a company, a partnership or any other legal entity.
Class B CSP	(i) Acting as, or arranging for another person to act as director or secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities.
Class C CSP	All services of both Class A and Class B CSP services.

When a CSP is classified by the Authority as a Class A CSP or a Class B CSP, the Authority shall also determine whether the CSP is over-threshold or under-threshold.

<sup>25</sup>Company Service Providers Act (Exemption) Regulations, 2021



The criteria by which a person shall be considered to be an over-threshold or under-threshold CSP are provided for in the MFSA's Company Service Providers Rulebook, which defines them as follows:

### Under threshold Class A CSPs

- ☐ Refers to individuals or civil partnerships in possession of a warrant, or equivalent, to carry out the profession of advocate, notary public, legal procurator or certified public accountant whose revenue from corporate services forms, or is forecast to form, in the upcoming year, not more than: [a] 35% of the combined total revenue in a calendar year from the provision of all professional services; or [b] EUR 100,000, whichever is the higher.
- ☐ Provided that this category may not provide the service of "provision of a registered office, a business correspondence or administrative address and other related services for a company, a partnership or any other legal entity.

### Under threshold Class B CSPs

- ☐ Refers to individuals who hold an aggregate of not more than ten (10) involvements.
- ☐ Provided that for the purposes of this definition: [i] the term 'involvements' shall encompass acting as director or company secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities; [ii] involvements with entities which are licensed, recognised or otherwise authorised by the Authority shall not count as an involvement given that individuals holding directorships or company secretarial positions in companies which are so licensed, recognised or authorised by the Authority are not considered as providing directorship or company secretarial services 'by way of business', for the purposes of authorisation in terms of the Act; [iii] involvements of the same person within the same group of companies shall only count as one single involvement.

The above thresholds are intended to ensure that CSPs offering limited services or servicing low volume clients are subject to a regulatory framework which takes into account the nature and size of their business in light of the principle of proportionality.

## 3. Supervision of CSPs

The Authority is also responsible for the ongoing prudential and conduct supervision of CSPs. In this regard, CSPs are subject to the requirements of the Company Service Providers Rulebook which outlines their obligations and requirements that must be adhered to on an ongoing basis. In order to ensure compliance with applicable legislative and regulatory frameworks, the Authority is empowered to use a number of supervisory tools, including supervisory inspections, supervisory meetings and thematic reviews, to assess such compliance and guide CSPs, as necessary.





# Central Bank of Malta

# 1. The Central Bank of Malta as the Macprudential Authority

The primary objective of macroprudential policy is to mitigate the buildup of risks in the financial sector, prevent their spillovers to the real economy, while promoting sustainable growth without compromising the price stability objective. Financial stability ensures that the financial system can efficiently provide credit intermediation and payment

services, supporting the real economy. The Central Bank of Malta is the designated macroprudential authority in Malta, and therefore vested with a mandate to formulate and implement policies designed to mitigate systemic risk and ensure financial stability.

## 2. How does the Bank discharge its mandate?

To fulfil this mandate, the Central Bank of Malta has set up two dedicated departments. The **Financial Stability Surveillance and Research Department (FSSR)** is responsible for identifying risks and vulnerabilities in the financial system. It conducts in-depth assessments and includes a stand-alone unit that produces dedicated macroprudential research. A key output of this department is the Financial Stability Report (FSR) and its interim update. The **Policy, Crisis Management and Stress Testing Department (PCMST)** focuses on the development and implementation of macroprudential policies and crisis management frameworks. This department is also responsible for designing stress tests and scenario analyses on financial institutions. Both departments use market intelligence, supported by various surveys, to enhance their assessments. In addition to the FSR, the Central Bank of Malta publishes research and working papers that provide further insights into financial stability matters.

The Bank seeks to maintain open lines of communication with the industry to maximise transparency, promote industry involvement and offer regulatory certainty to its stakeholders. Apart from regular appointments with stakeholders, such as its annual Financial Stability Forum and its Financial Stability Seminars, the Bank also engages in public consultations to inform and gather feedback on the directives that it implements, or it updates. All this with the main aim to promote transparency and stakeholder involvement.

