

1 September 2025

## Circular to Investment Firms on Amendments to the Investment Services Act, Banking Act, various Subsidiary Legislation and Investment Firms' Rules

The Authority is hereby informing the industry of the publication of the following amendments to the Investment Services Act, Banking Act, Subsidiary Legislation, and Investment Services Rules applicable to investment firms, to fully transpose the [Investment Firms Directive](#) ("the IFD") and clarify any possible misinterpretations. The information contained herein is not exhaustive and outlines the most salient changes, therefore, it is encouraged that all amending instruments are read thoroughly.

### **Amendments to Primary Legislation**

- [Act XXIX of 2025 amending the Investment Services Act and the Banking Act \("The Act"\) Part III and IV;](#)

### **Amendments to Subsidiary Legislation**

- [L.N. 155 of 2025 amending the Investment Services Act \(Provision of Investment Services and Activities by Third-Country Firms\) Regulations \(S.L. 370.43\);](#)
- [L.N. 154 of 2025 amending the Investment Services Act \(Supervisory Consolidation\) \(Capital Requirements Directive\) Regulations \(S.L. 370.46\);](#)
- [L.N. 157 of 2025 amending the Investment Services Act \(Supervisory Review Investment Firms Directive\) Regulations \(S.L. 370.47\);](#)
- [L.N. 156 of 2025 amending the Investment Firms Directive \(Administrative Penalties, Measures and Investigatory Powers\) Regulations \(S.L. 370.48\);](#)
- [L.N. 152 of 2025 amending Supervisory Consolidation \(Investment Firms Directive\) Regulations \(S.L. 370.49\);](#)
- [L.N. 153 of 2025 amending Supervisory Consolidation \(Credit Institutions\) Regulations \(S.L. 371.22\).](#)

### **Amendments to Rules**

- [Part BI: Rules applicable to Investment Services License Holders which qualify as MiFID Firms](#) ("the Rulebook").

**Amendments to Primary Legislation****i. Amendments to the Investment Services Act**

In Article 17A, sub-articles (4) and (5) have been amended to clarify that they apply in accordance with sub-article (6), which sets out the competent authority's obligations in handling verification requests. Sub-article (6) was also amended to reference sub-articles (4) and (5) as the source of such requests, replacing the previous reference to sub-article (2).

**ii. Amendments to the Banking Act**

Sub-article 5 of article 34 has been amended to specify that the exchange of information can take place with authorities of other Member States responsible for the supervision of both credit institutions and investment firms.

**Subsidiary Legislation****i. Changes made to SL370.43 Investment Services Act (Provision of Investment Services and Activities by Third-Country Firms) Regulations**

Competent authorities, ESMA, and the EBA are required to cooperate closely to ensure the group's activities across the EU are supervised in a consistent, effective, and comprehensive manner, in line with key EU financial regulations such as the IFD, CRR, IFR, CRD, MiFID and MiFIR. This has been evidenced through amendments to Regulation 7A.

**ii. SL370.46 Investment Services Act (Supervisory Consolidation) (Capital Requirements Directive) Regulations**

The scope of consolidated supervision by the National Competent Authority has been broadened to also cover cases where the parent undertaking is a parent investment firm based in Malta.

Regulation 7(10)(d) has been updated to refer to the relevant sections of the CRD and the IFD, ensuring alignment with the applicable confidentiality provisions for third-country regulatory authorities that may be invited to participate in a college of supervisors.

**iii. Changes made to SL370.47 Investment Services Act (Supervisory Review Investment Firms Directive) Regulations**

Several references within the regulations have been updated for clarity and consistency. For example, when referring to the competent authority of a clearing member, the focus has shifted from the Maltese National Competent Authority to the National Competent Authority of the clearing member's home Member State.

Other changes included aligning cross-references within the regulations to match the structure used in the IFD, specifying that certain information is required for supervisory

purposes, and updating regulatory references to ensure they refer to the correct EU legislation, such as Regulation 1093/2010 instead of the Investment Firms Regulation.

Finally, the schedule and some of its paragraphs have been amended to align its references to better reflect the IFR and IFD.

iv. Changes made to SL370.48 Investment Firms Directive (Administrative Penalties, Measures, and Investigatory Powers) Regulations

In Regulation 5(b), the references to specific sub-paragraphs have been simplified by referring more broadly to paragraph (a) as a whole. The same change was also made in Regulation 5(c).

