MFSA
MALTA FINANCIAL SERVICES AUTHORITY

Rules for Notified Aircraft Financial Leasing Companies and Related Due Diligence Service Providers

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REVISIONS LOG

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Part A: The Notification Process

1. The Financial Institutions Act (Notified Aircraft Financial Leasing Companies) Regulations

1.01 Financial Institutions are regulated under the Financial Institutions Act, Chapter 376 of the Laws of Malta (the "Act"). The Act establishes the statutory framework governing entities that qualify as financial institutions by virtue of holding a licence or being registered under the Act to carry out, in or from Malta, one or more of the activities listed in the First Schedule thereto, including financial leasing.

1.02 Article 3B of the Financial Institutions Act exempts those companies which have been admitted by the MFSA to the List of Aircraft Financial Leasing Companies, in terms of the Financial Institutions Act (Notified Aircraft Financial Leasing Companies) Regulations ("the Regulations"), from the requirement to have a licence.

1.03 An Aircraft Financial Leasing Company is a company which has been notified to the competent authority for inclusion in the List of Aircraft Financial Leasing Companies in terms of Regulation 6 of S.L. 376.xx – the Financial Institutions Act (Notified Aircraft Financial Leasing Companies) Regulations - and is included in the List of Aircraft Financial Leasing Companies maintained by the competent authority.

1.04 For the purposes of these Rules, Aircraft Financial Leasing shall be defined as a leasing arrangement whereby all risks and rewards incidental to ownership of an aircraft or aircraft engine are substantially transferred to the lessee, and in accordance with the principles set out in Annex A to these Rules.

2. Definitions

2.01 Unless otherwise defined in these Rules, the definitions set out in the Regulations shall apply for the purposes of these Rules and shall be construed accordingly.

3. List of Aircraft Financial Leasing Companies

3.01 A company may be eligible for admission in the List of Aircraft Financial Leasing Companies in terms of the Regulations, if the following conditions are satisfied:

i. The company is established and registered in Malta;
ii. At least one director is resident in Malta and effectively directs the business from within Malta;
iii. At the time of notification and on an ongoing basis thereafter, the company maintains total assets having an aggregate value of not less than one hundred million euro (€100,000,000) or the equivalent amount in any other currency,

which requirement may be satisfied through liquid assets or through the ownership of aircraft and aircraft engines;

iv. The company's financial services activities are limited exclusively to the financial leasing of aircraft and/or aircraft engines, whether carried out directly by the company or through subsidiary undertakings, and to activities ancillary thereto; and

v. It appoints a Due Diligence Service Provider in terms of Regulation 4 of S.L. 376.XX – Financial Institutions Act (List of Aircraft Financial Leasing Companies) Regulations.

Provided that, for purposes of point (iii) of this Rule, the valuation of assets shall be undertaken in accordance with market practice and shall be issued by a reputable and independent valuer.

Provided further that, where the company is established as a cell company in terms of the Companies Act (Shipping and Aviation Cell Companies) Regulations, or carries out activities through subsidiary undertakings, including special purpose vehicles, the following shall apply:

a. The notification for admission to the List of Aircraft Financial Leasing Companies shall be submitted by the cell company or, as the case may be, by the parent company;

b. Each cell, or subsidiary undertaking, including any special purpose vehicle, shall be wholly owned and controlled, whether directly or indirectly, by the same shareholder or group of shareholders controlling the cell company or parent company, as applicable;

c. For the purposes of point (iii) of this Rule, the minimum total assets requirement shall be satisfied on an aggregate basis, taking into account the assets of the cell company or parent company together with those of its cells or subsidiary undertakings, as applicable.

3.02 The Board of Directors of the company is ultimately responsible for ensuring that the company complies on an ongoing basis with the provisions of the Act, and any applicable regulations and rules issued thereunder.

The governing body of the company shall endeavour to comply with any applicable corporate governance codes, guidelines, and, or manuals which the Authority may publish from time to time.

3.03 The request for admittance to the list of aircraft financial leasing companies cannot be submitted for companies in possession of another financial services authorisation being issued by the Authority, in accordance with Rule 3.01(iv) above.

3.04 In terms of Regulation 7 of the Regulations, when the activity of financial leasing is provided on a cross-border basis, the aircraft financial leasing company shall ensure compliance with the applicable requirements of such jurisdiction.