The Central Bank of Malta collaborates closely with the Malta Financial Services Authority (MFSA) and the Ministry for Finance (MFIN) through several joint bodies and committees. To foster such collaboration, Article 17B of the Central Bank of Malta Act established the Joint Financial Stability Board (JFSB), with the primary objective to ensure effective cooperation between the relevant authorities on matters

impacting financial stability. The JFSB is composed of high-level officials from the Bank and the MFSA with the Minister for Finance as observer. This Board is chaired by the Governor of the Central Bank of Malta. The JFSB assess financial stability risks and recommends to the relevant competent authority policy actions to mitigate potential systemic threats. Further coordination occurs via the Domestic Standing Committee (DSC) and its sub-structure, the Crisis Management Task Force (CMTF). This Committee focuses on enhancing preparedness in management and resolution in the eventuality of a financial crisis, by having in place effective measures and action plans to manage the situation in a timely manner. The Central Bank of Malta also engages with other external stakeholders such as the Malta Bankers' Association and the National Statistics Office.

In addition, the Bank also advises the Government and other public sector bodies on financial stability matters, particularly during the introduction of new EU directives or regulations related to the financial sector. The Central Bank of Malta also contributes to discussions on financial sector dossiers at the Council of the EU.

On the international front, the Central Bank of Malta collaborates closely with European and global institutions to discuss systemic risks and align national policies with EU regulations and frameworks. This includes direct collaboration with the European Central Bank (ECB), the European Systemic Risk Board (ESRB), and the European Banking Authority (EBA), alongside their substructures and technical groups. This multi-layered approach ensures that the Central Bank of Malta can effectively address financial stability risks while maintaining alignment with both national and international stakeholders.

## 3. The Central Bank of Malta as the supervisor of Credit Reference Agencies (CRAs)

The CBM is the Supervisory Authority of the Credit Reference Agencies (CRAs). These agencies, which are licensed by the Commerce Department, are authorised to issue credit scores to businesses and individuals in Malta. The Bank has also a consultative role in the licensing process, wherein it is vested with the responsibility to issue recommendations to the

Commerce Department. In its role as supervisor of licensed CRAs, the CBM is responsible for conducting on-site and off-site supervision, as well as ongoing monitoring of these entities. This is done to ascertain that the operations of a CRA are in line with the legislation.



## 4. The Central Bank of Malta as the administrator of the Central Credit Register (CCR)

The Bank administers Malta's Central Credit Register. The register contains granular data supplied by commercial banks and the Malta Development Bank (MDB) on any loans granted with an amount exceeding €5,000. The CCR is an important credit data sharing platform which supports credit institutions and the MDB in their credit risk assessment of existing and prospective customers. Both individuals and companies can also request a CCR extract containing

information on the status of their liabilities with their respective commercial bank/s. Access to, and use of the CCR, is also a required licence condition for CRAs operating in Malta.

The CCR is also an important resource for the CBM's statistical analysis, as well as financial stability risk assessment and the implementation of monetary and macroprudential policy.

## 5. The Central Bank of Malta as a provider of payment services

A well-structured payment and settlement system promotes the efficient use of resources and contributes to the integration of financial markets. The Central Bank of Malta operates TARGET-Malta, which forms part of the TARGET Services, comprising a number of services developed and operated by the Eurosystem to ensure the free flow of cash, securities and collateral across Europe. Furthermore, the Central Bank of Malta operates MTEUROPAY, the retail payment system processing SEPA Credit Transfers and SEPA Direct Debits. Once a financial institution obtains a licence from the MFSA and fulfils the access criteria, it can apply to become an MTEUROPAY participant. Benefits for Participants

include: No dependency on foreign correspondent banks; no credit risk; access to European payment infrastructures; faster and more efficient processing for payments between the system's participants; and economies of scale.

The Central Bank of Malta works closely with other competent authorities, including the Financial Intelligence Analysis Unit and the Malta Financial Services Authority, to guarantee a transparent and sound participation approval process for onboarding players and members to the domestic payment ecosystem. This to ensure high-quality participants which are fully compliant with domestic and international standards.