It was also clarified that legal persons can be subject to penalties in the form of a public statement.

v. Changes made to SL370.49 Supervisory Consolidation (Investment Firms Directive) Regulations

The definition of “ancillary services undertaking” has been updated to refer to the correct point in the IFR, and the term “group supervisor” has been adopted under Regulation 2.

Supervision obligations have been expanded to include checking compliance with the group capital test. The scope of consolidated supervision has been adjusted to focus on cases where the parent is an EU investment firm licensed under the Act, rather than parent institutions in Malta. Additional amendments to Regulation 3 specified that it applies when there are two or more investment firms authorised in different Member States.

The scope was also extended to include EU parent investment holding companies and emphasise supervision across the relevant Member States, replacing the broader term “different countries” with “relevant Member States”. The authority to exercise supervision on a consolidated basis has shifted from the National Competent Authority to a college of supervisors.

References to “consolidating supervisor” have been replaced with “group supervisor” throughout. It explains when a college of supervisors needs to be established, such as for fulfilling tasks under the IFD or for coordinating supervisory activities and sharing important information, including updates on margin models with authorities overseeing central counterparties.

In regulation 6 the group supervisor’s role has been detailed further to include chairing meetings and making decisions based on relevant supervisory information and potential risks to financial stability. In emergency situations, the group supervisor shall act on the best available information while following specific regulatory obligations.

Lastly, the group supervisor has been empowered through Regulation 7 to refer matters to the EBA when necessary, and the timely sharing of essential information among supervisors has been emphasised to ensure efficient coordination.

vi. Changes made to S.L. 371.22 Supervisory Consolidation (Credit Institutions) Regulations

Regulation 7(11)(d) has been updated to expand the scope of applicable provisions on participation in supervisory colleges and related confidentiality requirements. It replaces the previous reference to “Chapter 1, Section II of the CRD” with a broader citation that also includes “Title VII, Chapter 1, Section II of the CRD” and, where applicable, “Chapter 1, Section II of Title IV of Directive (EU) 2019/2034.” This change ensures that both credit institutions and investment firms are covered under the relevant EU frameworks for cooperation and information sharing, including confidentiality obligations.

### **The Rulebook**

- **R1-5.1.2** has been amended, to be better in line with the IFD, to include that Investment Firms other than those referred to in –
  - Article 9(1): Applies to firms requiring €750,000 in initial capital because they engage in riskier activities such as dealing on own account, underwriting or placing financial instruments on a firm commitment basis;
  - Article 9(2): Sets a lower €75,000 capital requirement for firms carrying out less risky activities and which are not permitted to hold client money or securities, and;
  - Article 9(4): Requires €750,000 capital for firms operating a multilateral trading facility and engaging in proprietary trading;of the IFD, shall also meet the €150,000 minimum capital requirement at authorisation stage.
- **R2-3.2.53** has been amended to include holding collateral immediately available for central bank funding as part of the necessary operational steps required.
- **R2-3.5.4** has been deleted, removing the obligation that decisions on the application of the exemption, which permits investment firms, under specific conditions set out in the CRR, to be exempt from maintaining the institution-specific countercyclical capital buffer, shall be fully reasoned.
- **R2-3.5.5** has been amended to update its reference to Article 129(1) of the CRD, which requires a 2.5% capital conservation buffer of Common Equity Tier 1 capital, in addition to the Article 92 own funds requirement under Regulation (EU) No 575/2013.
- **R3-3.1.2.16** has been amended to include a cross-reference to the preceding paragraph within the same rule.

- **R3-3.1.2.34** has been amended to substitute the cross-reference to paragraph 2 with R3-3.1.2.33.

The amendments to the Rules are attached as [Annex A](#).

In case of any queries in relation to the above, please do not hesitate to contact the MFSA on [isspolicy@mfsa.mt](mailto:isspolicy@mfsa.mt).

*Disclaimer: The content of this Circular shall only be considered for information purposes. It should not be construed as advice and should not be treated as such. Investment Firms shall refer to the applicable legislation and shall carry out their own assessments in order to ensure compliance with the applicable regulatory requirements.*