3.05 The MFSA shall maintain an updated List of Aircraft Financial Leasing Companies on its website, in terms of Regulation 6(8) of the Regulations.

4. Admission to the List of Aircraft Financial Leasing Companies

4.01 The company, or a person duly authorised by it to act on its behalf, shall submit a written request for it to be included in the List of Aircraft Financial Leasing Companies, in accordance with Regulation 6 of the Regulations.

4.02 The MFSA shall reject requests which do not comply with the requirements prescribed in the Regulations and these Rules.

4.03 The notification request shall be accompanied by the following:

i. The request for admission in the List of Aircraft Financial Leasing Companies form – AAxx;
ii. The applicable notification fee in terms of S.L. 376.03 – the Financial Institutions Act (Fees) Regulations; and
iii. A declaration by the Due Diligence Service Provider confirming that it has carried out the necessary due diligence with regards to all qualifying shareholders, controllers and all persons who will effectively direct the business of the company, including any relevant service provider. This declaration must include a statement that the Due Diligence Service Provider is satisfied with the outcome of this due diligence exercise. AXxx - Annex B to these Rules includes a specimen declaration form.

4.04 The MFSA will proceed to include the company in the List of Aircraft Financial Leasing Companies within **twenty (20) working days** from the date of receipt of a duly completed original request. The request shall not be considered as complete unless it is accompanied by the material listed in Rule 4.03 above.

4.05 The inclusion of a company in the List of Aircraft Financial Leasing Companies will not imply that the company is licensed by the MFSA. Aircraft Financial Leasing Companies will only be subject to the supervisory conditions, as provided for in the Regulations and these Rules.

4.06 The MFSA shall refuse requests for admission to the List of Aircraft Financial Leasing Companies which are incomplete and/or do not comply with the requirements prescribed in the Regulations and these Rules, pursuant to Regulation 6(3) of the Regulations.

Provided that if the MFSA refuses a request for admission, it shall inform the applicant in writing of the reasons for the refusal.

5. Board of Directors

5.01 The Board of Directors of the company shall be composed of at least three (3) members and shall, as a minimum:

i. Include at least one (1) independent non-executive director; and
ii. Include at least one (1) member resident in Malta.

5.02 The members of the Board of Directors of an Aircraft Financial Leasing Company shall:

i. act honestly, in good faith and in the best interests of the company;
ii. exercise reasonable care, skill, and diligence;
iii. collectively and individually possess and maintain sufficient knowledge and understanding of the company's business to enable them to discharge their functions effectively;
iv. prior to submitting a request for inclusion of the company to the List of Aircraft Financial Leasing Companies, appoint a Due Diligence Service Provider to carry out the necessary due diligence process to ensure that all qualifying shareholders, controllers and all persons who will effectively direct the business of the entity and functionaries of the company satisfy, at the time of the request, the standards of fitness and properness specified by the MFSA, in terms of Regulation 4 of the Regulations;
v. continuously monitor the execution of any functions delegated to service providers and shall be satisfied that they are performing their functions in accordance with their statutory and contractual obligations; and
vi. hold regular meetings and ensure that detailed minutes are taken to record accurately the matters discussed and considered.

5.03 Pursuant to Rule 5.01(vi), meetings of the Board of Directors shall have an agenda which is well structured and prepared, giving sufficient time to allow for the input of all the relevant parties and service providers before the meeting. Minutes of the meetings must be held in Malta at the address of the company or at any other place as may be agreed with the MFSA.

5.04 Pursuant to Rules 16.06 and 16.07, the Board of Directors shall be required to submit to the Authority, on an annual basis, a Compliance Certificate in relation to the company. Such certificate shall be drawn up and signed by the governing body and shall include confirmations regarding the company's compliance with the Act, the Regulations issued thereunder, and these Rules as well as with other relevant legal and regulatory requirements, including AML/CFT requirements.

6. Due Diligence

6.01 In accordance with Regulation 4 of the Regulations, a Due Diligence Service Provider shall be entrusted with conducting due diligence with respect to the company, both upon submission of the request for inclusion in the List of Aircraft Financial Leasing Companies and on an ongoing basis.