## 6. The Central Bank of Malta as a provider of euro banknotes and coins

The Central Bank of Malta provides cash as a means of payment and ensures that sufficient high-quality banknotes and coins are available and distributed to the public through licensed credit institutions and independent ATM operators' network to meet the demand.

The Central Bank is obliged to guarantee the high quality of banknotes and coins in circulation, the sufficient supply and accessibility, and finally the identification and elimination of any counterfeit banknotes and coins to maintain public trust in the currency. The possibility of recirculating euro banknotes enables institutions and other cash handlers to perform their role in the currency supply chain in a more effective and cost-efficient manner. The Central Bank ensures that currency

recycling activities are carried out using successfully tested machines and in line with related ECB and EC regulations and decisions. The Central Bank of Malta has an ongoing educational campaign on euro currency that offers information sessions to professional cash handlers, retailers, and the general public to increase awareness about counterfeit Euro currency.

Licensed Institutions and other professional cash handlers can apply with the Currency Operations Office, within the Central Bank of Malta to become distributors of cash, participate in the educational campaign on euro currency, and seek information and training on counterfeiting.





# FIAU

**The Financial Intelligence  
Analysis Unit**

## 1. Purpose

To protect Malta's financial system and the community from serious crime by combating money laundering and the funding of terrorism, through the generation and dissemination of useful intelligence, and the application of effective and proportionate preventative measures, in collaboration with our private and public sector partners.

## 2. About the FIAU

The Financial Intelligence Analysis Unit (FIAU) is Malta's sole regulator for the obligations related to Anti Money Laundering and Counter Funding of Terrorism (AML/CFT). It is responsible for the collection, collation, processing, analysis, and dissemination of information to combat money laundering and the funding of terrorism. Since it became operational on 1 October 2002, the Unit's scope has also broadened. Therefore, its purpose is met by the performance of the below functions:



**Intelligence  
Analysis**



**Supervision**



**Enforcement**



**The Centralised  
Bank Account  
Register**



**Cash  
Restriction**



**Guidance &  
Outreach**

The FIAU was established under Legal Notice 297 of 2002, which brought into force the comprehensive amendments to the Prevention of Money Laundering Act (Act XXXI of 2001). Though set up as an agency within the ministry responsible for finance, the Unit has a separate judicial personality and operates autonomously and independently.





### 3. Key Roles & Responsibilities

The FIAU's **Intelligence Analysis Section** conducts strategic and tactical analysis of information from suspicious transaction and activity reports to produce intelligence that aids in combating money laundering, terrorism funding, and serious crime, supporting law enforcement and policy implementation.

The **Supervision Section** oversees compliance with AML/CFT obligations by subject persons through risk assessment, supervision, guidance, remediation, and quality control, managed by six specialised teams within the section.

The FIAU's **Enforcement Section** addresses AML/CFT breaches by subject persons through a fair process involving supervisory examinations and a thorough review by the FIAU's Compliance Monitoring Committee (CMC). The section is responsible for implementing the FIAU's administrative enforcement responsibilities, including that of issuing administrative penalties or directives and collaborating with subject persons to remediate and strengthen their AML/CFT controls where necessary.

The **Data Management and Analytics** function administers the Centralised Bank Account Register (CBAR), ensuring data collection and integrity, regulating access for competent authorities, and analysing data to enhance understanding and management of money laundering and terrorism funding risks.

The **Cash Restriction Section** raises awareness on and enforces compliance of Malta's regulations which restrict cash payments for high-value assets to mitigate money laundering risks.

The **Legal Affairs Section** houses the FIAU's Guidance & Outreach team, which coordinates, supports, and oversees all guidance issued by the FIAU, organises training events for subject persons, participates in third-party events, and offers support to any FIAU officers engaging in outreach activities. The section ensures legal compliance and alignment with AML/CFT regulations through collaboration, policy development, national & international cooperation, thereby supporting the FIAU's mission to combat financial crimes.

