

9 March 2026

Implementation of ESA Guidelines

1. Background

The purpose of this Circular is to inform the industry of various amendments to the Investment Services Rules for Investment Services Providers to implement [ESMA's Guidelines on Outsourcing to Cloud Service Providers](#), as updated following the publication of the DORA Regulation. The amendments to the Rulebook reflect this updated regulatory framework and clarify the applicable requirements for different categories of licence holders.

The Circular also outlines amendments that streamline the MFSA's approach to MiCA-related Guidelines by replacing references to individual guidelines with a single overarching compliance requirement.

The aforementioned necessitate amendments to the following Rulebooks:

- [Investment Services Rules for Investment Services Providers Part A: The Application Process](#)
- [Investment Services Rules for Investment Services Providers; Part BI: Investment Services License Holders which Qualify as MiFID Firms.](#)
- [Investment Services Rules for Investment Services Providers; Part BII: Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as UCITS Management Companies.](#)
- [Investment Services Rules for Investment Services Providers; Part BIII: Standard Licence Conditions applicable to investment services license holders which qualify as Alternative Investment Fund Managers.](#)
- [Investment Services Rules for Investment Services Providers; Part BIV: Standard Licence Conditions applicable to investment services license holders which qualify as Depositories.](#)
- [Investment Services Rules for Alternative Investment Funds; Part B Standard Licence Conditions applicable to Alternative Investment Funds.](#)
- [Investment Services Rules for Collective Investment Schemes; Part B Standard Licence Conditions: Part BII: Malta Based UCITS Collective Investment Schemes.](#)
- [Investment Services Rules for Retail Collective Investment Schemes Part B: Standard Licence Conditions Appendix VIII Supplementary Licence Conditions Applicable to Self-Managed Schemes](#)
- [Investment Services Rules for Professional Investor Funds Part B: Standard Licence Conditions Appendix I Supplementary Licence Conditions](#)

- [Glossary to the Investment Services Rules for Retail Collective Investment Schemes](#)
- [Glossary to the Investment Services Rules for Alternative Investment Funds](#)
- [Glossary to the Investment Services Rules for Investment Services Providers](#)

2. ESMA Guidelines on Outsourcing to Cloud Service Providers

The revised ESMA Guidelines on outsourcing to cloud service providers no longer apply to entities that qualify as financial entities under the DORA Regulation and therefore apply only to entities falling outside the scope of DORA.

As a result, the regulatory framework governing the applicability of DORA, the ESMA Guidelines on outsourcing to cloud service providers, and/or the MFSA Guidance on Technology Arrangements has been updated to clarify the applicable framework depending on the nature of the entity concerned.

3. MiCA Guidelines

The current MiCA related provisions contained in the relevant MFSA Rulebooks make reference to specific ESA guidelines. Considering the evolving and expanding MiCA framework, including the ongoing issuance of Guidelines and Delegated Acts/Regulatory Technical Standards by the European Supervisory Authorities, the proposed amendments seek to replace references to individual guidelines with a general compliance provision requiring licence holders to comply with any applicable ESA Guidelines and technical standards, as implemented in the MFSA's MiCA Rulebook, subject to an assessment of their applicability in light of the authorised services and activities.

This approach is being implemented in respect of Investment Firms, AIFMs, and UCITS Management Companies, ensuring regulatory coherence and avoiding the need for repeated amendments as the MiCA framework continues to develop.

4. Conclusion

Should you have any queries on the contents of this circular, please contact the Investment Services Supervision Function on isspolicy@mfsa.mt.