6.02 Prior to submitting a request for inclusion of a company in the List of Aircraft Financial Leasing Companies, the Board of Directors shall identify and appoint a Due Diligence Service Provider to carry out the necessary due diligence process:

Provided that, the MFSA may, at any time, request the company to change such Due Diligence Service Provider, should the Authority not be satisfied with the standard of due diligence carried out.

7. Duties of the Due Diligence Service Provider

7.01 The Due Diligence Service Provider shall carry out a due diligence exercise to ensure that every (i) person that has a qualifying holding in the applicant; (ii) beneficial owner; (iii) member of the Board of Directors; (iv) Senior Manager; (v) Money Laundering Reporting Officer; and (vi) controllers and persons who will effectively direct the business of the company; and (vii) any relevant service provider, satisfy both at the time of notification and on an ongoing basis, the fitness and properness standards required by the MFSA.

7.02 Pursuant to Rule 7.01, the Due Diligence Service Provider shall undertake the "fit and proper" test in order to ensure that all the officials and service providers which are subject to the due diligence exercise meet the following four criteria:

i. Competence – which requires such persons to have sufficient knowledge, skills and experience to fulfil the proposed role/s. The term competence covers both practical and professional experience gained through previous occupations and academic knowledge through education and training.
ii. Reputation – which means that such persons are of good repute to ensure the sound and prudent management of the Entity.
iii. Conflicts of Interest and independence of mind – meaning that such persons are able to make sound, objective, and independent decisions.
iv. Time Commitment – that such persons must be able to commit sufficient time to perform their functions.

7.03 The Due Diligence Service Provider shall keep records of all evidence of, and correspondence regarding, the due diligence process carried out in relation to the individuals or service providers mentioned in Rule 7.01 above.

7.04 A person may be eligible for appointment as Due Diligence Service Provider if it is a Company Service Provider, authorised under the Company Service Providers Act (Cap. 529) which is: (a) not authorised as an under-threshold CSP; and (b) not authorised as an individual CSP.

7.05 Further to Rule 7.04, upon submission of a request for inclusion of a company in the List of Aircraft Financial Leasing Companies, a person that wishes to be appointed as a Due Diligence Service Provider of the company shall also submit to the Authority Annex X to these Rules, including a competence assessment for the

Authority's approval, together with a self-declaration stating that it has in place adequate processes and procedures to perform such a role, including appropriate record-keeping arrangements and relevant experience in performing such activity.

Provided that, until MFSA approval on the eligibility of the Due Diligence Service Provider is obtained, the notification would not be considered complete and would therefore not be considered as submitted.

7.06 Pursuant to Rules 7.04 and 7.05, the Authority shall keep a register of persons approved to carry out the activity of a Due Diligence Service Provider:

Provided that a person falling under Rule 7.04, wishing to be included in the register of persons approved to carry out the activity of a Due Diligence Service Provider prior to the submission of a notification for the inclusion of a company in the List of Aircraft Financial Leasing Companies, shall submit to the Authority AXX-Annex XX to these rules. These persons shall only be included following the Authority's approval.

8. Compliance with Regulatory Framework

8.01 Pursuant to Rule 3.02, the Board of Directors of the company is ultimately collectively responsible for the company's compliance with the applicable provisions of the Act, the Regulations issued thereunder, and these Rules as well as with other relevant legal and regulatory requirements.

8.02 In order to enable the compliance function to be properly carried out, a resident director pursuant to Rule 3.01(ii) shall be tasked with compliance duties and with any reporting relating to compliance as required by these Rules and as further detailed in Section 9 hereunder.

9. Duties of the Local Member of the NPIF's Governing Body

9.01 The resident director responsible for compliance duties in terms of Rule 8.02, shall be responsible for:

(i) acting as a point of liaison with the MFSA;

(ii) leading matters relating to the compliance of the company and being in charge of any reporting in relation thereto as required by these Rules;

(iii) preparing a "Compliance Report" at least on a yearly basis, to be presented to the Board of Directors of the company, that shall include, as a minimum:

- how the company continues to satisfy the minimum total assets requirement as set out in R3.01(iii) required for inclusion on the List of Aircraft Financial Leasing Companies;
- an assessment of the effectiveness of outsourced service providers and the internal oversight mechanism governing them;
- a summary of the monitoring carried out to ensure lessees are fulfilling

- their obligations; and
- material compliance failures occurred during the period covered by the Compliance Report, along with the remedial actions taken.

