

MAMO TCV
ADVOCATES

Regulatory Compliance Update

Q4 2022

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Introduction

Our Mamo TCV Regulatory Compliance Quarterly Update is intended to keep Maltese regulated entities informed of regulatory changes and developments taking place mainly in the local financial services space.

In this issue, we focus on the sector specific and cross-sectoral regulatory updates relating to Investment Services, Asset Management¹, Insurance, Credit & Financial Institutions, and Company Service Providers.

Mamo TCV's team of regulatory and compliance advisors supports authorised persons and their compliance functions to remain compliant with their obligations in the ever-evolving regulatory landscape.

Get in touch with us to learn more about how we can help you.

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¹Asset Management shall refer to Funds, Fund Managers and their service providers.

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SECTOR SPECIFIC REGULATORY UPDATES

1.0 INVESTMENT SERVICES

1.1 Publication of a Revised Application Form for Investment Firms

On 24 November 2022, the Malta Financial Services Authority ('MFSA') issued a [Circular](#) informing the industry of the introduction of a revised application form, being Form AAO4, for applicants seeking authorisation as investment firm. The MFSA continued accepting submissions by applications using the previous application form till the 31st of December 2022. The application form is to be submitted through the LH Portal.

Effective date: As from 1 January 2023, only the updated Form AAO4 will be accepted by the MFSA.

1.2 MFSA Circular on ESMA's Public Statement on the Impact of Inflation in the Context of Investment Services to Retail Clients

The MFSA issued a [Circular](#) on 3 October 2022, informing investment firms of the statement issued by the European Securities and Markets Authority ('ESMA'). ESMA's statement reminded investment firms of the relevant MiFID II requirements when they are manufacturing and distributing investment products as well as when providing investment services to retail clients given that investment firms may

play a role in considering inflation and inflation risk.

Investment firms should ensure that the information they address to retail clients reflects inflation risks and the possible effect this might have on the value and return of the investment. Investment firms are expected as part of the suitability assessment to consider market risk and credit risk, and the risk that inflation will undermine the performance and/or the value of an investment. ESMA expects manufacturers and distributors to consider the effect of the expected inflation in their product governance processes.

1.3 MFSA Circular on ESMA's Final Report on Guidelines on MiFID II Suitability Requirements

On 6 October 2022, the MFSA issued a [Circular](#) addressed to investment firms and credit institutions performing investment services and activities. The MFSA noted that on 23 September 2022, ESMA published its [Final Report](#) on Guidelines covering certain aspects of the MiFID II suitability requirements. The main amendments introduced are the following:

- [1] information to clients on the sustainability preferences;
- [2] collection of information from clients on sustainability preferences;
- [3] assessment of sustainability preferences;
- [4] organisational requirements.

Effective date: Six months from the date of publication of said revised Guidelines on ESMA's website in all EU official languages.

1.4 ESMA Issues a Public Statement regarding the Best Execution Reporting Obligation by Venues

On 14 December 2022, ESMA issued a [public statement](#) regarding the temporary suspension of the obligation on execution venues in article 27(3) of MiFID II until the 28th of February 2023.

On 25 November 2021, the European Commission published its legislative proposal on the review of the Markets in Financial Instruments Regulation ('MiFIR') and MiFID II, which includes a proposal to delete the RTS 27 reporting obligation. The legislative procedure is unlikely to be concluded by 28 February 2023 and it is expected that such re-application will be only temporary. The issues relating to RTS 27 reporting, as identified in the amending Directive, will still be applicable to any reports issued after 28 February 2023.

As from 1 March 2023 until the forthcoming legislative amendment to article 27(3) of MiFID II applies, ESMA expects national Competent Authorities not to prioritise supervisory actions towards execution venues relating to the periodic reporting obligation on them to publish the RTS 27 reports.