The **Strategy, Policy & Quality Assurance section** guides the FIAU's strategic direction and implementation while also having a dedicated team that handles the training needs of all staff.

The **People and Corporate Services, and Technology and Information Security sections** provide comprehensive support, including financial planning, HR, communications, IT infrastructure, and cybersecurity to ensure operational efficiency and data protection in combatting financial crimes.

## 4. A deeper dive into guidance & outreach, supervision and remediation

The FIAU is tasked with ensuring that subject persons are compliant with their AML/CFT obligations. This is achieved through its various functions, particularly those of providing guidance and outreach to support subject persons in their compliance, carrying out risk-based supervision, and engaging with subject persons through remediation and follow-up actions.

### Guidance & Outreach

The FIAU firmly believes that the first step towards compliance is knowledge and the understanding of AML/CFT and the necessary obligations that subject persons have as key stakeholders in this fight to protect Malta from financial crime.

The Unit has a dedicated team that actively engages in guidance and outreach efforts and supports the FIAU in all its guidance and outreach activities, both internationally and locally. On average the FIAU publishes eight guidance documents a year, based on knowledge gained from thematic reviews, intelligence analysis, and feedback from training events and subject persons. The Unit also organises or participates in several AML/CFT training events and responds to several hundreds of queries on various AML/CFT matters.

The FIAU is very active in Public Private Partnerships (PPPs) firmly believing that strength is to be found in unity. The

objective and purpose of the PPPs and outreach initiatives that the FIAU engages in is to ensure that subject persons are aware of and understand the ML and FT risks they may be exposed to, and in what manner. They must mitigate these risks by properly implementing risk-based controls and measures to ensure that criminals do not abuse and exploit their legitimate business. It is equally critical that subject persons understand and abide by their obligation to promptly alert the FIAU of any known or suspected illicit transactions or activity.

The FIAU remains steadfast and committed to the fight against money laundering and terrorist financing, therefore, to be effective in the long-term, it is constantly engaged in the field, with intense engagement also on the international scene. This ensures that the Unit is always aware of new developments and is in line with international standards.

### Risk-Based Supervision

The FIAU employs a risk-based supervision process to monitor and regulate entities susceptible to ML/TF. This approach prioritises resources and efforts towards higher-risk entities, ensuring more effective oversight and compliance.

#### Risk Evaluation

Subject Persons are legally obliged to submit an annual risk evaluation questionnaire (REQ). The REQ is tailored per sector and subject persons fill in data that allows the Unit through the Compliance and Supervision Platform for Assessing Risk (CASPAR) to calculate the ML/FT risk entities present.

#### Risk Classification

Based on the REQ uploaded on CASPAR, open-source information and other data available to the FIAU, each subject person is classified into a risk category ranging from high-risk to low-risk. Depending on this, the FIAU plans its annual supervisory cycle.

#### Supervisory Activities

The FIAU tailors its supervisory activities based on the risk classification. The supervisory tools include full-scope examinations, targeted examinations, thematic examinations, follow-up examinations, and supervisory meetings. The type of supervisory activity and the frequency depends on the risk level assigned.

#### Continuous Monitoring and Feedback

The risk profiles of entities are continuously updated based on new information and developments. The FIAU provides feedback and guidance to help entities improve their AML frameworks and mitigate identified risks.

#### Remediation

The FIAU employs a structured remediation process to address non-compliance with AML/CFT regulations. When deficiencies are identified during supervision, the FIAU issues directives for corrective action. Entities are invited to develop and implement remediation plans, detailing steps to rectify the issues within specified deadlines. The FIAU monitors progress through follow-up assessments and may provide guidance. This process ensures that subject persons enhance their AML/CFT frameworks, thereby strengthening the overall integrity of Malta's financial system.

Since 2023 the FIAU has published its supervisory plan, which informs subject persons of the themes and obligations it intends to assess, thus enhancing its operational transparency and supporting subject persons in their compliance methods. Furthermore, the FIAU's guidance and outreach efforts are gradually being synchronised with the supervisory plan. This permits subject persons to assess better their AML/CFT frameworks, identify deficiencies, and remediate ahead of time.