The Compliance Report should also include a confirmation that all the local Prevention of Money Laundering requirements have been satisfied. This confirmation should be obtained from the company's Money Laundering Reporting Officer.

10. Anti-Money Laundering Obligations

10.01 The Prevention of Money Laundering and Funding of Terrorism Regulations ('the Regulations') classify financial leasing, including aircraft financial leasing, as relevant financial business. Thus, any company entered into the List is considered as a subject person and shall be bound by the obligations arising from the Prevention of Money Laundering Act ('the Act'), from the Regulations and from any other binding instrument or guidance issued thereunder.

10.02 In particular and without prejudice to the general nature of the previous paragraph, Regulation 15(1) of the Regulations requires the company to have a Money Laundering Reporting Officer ('MLRO') to carry out the money laundering reporting function in relation to the company at all times. Such MLRO shall be appointed by the Board of Directors of the company:

Provided that the Board of Directors of the company shall notify the MFSA of the appointment, resignation, or removal of the MLRO:

Provided further that, where the company's leasing activity consists of a maximum of five independent portfolios of aircraft or aircraft engines, each portfolio being leased under finance lease arrangements to one entity or otherwise a group of entities which are centrally controlled by one entity or person, where such entity or person would have arranged for the finance leasing of a particular individual portfolio, it shall be permissible for a director of the company to also act as the MLRO thereof, provided that any conflicts of interest are adequately identified and managed in line with the Implementing Procedures – Part I issued by the Financial Intelligence Analysis Unit.

Provided further that, where the company is established as a cell company in terms of the Companies Act (Shipping and Aviation Cell Companies) Regulations, or carries out activities through subsidiary undertakings, including special purpose vehicles, the MLRO shall be appointed at the level of the cell company or parent company, as applicable, and shall be responsible for the money laundering reporting function across all cells or subsidiary undertakings forming part of the same structure.

10.03 The Due Diligence Service Provider shall be satisfied that the MLRO of the company is ‘fit and proper’ pursuant to Section 7 of these Rules, and is able to discharge the functions associated with the said function in an effective manner.

10.04 The governing body of the company will at all times remain responsible for ensuring that the company complies with its obligations as prescribed in the Act, the Regulations and the Implementing Procedures issued thereunder and for the carrying out of the measures specifically assigned to the company. To this end, the company shall have regard to the Implementing Procedures, to the Authority’s Guidance for Money Laundering Reporting Officers in the Financial Services Sector and to any other guidance on this role issued by the FIAU and the MFSA.

10.05 For the purpose of ensuring compliance with the customer due diligence requirements in relation to the anti-money laundering and countering the financing of terrorism obligations, the MLRO shall, at least annually, , submit to the Board of Directors of the company a periodic report which provides a holistic assessment of the company’s AML/CFT risk, including a comprehensive geographic breakdown of lessees, where they operate and payment origins. Furthermore, the report must include a description of the customer due diligence measures carried out by the company vis-à-vis the lenders or investors and the lessees, including any relevant SPV structure.

10.06 The Board of Directors of the company will be responsible for reviewing the report and shall ensure the taking of any action it may deem fit based on the conclusions and findings of the report, as well as in respect of any other AML/CFT concerns of which it may become aware of at any time.

Part B: Ongoing Requirements

11. Applicability of the Financial Institutions Act (Notified Aircraft Financial Leasing Companies) Regulations

11.01 A company which has been admitted by the MFSA to the List of Aircraft Financial Leasing Companies, in terms of the Financial Institutions Act (Notified Aircraft Financial Leasing Companies Regulations ('the Regulations'), shall comply with the following requirements on an ongoing basis:

i. the provisions of the Regulations; and

ii. the requirements set out in these Rules:

Provided that the company shall endeavour to comply with any applicable corporate governance codes, guidelines, and, or manuals which the Authority may publish from time to time, pursuant to Regulation 8 of the Regulations.

12. Ongoing Due Diligence

12.01 Following the inclusion of a company in the List of Aircraft Financial Leasing Companies, the Due Diligence Service Provider shall carry out the necessary due diligence exercise to ensure that every (i) person that has a qualifying holding in the applicant; (ii) beneficial owner; (iii) member of the Board of Directors; (iv) Senior Manager; (v) Money Laundering Reporting Officer; (vi) ; controllers and persons who will effectively direct the business of the company; and (vii) any relevant service provider, satisfy the fitness and properness standards expected by the MFSA on an ongoing basis, as referred to in Section 7 of Part A of these Rules.

