MFSA MALTA FINANCIAL SERVICES AUTHORITY

Circular

6 August 2026

Amendments to Section 13 of Part A and Section 7 of Part BI of the Investment Services Rules for Investment Services Providers

1.0 Introduction

The Malta Financial Services Authority ("MFSA" or the "Authority") is issuing this Circular to inform stakeholders of amendments implemented to Section 13 of Part A of the Investment Services Rules for Investment Services Providers ("Part A") and Section 7 of Title 1 of Part 1 of Part BI of the Investment Services Rules for Investment Services Providers applicable to MiFID Firms ("Part BI").

The amendments form part of the Authority's ongoing review of its Rulebooks with a view of ensuring that regulatory requirements remain proportionate, effective, aligned with applicable European Union legislation, and reflective of developments in supervisory practices and at the same time maintaining a high degree of operational resilience.

The amendments primarily concern applicants and licence holders offering contracts for difference ("CFDs") and/or rolling spot forex contracts and seek to streamline certain requirements and enhance consistency within the broader regulatory framework applicable to investment firms.

2.0 Amendments to Section 13 of Part A of the Investment Services Rules for Investment Services Providers

Definition of Trading Organisation

The Authority is removing the existing definition of "Trading Organisation" and related references, as applicable. The existing definition was introduced to capture investment services licence holders distributing CFDs and/or rolling spot forex contracts but did not adequately cater for entities applying for authorisation.

Shareholding Structure Requirements

The Authority is removing the existing requirement whereby applications would only be accepted where there is an active participation, through a shareholding interest of at least 10%, by a reputable investment services institution or other regulated financial services entity.

Provisions relating to the assessment of shareholders and ownership structures will however be retained to ensure that applicants continue to satisfy the relevant suitability and governance requirements.

Initial Capital Requirements

Section 13 of Part A currently establishes an initial capital requirement of €750,000 applicable to Licence Holders/ Applicants offering CFD products (previously Trading Organisations). The Authority is removing this requirement to align the applicable initial capital thresholds with those established under the Investment Firms Directive ("IFD"), namely €75,000 or €150,000, as applicable depending on the nature of the services provided[1]. As a result, the existing rule imposing a €750,000 minimum initial capital requirement is being removed. In this regard, investment firms eligible for the downward revision of the minimum initial capital requirement from the original threshold of €750,000 are required to provide the Authority with a written justification demonstrating this revision, on plt.iss@mfsa.mt.

Competence Requirements

The Authority has revisited the competence requirements applicable to applicants and licence holders.

In particular:

- the scope of the assessment has been extended to include the Money Laundering Reporting Officer ("MLRO");
- the assessment of the Head of Trading will be conducted on a case-by-case basis, considering the reporting lines and governance structure of the investment firm, specifically whether the Head of Trading will be reported to a Chief or directly to the Board of Directors; and

[1] Class 3 Licence Holder means a Licence Holder which satisfies all requirements of Article 12 of the IFR. Class 2 Licence Holder means a Licence Holder which is neither a Class 1 nor a Class 3. Class 2 and Class 3 firms, are neither systematic, nor bank like, nor of a significant size. Refer to the Circular published on 6 February 2020 for further detail on the definition of the respective classes.

- the current requirement relating to involvement in one or more regulated firms is being replaced by a requirement for relevant experience and/or qualifications in the field of CFDs and/or rolling spot forex contracts.

These amendments are intended to ensure that competence requirements remain focused on the knowledge, expertise and experience necessary for the activities being undertaken.

Organisational Requirements and Risk Management

The Authority is amending the current requirements relating to the risk management function.

Under the new framework:

- applicants and licence holders will be required to functionally and hierarchically separate the risk management function from operational business units;
- the risk management function will no longer be required to be based in Malta. That said, general local substance expectations shall remain applicable;
- the proportionality principle will continue to apply when assessing the organisational arrangements adopted by investment firms; and
- investment firms will be required to demonstrate that adequate safeguards are in place to manage conflicts of interest and ensure the independent performance of risk management activities.

The risk management framework adopted by investment firms must continue to satisfy the relevant requirements established under the Investment Firms Rulebook.

Systems and ICT Requirements

The Authority is removing several requirements relating to proprietary online trading platforms and system infrastructure.

In particular, the following requirements are being removed:

- the obligation to submit independent IT audit certification of proprietary online trading platforms; and
- the requirement for core systems to be located at offices in Malta.

These requirements are considered to have been superseded by the regulatory framework established under Regulation (EU) 2022/2554 on digital operational resilience for the financial sector ("DORA"), which now comprehensively addresses ICT risk management, operational resilience and related controls.

Liquidity Providers and Counterparties

The Authority is revising the framework governing the appointment of liquidity providers and counterparties.

Under the new rules:

- applicants and licence holders will be required to undertake a rigorous assessment of identified liquidity providers and counterparties;
- such assessments shall be documented and made available to the Authority upon request;
- prior to appointment, investment firms shall notify the Authority of the proposed liquidity providers or counterparties and provide details regarding their regulatory status; and
- whilst responsibility for the appointment remains with the investment firm, the Authority may object to a proposed appointment where sufficient grounds exist.

These amendments seek to strengthen investment firms' due diligence responsibilities whilst maintaining appropriate supervisory oversight.

The Authority is also amending Rule R1-1.7.1 of Part BI of the Investment Services Rules for Investment Services Providers to align the requirements applicable to investment firms with the revised framework outlined above.

These amendments are intended to promote consistency across the Investment Services Rulebook and ensure a harmonised supervisory approach.

4.0 Amended Rules

The revised Part A and Part BI of the Investment Services Rules for Investment Services Providers are available on the MFSA’s website.

The amendments to the said investment services rules are applicable with immediate effect.

5.0 Contacts

Should you have any queries relating to the above, kindly contact the Authority on plt.iss@mfsa.mt.