1.5 MFSA Circular on ESMA's Supervisory Briefing on Supervision of Cross-Border Activities of Investment Firms

On 21 December 2022, the MFSA issued a [Circular](#) addressed to investment firms regarding the supervisory briefing issued by ESMA on the supervision of the cross-border activities of investment firms. The contents of this supervisory briefing were brought to the attention of investment firms which actively provide MiFID II services on a freedom of

services cross-border basis in terms of article 34 of MiFID II for the Compliance Function and Senior Management Team of concerned investment firms to consider the content of this supervisory briefing.

The supervisory briefing tackles the following:

- [1]** Authorisation of firms with cross-border plans pursuant to articles 5, 6 and 7 of MiFID II;
- [2]** Processing of passport notifications pursuant to article 34 of MiFID II and their impact on the supervisory approach applied to firms;
- [3]** Arrangements in place to carry out ongoing supervisory activities;
- [4]** Carrying out of ongoing supervision, and
- [5]** Carrying out of investigations and inspections.

1.6 MFSA Circular on the Revisions to the List of Financial Instruments

On 21 December 2022, the MFSA issued a [Circular](#) regarding the list of financial instruments submitted on a biannual basis by investment firms. The complex products survey, which was previously part of the MiFID Firms Quarterly Reporting and submitted on a quarterly basis, has now been included in the list of financial instruments, specifically in 'sheet 2 – Complex Products'.

The list of financial instruments is to be submitted within 42 days after the end of the applicable reporting period and is to be submitted through the MFSA LH Portal.

2.0 ASSET MANAGEMENT

2.1 Amendments to the Investment Services Rulebooks to Implement the Revised ESMA Guidelines on Stress Test Scenarios under the Money Market Funds Regulation

On 4 October 2022, the MFSA issued a [Circular](#) to communicate changes to the investment services rulebooks to implement [Guidelines](#) issued on 4 May 2022 by ESMA on stress test scenarios under the Money Market Funds ('MMFs') Regulation which applied from 4 July 2022.

Changes were applied to the supplementary conditions for UCITS Managers and AIFMs managing MMFs, Self-Managed AIFs and schemes set up as MMFs. The changes require authorised persons to submit to the MFSA the results of stress tests and, where applicable, the proposed action plan and to comply with the ESMA Guidelines on stress test scenarios under the MMF Regulation.

Effective date: 5 October 2022

2.2 Minor Update to the Annual Fund Return

On 18 November 2022, the MFSA issued a [Circular](#) to communicate that the automatic summation for the "Scheme Combined" columns for the respective sections within the return were removed and replaced with manual inputs. The MFSA communicated that authorised persons are to make use of the latest version of the return (version 1.7) to make new submissions. This notwithstanding, version 1.6 of the return will continue to be accepted for submissions until 2023.

Effective date: The MFSA communicated that authorised persons are to start making use of the latest version of the return (version 1.7) to make new submissions. This notwithstanding, version 1.6 of the return will continue to be accepted for submissions until 2023.

2.3 Amendments to Appendix I to Part B of the Investment Services Rules for Professional Investors Funds and the Glossary to Introduce Reference to a DLT Asset

On 4 November 2022, the MFSA communicated through a [Circular](#) that it decided to replace the term 'Virtual Currency', found in Appendix I to Part B of the Investment Services Rules for Professional Investor Funds ('PIFs') containing supplementary licence conditions applicable to PIFs investing in Virtual Currencies, with the term 'DLT asset'. The applicable Glossary was also amended to reflect this change.

The MFSA outlined that the term 'DLT asset' will now capture a wider range of assets utilising or intrinsically dependent on Distributed Ledger Technology and to introduce a definition of the term in the PIF Glossary. This terminology reflects the terminology used in the Virtual Financial Assets Act and ensures that the supplementary licence conditions become applicable when a PIF invests in any type of DLT asset.