12.02 The Due Diligence Service Provider shall immediately notify the MFSA of any change in such circumstances as they become known to it, including when it is of the view that a person referred to in Rule 2.01 above no longer satisfies the fitness and properness standards expected by the MFSA.

12.03 The Due Diligence Service Provider shall retain records of all evidence and correspondence related to the due diligence process carried out at its registered office, as well as at the registered address of the company. The documentation related to the due diligence exercise carried out shall be made available to the MFSA upon request.

12.04 The Due Diligence Service Provider shall update the relevant due diligence records and documents on a regular basis, at least annually, and shall document the updates carried out.

12.05 All relevant due diligence records and documentation referred to in Rules 12.03 and 12.04 shall be retained at the address of the company, even in the event of a change of Due Diligence Service Provider and shall be made available to the MFSA upon request:

Provided that in the event of a change of Due Diligence Service Provider, the incoming Due Diligence Service Provider shall provide a written confirmation, to the Authority, that there are no material issues in relation to the due diligence carried out by the previous Due Diligence Service Provider, and if there are material issues, due diligence needs to be undertaken afresh and any issues resolved.

12.06 The MFSA may carry out checks, including on the Due Diligence Service Provider, on the due diligence services carried out as well as compliance of the Due Diligence Service Provider with the applicable provisions of the Regulations and these Rules, and give all the necessary directions it deems fit in the circumstances. Any adverse findings by the MFSA may lead, *inter alia*, to regulatory action both towards the company and the Due Diligence Service Provider, as well as the removal of the company from the List of Aircraft Financial Leasing Companies.

13. Auditor

13.01 A company included in the List of Aircraft Financial Leasing Companies shall appoint an auditor in terms of the Accountancy Professions Act, Chapter 281 of the Laws of Malta. Article 18 and 19 of the Financial Institutions Act shall apply *mutatis mutandis* to auditors of such companies.

13.02 The company shall make available to its auditor, the information and explanations needed to discharge their responsibilities as an auditor and in order to meet the MFSA's requirements.

13.03 The company shall not appoint an individual as an auditor, nor appoint an audit firm where the individual directly responsible for the audit, or their firm is:

i. a director, founder shareholder, officer, representative or employee of the company;
ii. a partner of, or in the employment of, any person in (i) above;
iii. a spouse, civil partner, parent, step-parent, child, step-child or other close relative of any person in (i) above;
iv. a person who is not otherwise independent of the company; or
v. a person disqualified by the MFSA from acting as an auditor of a company.

For this purpose, an auditor shall not be regarded as an officer or an employee of the company solely by reason of being auditor of that company.

13.04 The company shall obtain from its auditor a signed letter of engagement defining clearly the extent of the auditor's responsibilities and the terms of his appointment.

The company shall confirm in writing to its auditor its agreement to the terms in the letter of engagement.

13.05 The letter of engagement shall include terms requiring the auditor:

i. to provide such information or verification to the MFSA as the MFSA may request;
ii. to afford another auditor all such assistance as he/ she may require;
iii. to vacate his/ her office if he/ she becomes disqualified to act as auditor for any reason;
iv. if he/ she resigns, or is removed or not reappointed, to advise the MFSA of that fact and of the reasons for his/ her ceasing to hold office. The auditor shall also be required to advise the MFSA if there are matters he/ she considers should be brought to the attention of the MFSA; and
v. to report immediately to the MFSA any fact or decision of which he/ she becomes aware in his/ her capacity as auditor of the company which:
   a. is likely to lead to a serious qualification or refusal of his audit report on the accounts of the company; or
   b. constitutes or is likely to constitute a material breach of the legal and regulatory requirements applicable to the company in or under the Act; or
   c. relates to any other matter which has been prescribed.

14. Outsourcing

14.01 A company admitted to the List of Aircraft Financial Leasing Companies may outsource operational functions to third-party service-providers, provided that the outsourcing does not materially impair the company's internal control, and that the Board of Directors of the company retains ultimate responsibility for the company's regulatory obligations.