To learn more about the FIAU, please visit [www.fiaumalta.org](http://www.fiaumalta.org)







# **The Malta Business Registry**

# The Malta Business Registry

The Malta Business Registry (MBR), established under Subsidiary Legislation 497.27, is responsible for the registration of new commercial partnerships, the registration of documents related to commercial partnerships, the issuing of certified documentation including certificates of good standing amongst others, the reservation of company names, the collection of registration and other fees, the publication of notices and the imposition and collection of penalties. The MBR also conducts investigations of companies and the keeping of the company and partnership register.

Registering a company in Malta involves several key steps, each designed to ensure that the business is legally compliant and ready to operate. The MBR is also responsible for the registration of

Foundations and Associations, the registration of documents related to these entities, the issuing of certified documentation including certificates of good standing amongst others, the reservation of names, the collection of registration and other fees, the publication of notices and the imposition and collection of penalties.

The MBR is also responsible to register and make available the information on the beneficial owners of all commercial partnerships, foundations, associations and unregistered associations.

## Company Registration in Malta – An Overview

### 1. Choose the Company Type

The first step is deciding the type of company to register. The most common types are private limited liability companies (Ltd) and public limited liability companies (Plc). For most small and medium-sized enterprises (SMEs), the private company is preferable due to its simpler structure and lower capital requirements.

### 2. Name Reservation

Before registering, one must choose and reserve a company name. The chosen name should be unique and not too similar to existing company names. This can be checked through the Malta Business Registry [portal](#). Once a name is chosen, it can be reserved to ensure it is available when the registration process is completed.

### 3. Drafting the Memorandum and Articles of Association

These documents are crucial as they define the company's structure, purpose, and the rules governing its operations. The Memorandum of Association must include details such as the company name, registered office address, object clauses, and details of share capital. The Articles of Association set out the internal management rules.

### 4. Registering with the Registrar of Companies in Malta

The next step is submitting the registration documents to the Malta Business Registry.

These include:

- The Memorandum and Articles of Association;
- A confirmation of the company name reservation;
- Identification documents of the directors, shareholders, and company secretary;
- A bank statement showing the deposited initial share capital;
- Disclosing the beneficial owners of the proposed company.

### 5. Business Licensing

Depending on the nature of the business, additional licenses and permits may be required. These are typically industry-specific and can be obtained from relevant regulatory bodies. Financial Services licences are provided by the Malta Financial Services Authority.

### 6. Compliance with General Data Protection Regulation (GDPR)

Since Malta is an EU member, companies must comply with GDPR. This involves ensuring that appropriate data protection measures are in place for handling personal data.

For a more detailed guide kindly visit <https://mbr.mt/formation-and-registration-of-companies/>

## Conclusion

Registering a company in Malta involves several structured steps aimed at ensuring legal compliance and readiness for operation. By following these steps—choosing the right company type, reserving a name, drafting the necessary documents, registering with the MBR, and ensuring compliance with employment and data protection regulations—entrepreneurs can effectively establish their business in Malta's favourable economic environment. The MBR has facilitated all this by digitalising all company law processes. Thus, companies can be incorporated fully online using a qualified signature (which is also provided by the MBR) and submissions can also be made online throughout the lifetime of the company.







## 1. Introduction

Malta is a hub for business thanks to its strategic location, robust regulatory environment and tax features. In the following paragraphs, key aspects of Malta's tax features are highlighted.

## 2. Scope of the Maltese Income Tax

According to the law, companies which have a management seat in Malta, or are incorporated in Malta, are considered tax residents. Companies that are incorporated in Malta are also considered to be domiciled in Malta. Companies that are both tax resident and domiciled in Malta are charged to tax on their worldwide income. In the case of foreign companies operating through branch offices in Malta, the branches will be taxed on the income generated in Malta.