Effective date: 5 November 2022

2.4 Applicability of Regulation (EU) No 1286/2014 on Key Information Documents for Packaged Retail and Insurance-Based Investment Products

(PRIIPs) to Funds and Fund Managers

On 22 December 2022, the MFSA issued a [Circular](#) complementing a previous [Circular](#) issued on 23 May 2022, in relation to the transposition of Directive (EU) 2021/2261 of the European Parliament and of the Council of 15 December 2021 amending Directive 2009/65/EC as regards the use of key information documents by management companies of undertakings for collective investment in transferable securities.

Undertakings for collective investment in transferable securities ('UCITS') management companies and self-managed UCITS were exempt from the requirements of the PRIIPs Regulation through Directive 2021/2261 as regards the use of key information documents by management companies of UCITS.

Through the Circular, the MFSA communicated that following the publication of the Commission Delegated Regulation (EU) 2022/975 of 17 March 2022, as of 1 January 2023, the Regulation will also apply to UCITS management companies and self-managed UCITS who also offer PRIIPs to retail investors.

UCITS management companies, self-managed UCITS, AIFMs, and self-managed AIFs ('the authorised persons') shall produce a PRIIPs KID with content and form as specified in the Regulation. PRIIPs KIDs are to be distributed to the retail investors in good time prior to entering into any contract.

Authorised persons already offering PRIIPs should file the KID within 35 business days of 1 January 2023 on ausecurities@mfsa.mt. PRIIPs KIDs put forward as part of a new application are

to be submitted through the LH Portal together with all other application documents. The PRIIPs KID will be submitted for notification purposes only.

Effective date: 1 January 2023

3.0 INSURANCE

3.1 Mamo TCV Advocates Contributes to the 10th Edition of The Insurance and Reinsurance Law Review

Mamo TCV Advocates contributed to the 10th Edition of the Insurance and Reinsurance Law Review, providing an overview of the legal and regulatory regime for insurance and reinsurance undertakings and intermediaries. The publication covers topics including legal and market developments and makes use of a business-focused approach.

The Insurance and Reinsurance Law Review may be accessed [here](#).

3.2 ECJ Decision Revises the Definitions of 'Insurance Intermediary' and 'Insurance Mediation'

In its decision of [Case C-633/20](#), the European Court of Justice ('ECJ') proceeded in line with the [Opinion of the Advocate General](#) in clarifying the definition of insurance intermediary and insurance mediation under the Insurance Distribution Directive.

The judgment stemmed from a preliminary ruling referred by the German Federal Court of Justice concerning the definition of 'insurance mediation'. The context of the preliminary ruling involved the

advertisement and provision of insurance coverage in the event of sickness or accident abroad by the defendant in the main proceedings to consumers. The defendant in the main proceedings was a policyholder of an insurance undertaking who paid the premium of the insurance cover by means of the payments received by it from its customers. The defendant to the main proceedings was not licensed as an insurance intermediary.

The ECJ reached the decision, in line with the recommendation of the Advocate General in his Opinion, that the defendant to the main proceedings was to be included within the definition of an insurance intermediary given the circumstances of that particular case.

3.3 MFSA Circular on Proposed Changes to the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations

The MFSA issued a Circular on the 22nd of December 2022 on its proposed amendments to the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations ('PCC Regulations').

Among the proposed changes, the MFSA recommended that regulation 15 of the PCC Regulations concerning the limitation of recourse available to creditors of a cell company where the cell exclusively carries on business of affiliated re/insurance, be deleted.

As a result, the MFSA expressed its expectation that all cell applications, as from the date of the Circular, provide for recourse to non-cellular assets of the cell company irrespective of whether the cells carry on business of affiliated

re/insurance exclusively, and that the cells' notional SCR is to be adequately calculated without reliance on 'pay as paid' or 'cell limitation' clauses.

The MFSA will proceed with a consultation process with the relevant market in due course for the purpose of introducing these proposed amendments.