14.02 All outsourcing of important operational functions must be governed by a written agreement that clearly defines the service levels and reporting requirements.

14.03 When outsourcing is performed in relation to critical or important functions, a company shall be guided by the EBA Guidelines on outsourcing arrangements, as may be amended or replaced from time to time.

Provided that a function should be considered critical or important only where its failure would directly impair:

i. The company's ability to comply with core regulatory requirements;
ii. Its financial performance; or
iii. The soundness or continuity of its aircraft financial leasing activities.

15. ICT and Security Risk

15.01 Companies which have been included by the MFSA in the List of Aircraft Financial Leasing Companies shall, taking into account their size, nature, scale and complexity of the business, ensure compliance with the Guidance on Technology Arrangements, ICT and Security Risk Management, and Outsourcing Arrangements.

16. Audited Financial Statements and Other Reporting Obligations

Audited Financial Statements

16.01 Companies which have been included by the MFSA in the List of Aircraft Financial Leasing Companies shall be required to file with the MFSA, within four months of the accounting reference date, a copy of their annual audited financial statements, or consolidated financial statements, as applicable, prepared in accordance with the Companies Act and generally accepted accounting principles and practice. These financial statements shall be accompanied by a detailed breakdown of income and expense items featuring in the profit and loss account and the auditors' management letter accompanied by the related replies from the companies themselves.

16.02 In respect of each annual accounting period, the company shall require its auditor to prepare a management letter in accordance with International Standards on Auditing.

16.03 All financial statements (annual accounts) submitted in terms of Rule 16.01 shall be certified by the company's auditor as giving a true and fair view of the company's assets and liabilities and financial position.

Regulatory Return

16.04 The Company shall also prepare and submit to the Authority, through the LH Portal, "Annex XX – Aircraft Leasing Companies Return".

16.05 The company shall submit to the MFSA any statistical returns which may be required by the Central Bank of Malta to fulfil European and other relevant reporting obligations.

Certificate of Compliance

16.06 A company admitted in the List of Aircraft Financial Leasing Companies shall submit to the Authority, on an annual basis, a Compliance Certificate in relation to the company. Such certificate shall be drawn up and signed by the Board of Directors.

16.07 The Compliance Certificate shall *inter alia* include the following:

i. A confirmation that the company is compliant with the applicable regulatory framework emanating from the Act, the Regulations, Rules, and/or other regulatory/statutory requirements;
ii. A confirmation that all the local AML/CFT requirements have been satisfied. This confirmation should be obtained from the company's Money Laundering Reporting Officer; and
iii. A confirmation that the company is in compliance with the minimum total assets requirement set out in Rule 3.01(iii).

Provided that asset valuations shall be obtained at least annually in accordance with market practice and issued by a reputable and independent valuer.

17. Other Regulatory Obligations

17.01 Companies which have been included by the MFSA in the List of Aircraft Financial Leasing Companies shall promptly pay all amounts due to the MFSA in terms of the Financial Institutions Act (Fees) Regulations.

17.02 The company shall co-operate fully with any inspection or any other enquiry carried out by, or on behalf of, the MFSA, and inform it promptly of any change in relevant information. The company shall supply the MFSA with such information as the MFSA may require.

17.03 The company and its service providers shall comply with all Maltese and overseas regulations to which they are subject.

17.04 The MFSA shall be informed of any material information concerning the company, its management or its operation, as soon as the company becomes aware of that information. This shall include notifying the MFSA in writing of:

i. any evidence of fraud or dishonesty by an official of the company immediately upon becoming aware of the matter;
ii. any actual or intended legal proceedings of a material nature by or against the company immediately the decision has been taken or on becoming aware of the matter;
iii. any breach of the minimum total assets requirement set out in Rule 3.01(iii), immediately upon the company becoming aware that such requirement is no longer being met; and
iv. any other material information concerning the company, its business or its officials in Malta or abroad immediately upon becoming aware of the matter.

17.05 Where the company identifies a breach in terms of Rule 3.01(iii), the company shall have a period of six (6) months to restore compliance.

Provided that where the company fails to restore compliance with this requirement within the period of six (6) months, the company shall, without undue delay:

a. apply for a licence under the Financial Institutions Act; or
b. submit a request for removal from the List of Aircraft Financial Leasing Companies and cease carrying out the activities referred to in these Rules.

