MFSA MALTA FINANCIAL SERVICES AUTHORITY

Circular

20 July 2026

Amendments to Subsidiary Legislation for the Partial Transposition and Implementation of Directive (EU) 2024/927

1. Scope

Further to the Circular issued on 27 April 2026 outlining the amendments to the Investment Services Rulebooks for the partial implementation and transposition of AIFMD II and UCITS VI, this Circular outlines the corresponding amendments that were introduced to Subsidiary Legislation to compliment this implementation, specifically:

- L.N. 191 of 2026 - Investment Services Act (Marketing of UCITS) (Amendment) Regulations, 2026
- L.N. 196 of 2026 - Investment Services Act (UCITS Management Company Passport) (Amendment) Regulations, 2026
- L.N. 190 of 2026 - Investment Services Act (Marketing of Alternative Investment Funds) (Amendment) Regulations, 2026
- L.N. 186 of 2026 - Investment Services Act (Alternative Investment Fund Managers) (Amendment) Regulations, 2026
- L.N. 185 of 2026 - Investment Services Act (Alternative Investment Fund Manager) (Third Country) (Amendment) Regulations, 2026
- L.N. 189 of 2026 - Investment Services Act (Custodians of Collective Investment Schemes) (Amendment) Regulations, 2026

Consequential amendments, mainly replacing the references to *custodian* with *depositary*, have also been introduced to the above subsidiary legislation following the amendments to S.L. 370.32 to align the same with the terminology used under EU law.

The legislative package related to implementation and transposition of AIFMD II and UCITS VI also includes a Bill amending the Investment Services Act and the Financial Markets Act.

Amendments to Subsidiary Legislation

The principal amendments relate to enhanced cross-border supervisory cooperation, reporting obligations, liquidity management, the depositary framework and consequential updates to terminology and legislative references. The key amendments are summarised below.

S.L. 370.18 – Investment Services Act (Marketing of UCITS) Regulations

Regulation 2 has been amended to introduce the definitions of "home Member State of the UCITS management company", "UCITS host Member State" and "UCITS management company", while revising the definition of "UCITS home Member State" to align it with the UCITS Directive.

Also, a new section titled "Miscellaneous" has been introduced to strengthen cross-border supervisory cooperation under the UCITS Directive through new Regulations 11 and 12. Regulation 11, in particular, establishes a framework for cooperation and information exchange between the MFSA, European regulatory authorities, ESMA and, where applicable, the ESRB in the exercise of supervisory powers. Regulation 12 introduces notification and coordination requirements relating to the use of liquidity management tools, including the exchange of information and cooperation between home and host competent authorities and ESMA.

S.L. 370.20 – Investment Services Act (UCITS Management Company Passport) Regulations

New Regulations 7A and 12A were introduced, enhancing reporting requirements for UCITS management companies and European management companies managing Maltese UCITS, respectively. The Regulations now require periodic reporting on, inter alia, trading activities, liquidity management arrangements, risk profiles, delegation arrangements and cross-border marketing activities.

Separately, they establish grounds for the exchange of information with the relevant European regulatory authorities and enable the MFSA to require additional reporting where necessary for supervisory or systemic risk monitoring purposes.

S.L. 370.21 – Investment Services Act (Marketing of Alternative Investment Funds) Regulations

Regulation 6 of the subsidiary legislation has been amended to permit AIFMs to market units or shares in certain employee savings and employee participation AIFs on a domestic and cross-border basis. Where non-Maltese AIFs are marketed to employees in Malta, they shall not be subject to any requirements in addition to those applicable in the AIF's home Member State.

New Regulations 6A and 6B were introduced to strengthen cross-border supervisory cooperation under the AIFM Directive. In particular, Regulation 6A establishes a framework for cooperation, sharing of information.

S.L. 370.23 – Investment Services Act (Alternative Investment Fund Managers) Regulations

Regulation 2 has been amended to introduce definitions relating to the European Supervisory Authorities and the AIFM framework, including "EBA", "EIOPA", "ESAs", "ESCB", "European AIF", "European AIFM" and the "home Member State of the AIFM".

The references to "non-EU AIFMs" and "non-EU AIFs" within Regulation 5 have been replaced with "third country AIFMs" and "third country AIFs", respectively. The same Regulation has also been expanded to enable the MFSA, in exceptional circumstances and in the interests of investor protection or financial stability.

Regulation 6 has been amended to strengthen supervisory information sharing in instances, where Malta is the home Member State of the AIFM. The amendment expands the exchange of information with the relevant European regulatory authorities, the European Supervisory Authorities, the ESRB and, for statistical purposes, the ESCB.

S.L. 370.24 – Investment Services Act (Alternative Investment Fund Managers) (Third Country) Regulations

Regulations 4, 7, 9, 13 and 22 have been amended to align the conditions applicable to third country AIFs and third country AIFMs with the EU anti-money laundering and tax governance frameworks. The amended provisions replace references to the FATF list with the list of high-risk third countries under Directive (EU) 2015/849.

Regulation 9 further introduces an ongoing obligation for authorised third country AIFMs to take remedial measures where their home jurisdiction subsequently becomes a high-risk third country or is added to the EU list of non-cooperative jurisdictions.

S.L. 370.32 – Investment Services Act (Custodians of Collective Investment Schemes) Regulations

Regulation 2 has been amended to introduce and update definitions reflecting the revised regulatory framework. The amendments introduce definitions relating to the depositary regime, including references to *depositary instead of custodian*.

Regulations 4, 17, 26, 29, 40 and 47 have been amended to align the licensing and eligibility framework applicable to depositaries with the revised regulatory framework. The amendments clarify the licensing regime for the provision of depositary services, including the application of a limited depositary licence for specified categories of AIFs and Professional Investor Funds. In addition, the amendments revise the eligibility requirements applicable to investment firms and remove outdated licensing and transitional provisions.

New Regulation 29A and Regulation 37 introduce a framework governing the appointment and supervision of European depositaries. The framework permits AIFMs, subject to specified conditions and a case-by-case assessment by the MFSA, the appointment of a depositary established in another Member State other than the Home Member State of the AIF, where appropriate depositary services are not effectively available in Malta.

Regulations 23 and 34 have been amended to clarify the treatment of central securities depositories (CSDs) in the delegation of depositary functions. The amendments distinguish between investor CSDs and issuer CSDs, providing that only the use of an investor CSD constitutes a delegation of depositary functions.

Consequential amendments have also been made throughout the Regulations to ensure consistency with the revised regulatory framework. These include updates to legislative references and defined terms to reflect the current EU prudential and supervisory framework, including the CRD, CRR, IFD, IFR and MiFID.

2. Conclusion

The information contained herein provides a general overview and outlines the most salient changes to the Subsidiary Legislation affected by the implementation and transposition of AIFMD II and UCITS VI. Therefore, financial market participants are encouraged to thoroughly review relevant amending instruments to ensure compliance with new and amended provisions.

In case of any queries in relation to the above, please do not hesitate to contact the MFSA on isspolicy@mfsa.mt.