Effective date: *The proposed changes will come into force following the conclusion of the consultation process, whereas the provision of non-cellular assets within cell applications is effective as from 22 December 2022.*

4.0 CREDIT AND FINANCIAL INSTITUTIONS

4.1 EBA's Report on the Market Share of Non-EU Entities in the EU Banking System and the Dependency of EU Banks on Funding in Foreign Currencies

On 3 October 2022, the European Banking Authority ('EBA') published a report on the reliance of the EU financial sector on counterparties, operators and financing originating from outside the Single Market (the 'Report'). The Report was issued pursuant to a request from the European Commission on 29 June 2021 to the EBA to analyse the EU dependence on non-EU banks and the funding in foreign currency of EU banks. The findings of the Report are based mainly on supervisory reporting data available to the EBA as at June 2021.

The salient findings of the Report include the following:

- non-EU entities have a market share of 12.2% of the total banking assets;

- the most prevalent activities of non-EU entities being in relation to wholesale banking with counterparties being mainly EU credit institutions and other financial corporations;
- the ultimate parent of the non-EU entities are located mainly in the UK and the US;
- reliance by the EU financial system on services provided by non-EU operators especially in relation to payment and settlement services as well as investment banking activities;
- in relation to the dependency on foreign currency funding, 19% of EU banks' total funding was denominated in significant foreign currencies;
- EU banks have strong overall liquidity coverage ratio and net stable funding ratio positions in their domestic currency however for significant currencies these tended to fall below the 100% threshold for the majority of banks;
- a majority of EU banks use foreign currency denominated funding to invest in loans and advances extended to retail customers and non-financial corporates.

The detailed findings of the Report may be accessed [here](#).

4.2. Introduction of New Banking Rule BR/26 on the Stress Testing Requirements of Credit Institutions licensed under the Banking Act

On 19 October 2022, the MFSA issued a [Circular](#) informing the industry of the introduction of [Banking Rule BR/26 on the Stress Testing Requirements of Credit Institutions licensed under the Banking Act](#) ('BR/26').

Pursuant to the issuance of BR/26, Annex 2 D "Principles on Stress Testing" of BR/12 was repealed. The aim of BR/26 is to implement the [EBA Guidelines on institutions' stress testing](#) which were issued on 19th July 2018 and to provide the organisational and methodological requirements for credit institutions to conduct stress testing. In furtherance, BR/26 reaffirms the responsibility of the board of directors of the credit institutions to approve and oversee the implementation and performance of the stress testing programme.

Effective date: BR/26 came into effect as from 19 October 2022.

4.3 MFSA Circular on the EBA Guidelines on Common Procedures and Methodologies for the Supervisory Review and Evaluation Process and Supervisory Stress Testing

On 4 November 2022, the MFSA issued a Circular addressed to Less Significant Credit Institutions ('LSIs') informing them of the revised Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Directive 2013/36/EU (EBA/GL/2022/03) published by the EBA on 18 March 2022 ('EBA Guidelines').

The EBA Guidelines which set out the SREP framework which competent authorities, including the MFSA, are to follow in their assessment of the risk, viability and sustainability of LSIs on the basis of the principle of proportionality have been revised to be aligned with the amendments made pursuant to CRR 2 and CRD V. The EBA Guidelines repeal and replace the EBA Guidelines issued 19 December 2014 (EBA/GL/2014/13) and

the amending Guidelines issued on 19 July 2018 (EBA/GL/2018/03).

Effective date: *The EBA Guidelines are applicable as from 1 January 2023.*

4.4 Introduction of New Banking Rule BR/27 on the Application of Certain Options and National Discretions

On 10 November 2022 the MFSA issued a [Circular](#) informed the industry of the introduction of [Banking Rule BR/27 on the Application of Certain Options and National Discretions](#) ('BR/27').