## 3. Tax Rates applicable to Companies

The tax rate on corporate income in Malta is 35% on the chargeable income and this includes chargeable income of branches of foreign companies. The tax base on which the corporate tax is levied in Malta is made of the accounting profit made by a company in a fiscal year with adjustments on the incomes and expenditures. Deductible expenses can

depend on the type of income. Unrelieved losses can be carried forward for an indefinite amount of time. Companies forming part of a group may consolidate their incomes and expenses and pay tax as part of a fiscal unit (see below) or they may benefit from group relief in relation to losses made by other companies made within that group.

## 4. Notional Interest Deduction (NID)

The NID entitles companies to claim a tax deduction equivalent to the notional interest calculated on its equity thus making equity financing on the same level playing field as debt financing for taxation purposes. Generally, the NID is determined by multiplying the reference rate to the invested risk capital. The reference rate is the risk-free rate set by

reference to the current yield to maturity on the Malta Government Stocks with a term of approximately 20 years plus a premium of 5%. The invested risk capital of the undertaking is the share capital, share premium, positive retained earnings, non-interest-bearing loans and any other positive equity components.





## 5. The Patent Box Regime

Persons incurring qualifying intellectual property (IP) expenditure from which qualifying IP income is derived, may claim a deduction which may reduce the chargeable income from qualifying IP by 95%, thereby significantly reducing the taxable income of the person. The assets that are considered as qualifying IP include registered patents and assets covered by protection rights, but exclude brands, trademarks and trade names. The deduction is aimed for assets which are developed by the person rather than for acquired assets. The deduction is however not limited to assets developed in Malta but requires that the beneficiary maintains sufficient substance as is commensurate with the type and extent of activity being carried out.

## 6. The Maltese corporate tax imputation system

Malta applies a full imputation tax system. Under that system, once the Maltese corporate tax is applied, the shareholders are entitled to apply for a tax refund of the tax paid at a company level. Generally, a shareholder may claim a 6/7ths refund of the tax paid by the company distributing the dividends. A 5/7ths refund is given to shareholders where the distributed income is derived from passive interest or royalties (subject to anti-abuse regulations).

## 7. Tax Consolidation

Certain groups of companies may opt to be treated as one single taxpayer. Both Maltese companies as well as foreign entities that fall within the definition of a company may form part of the consolidated group for this purpose. The foreign entities need not be tax resident in Malta to form part of the fiscal unit, but it is necessary that they are tax registered in Malta. Under the tax consolidation rules the tax rate applicable for the group is the combined overall effective tax rate for all companies within the group.

## 8. Relief from double taxation in Malta

Foreign source income falls under the protection of double tax agreements. Maltese companies can obtain corporate tax reliefs under the country's double tax treaty network. Each agreement contains specific conditions which provide for such reliefs. Malta has a wide network of double taxation agreements which currently contains more than 70 countries. Other corporate tax reliefs are granted under EU Directives, such as the Parent-Subsidiary and the Interest and Royalties Directives.

The Participation Exemption provisions provide for another method by which holding companies may avoid double taxation. Generally, in order for a holding to be considered as a participation holding, it must own at least 5% of the equity shares in its subsidiary.

Maltese tax legislation also provides for a unilateral relief mechanism in the form of a tax credit where foreign tax has been paid in jurisdictions in relation to which no double taxation agreement applies.

## 9. Tax Treatment of Trusts and Foundations

In certain instances, trustees can opt for a trust to be taxed in the same manner as a company while foundations are generally taxed like a company.

## 10. Exemption for Investment Funds

Collective Investment Schemes (including UCITS) are tax exempt in Malta to the extent that their income is not derived from immovable property situated in Malta.

## 11. Tax features relating to Employees of Companies in the Financial Sector

Certain tax features are applicable to employees of certain companies within the financial sector. Individuals are normally taxed at progressive rates with the highest rate being 35%. In certain cases, a tax exemption on certain personal expenses of such employees may apply. In other cases, particular tax rates are applicable.

## 12. Other Useful Information

The Malta Tax and Customs Administration (MTCA) is entrusted with the administration of the laws relating to taxation and customs in Malta. It provides guidance and assistance to taxpayers and tax practitioners on the application of such laws. Further information may be found on the website of the MTCA (<https://cfr.gov.mt/en/Pages/Home.aspx>).