17.06 Furthermore, the company shall immediately inform the MFSA of any changes to the information it would have submitted at notification stage, pursuant to Section 4 of Part A of these Rules. Where these changes involve a person that has a qualifying holding in the applicant; a beneficial owner; a member of the Board of Directors; a Senior Manager; a Money Laundering Reporting Officer; as well as any controllers and persons who will effectively direct the business of the company, including any relevant service provider of the company, the Due Diligence Service Provider shall also provide the Authority with a declaration that it has carried out the necessary due diligence with regards to such person by submitting AXxx – Annex B to these Rules.

Credit Risk

17.07 The company shall implement a robust credit risk management framework for managing credit risk that is appropriate to the nature, scale and complexity of the company's business. The framework shall include:

a. a credit risk appetite statement;
b. a credit risk management strategy and policies and procedures for identifying, measuring, evaluating, monitoring, reporting and mitigating credit risk consistent with the approved risk appetite set by the Board;
c. clearly defined and documented roles, responsibilities and formal reporting structures to manage credit risk;
d. a designated credit risk management function;
e. a management information system that is adequate, both under normal circumstances and in periods of stress, to measure, assess and report on credit risk; and
f. an independent review process to ensure that the framework is effective to identify, measure, evaluate, monitor, report, and control or mitigate credit risk.

The company's credit risk management strategy and the main policies and procedures shall be approved and regularly reviewed by the Board.

Breaches Register

17.08 The company shall maintain a 'breaches register'. This register shall include a log of any breaches of the Act, the Regulations issued thereunder, these rules, and/or other regulatory/statutory requirements. The log shall include:

i. The date of the breach;
ii. a brief explanation of the nature of each breach;
iii. whether such breach was rectified;
iv. the remedial action taken to rectify the breach; and

v. any regulatory action that may have been taken by the Authority as a result of the breach.

17.09 The breaches register shall be held at the registered address of the company and made available to the MFSA upon request.

18. Removal from the List of Aircraft Financial Leasing Companies

18.01 Pursuant to Regulation 9(1) of the Financial Institutions Act (Notified Aircraft Financial Leasing Companies) Regulations, the MFSA may remove a company from the List of Aircraft Financial Leasing Companies at any time at its sole discretion, following notification thereof to the Board of Directors of the company where the MFSA deems this fit, in the interest of protecting consumers of financial services, the integrity of markets and the stability and reputation of the financial sector.

18.02 The company, or a person authorised by it to act on its behalf, shall submit a request to the MFSA for the removal of the company from the List of Aircraft Financial Leasing Companies in cases where the company ceases to meet the eligibility criteria set out in Rule 3.01, Part A of these Rules; in the circumstances listed in Regulation 9(2) of the Financial Institutions Act (Notified Aircraft Financial Leasing Companies) Regulations; and in all other cases as prescribed in these Rules.

18.03 The company shall include a declaration together with the notification to the MFSA:

- requesting the company to be removed from the List of Aircraft Financial Leasing Companies;
- confirming that the relevant stakeholders, including Lenders, Lessees, and service providers, have been informed that the company will be removed from the List of Aircraft Financial Leasing Companies;
- confirming that there is no pending litigation or any other material issues concerning the company;
- confirming that there are no active financial lease agreements of aircraft and, or aircraft engines currently held by the company;
- confirming that the accruals and liabilities of the company have been cleared; and
- confirming that the disbursement or de-registration of the assets, including aircraft and /or aircraft engines, of the company has been completed in order.

The declaration shall be signed by the Board of Directors of the company and shall be accompanied by a confirmation from the external auditor of the company in relation to the matters set out above.

18.04 Following a notification for removal of a company from the List of Aircraft Financial Leasing Companies, the MFSA will proceed to strike off the company from the List of Aircraft Financial Leasing Companies.

18.05 Upon removal from the List of Aircraft Financial Leasing Companies, for whatever reason, the company shall cease all aircraft financial leasing activities other than for the purpose of winding down its existing leasing portfolio and satisfying its outstanding obligations. Following such removal, the company must be dissolved, liquidated, or otherwise terminated in accordance with the requirements of the Companies Act (Cap. 386) or any other applicable Maltese law.

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