BR/27 lays down the approach undertaken by the MFSA in exercising certain options and national discretions ('ONDs') as emanating under the Capital Requirements Regulation ('CRR'). In this regard BR/27 is divided into 2 parts: [1] Part 1 supplements the CRR (Implementing and Transitional Provisions) Regulations (Subsidiary Legislation 371.17) and [2] Part 2 implements certain ONDs as stipulated in the Commission Delegated Regulation (EU) 2015/61 on Liquidity Coverage Requirement.

Effective date: *BR/27 came into effect as from 10 November 2022.*

4.5 EBA's Consultation on Guidelines to Institutions and Resolution Authorities on Resolvability Testing

On 15 November 2022, the EBA issued [Consultation Paper](#) on the proposed revised Guidelines EBA/GL/2022/01 on improving resolvability for institutions and resolution authorities under articles 15 and 16 of Directive 2014/59/EU ('Resolvability Guidelines') to introduce

a new section on resolvability testing ('Revised Guidelines').

The Revised Guidelines are proposing to:

- [1] introduce a self-assessment by resolution banks;
- [2] require authorities to develop a multi-annual testing programme for each resolution bank to demonstrate the adequacy of their resolvability capabilities as set out in the [EBA Resolvability Guidelines](#) (EBA/GL/2022/01) published on 13 January 2022; and
- [3] introduce a Master playbook for the most complex banks for the banks to adopt a holistic approach to resolution planning.

The deadline for the consultation is **15 February 2023**.

4.6 Amendment to Banking Rule BR/21 on Remuneration Policies and Practices

On 9 December 2022, the MFSA issued a [Circular](#) informing the industry of the amendments made to [Banking Rule BR/21 on Remuneration Policies and Practices](#) ('BR/21').

The amendments to BR/21 relate to the implementation of the following guidelines issued by the EBA and which repeal previous versions of the respective guidelines:

- [1] [Guidelines on the benchmarking exercises on remuneration practices, the gender pay gap and approved higher ratios under Directive 2013/36/EU](#) and
- [2] [Guidelines on the data collection exercises regarding high earners under Directive 2013/36/EU and under Directive \(EU\) 2019/2034](#).

In furtherance, Annex 1 of BR/21 was also amended to include a reference to the above-mentioned guidelines.

Effective date: *The amendments to BR/21 came into effect as from 31 December 2022.*

4.7 Publication of the EBA's Roadmap on Sustainable Finance

On 13 December 2022, the EBA published its [Roadmap on Sustainable Finance](#) (the 'Roadmap') which replaces the EBA's first action plan on sustainable finance published in December 2019.

The Roadmap outlines the objectives and timeline for the EBA to deliver mandates and tasks in relation to sustainable finance and environmental, social and governance ('ESG') risks.

Some of the areas which the EBA will cover through its Roadmap include:

- [1] enhanced sustainability-related disclosures requirements;
- [2] enhanced rules in relation to the management of ESG risks by credit institutions subject to supervision of competent authorities;
- [3] additional work in relation to ESG standards or labels and the addressing risks of greenwashing; and
- [4] assessment of ESG risks through stress testing and scenario analysis.

4.8 EBA's Thematic Review on the Transparency and Level of Fees and Charges in Relation to Retail Banking Products in the EU

On 14 December 2022, the EBA published a report with findings pursuant to the thematic review on the transparency and level of fees and charges levied by institutions on the retail banking products in the EU.

The report states that there is minimal harmonisation and standardisation of fees within EU Member States which is to the detriment of consumers.

The detailed findings of the thematic review may be accessed [here](#) .

4.9 Publication of the Final Draft of the ITS on the Information Requirements in relation to the Sale of NPLs by Credit Institutions

On 16 December 2022, the EBA published the final draft of the Implementing Technical Standards specifying the templates to be used by credit institutions to provide the information pursuant to article 15(1) of Directive (EU) 2021/2167 on credit servicers and credit purchasers ('NPL Directive') to credit purchasers for their analysis, financial due diligence and valuation of the creditor's rights under a non-performing credit agreement ('ITS').

The aim of the ITS is to increase the efficiency of secondary markets for the sale of NPLs and to reduce entry barriers for smaller banks and smaller investors.

Effective date: *It should be noted that the NPL Directive has to be transposed by all Member States by 29 December 2023.*

4.10 Thematic Review on Climate-Related and Environmental Risks in relation to LSIs

On 20 December 2022, the MFSA issued a [Circular](#) informing the industry of the findings emanating from the thematic review on climate-related and environmental risks carried out jointly by the European Central Bank ('ECB') and the MFSA ('Thematic Review').

The aim of the Thematic Review was to assess the soundness, effectiveness and comprehensiveness of banks' climate-related and environmental risk management practices and align with the 13 supervisory expectations as set out in the ECB's guide on climate-related and environmental risks.

The findings of the Thematic Review indicate a strong need for all banks in Malta to strengthen their governance arrangements by improving their understanding of climate-related and environmental risks, implement clearer plans to assess climate related risks and integrate them into their management frameworks and engage with their customers to collect data to meet their disclosure obligations.

Additional information on the findings of the Thematic Review can be found in the above-mentioned Circular.

4.11 Amendments to Financial Institutions Rule FIR/01 on the Application Procedures and Requirements for Authorisation under the Financial Institutions Act 1994

On 21 December 2022, the MFSA issued a [Circular](#) informing financial institutions of the amendments made to [Financial Institutions Rule FIR/01 on the Application Procedures and Requirements for Authorisation under the Financial Institutions Act 1994](#) ('FIR/01').

The amendments to FIR/01 entail the following:

- [1] introduction of a new paragraph 15B pursuant to the [Crowdfunding Regulation](#) which amongst other clarifies that project owners or investors who accept funds or grant loans for the purposes of offering or investing in crowdfunding projects, shall not require an authorisation from the MFSA to operate as a financial institution to carry out such activities; and
- [2] introduction of a new paragraph 58A stipulating that the assessment of the MFSA pursuant to the notification sent in terms of article 3(2A)(k) of the Financial Institutions Act (Cap. 376 of the Laws of Malta) shall be based on [Guidelines on the limited network exclusion under PSD 2](#) issued by the EBA on 24 February 2022 (EBA/GL/2022/02).

5.0 COMPANY SERVICE PROVIDERS

5.1 2023 Regulatory Submissions

The MFSA issued a [Circular](#) on 16 December 2022 addressed to the newly authorised company service providers ('CSPs') who were fully authorised in November 2022, following the authorisation process in terms of the transitory periods set out by the amendments to the Company Service Providers Act, by virtue of Act L of 2020.

The MFSA informed the newly authorised CSPs of the following:

- [1] To submit the Certificate of Compliance (in terms of R3-13.7 and Annex 3 of the CSP Rulebook) by 31 January 2023, emphasising that no

waivers will be granted in relation to such submission; and

- [2] The requirement to submit the Annual Self-Declaration in terms of R4-5.1 of the CSP Rulebook for Under Threshold Class A and B CSPs has been waived for 2023, and therefore the declaration is not required to be submitted for 2023. This notwithstanding, the MFSA reminded all Under Threshold CSPs of their ongoing obligations in terms of R4-5.3 and R4-5.4 to inform the Authority immediately upon becoming aware of any changes in circumstances which lead to the CSP exceeding the applicable thresholds under the respective classification, and to take the necessary steps as set out in the said rules.

CROSS-SECTORAL REGULATORY UPDATES

1.0 DIGITAL FINANCE

1.1 MiCA Regulation

On 5 October 2022, the final compromise text of the Regulation of the European Parliament and of the Council on Markets in Crypto-Assets, and amending Directive (EU) 2019/1937 ('MiCA') was endorsed by the Permanent Representatives' Committee with a view to agreement.

The text is currently awaiting the European Parliament's approval. Developments in this regard are expected in Q1 2023.

1.2 Digital Operational Resilience Act ('DORA')

Inter-institutional negotiations (trilogue) on DORA started in January 2022 and a provisional agreement was reached on 10 May 2022. The text was officially adopted by Parliament on 10 November 2022.

On 27 December 2022, [Regulation \(EU\) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector](#) and [Amending Directive \(EU\) 2022/2556](#) were published on the Official Journal of the EU and entered into force on 16 January 2023.

Effective date: Member States are required to adopt the measures necessary to comply by 17 January 2025.

1.3 Reporting of Major ICT-Related Incidents

In a [Circular](#) dated 13 October 2022, the MFSA released the following material in relation to reporting of Major ICT-Related Incidents:

1. A Major ICT-Related Incident Reporting Process;
2. Templates for Initial, Intermediate and Final Major ICT-Related Incident Reporting; and
3. User Guidelines for submitting Major ICT-Related Incident Reports to the Authority.

The MFSA expects all eligible authorised persons to report Major ICT-Related Incidents, whether of an operational or security nature, to the MFSA, in line with the Process Document, using the provided Templates, and by following the User Guidelines.

Effective date: 13 October 2022

1.4 New ESMA Q&As on the Implementation of DLT Regulation

On 21 December 2022, the MFSA issued a [Circular](#) addressed to central securities depositories, investment firms, credit institutions providing investment services and/or performing investment activities, and market operators including any trading venues they operate.

The MFSA informed interested parties of the [new ESMA's Questions and Answers on the implementation of Regulation \(EU\) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology](#). The new Q&As aim at promoting common supervisory approaches and practices in the application of the DLT Pilot Regime in relation to regulatory data reporting, trading and settlement topics. The document provides responses to questions posed by the general public, market participants and competent authorities in relation to the practical application of CSDR, MiFID II, MiFIR in the DLT Pilot Regime.

1.5 New ESMA's Q&As on the Crowdfunding Regulation

The MFSA issued a [Circular](#) on 21 December 2022 addressed to European crowdfunding service providers. The purpose behind this Circular is for the MFSA to inform European crowdfunding service providers of newly issued ESMA Questions and Answers on Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business ('the Regulation'), aimed at

promoting common supervisory approaches and practices in the application of the Regulation.

2.0 SUSTAINABLE FINANCE

2.1 ESAs Call for Evidence on Greenwashing

The MFSA issued a [Circular](#) on 23 November 2022 to communicate that the European Supervisory Authorities ('ESAs') published a [Call for Evidence](#) on potential greenwashing practices in the EU financial sector, including banking, insurance and financial markets, and which may be relevant to various segments of the sustainable investment value chain and of the financial product lifecycle. The ESAs accepted contributions to the Call for Evidence until 16 January 2023.

2.2 Q&A on the SFDR Delegated Regulation

On 17 November 2022, the ESAs published a joint Questions and Answers ('Q&A') document on the SFDR Delegated Regulation (Commission Delegated Regulation (EU) 2022/1288).

The Q&A focuses on questions on the following topics:

- [i]** current value of all investments in Principal Adverse Impact ('PAI') and Taxonomy aligned disclosures;
- [ii]** PAI disclosures;
- [iii]** financial product disclosures;
- [iv]** multi-option products;
- [v]** taxonomy alignment investment disclosures;
- [vi]** financial advisers and execution.

3.0 ESAs 2023 PRIORITIES

During the final months of 2022, the [European Securities and Markets Authority](#) ('ESMA'), the [European Banking Authority](#) ('EBA') and the [European Insurance and Occupational Pensions Authority](#) ('EIOPA') issued Work Programme documents highlighting their respective priorities for 2023 and beyond.

These priorities are expected to influence the 2023 supervisory priorities of the MFSA. It is recommended that authorised persons consider these documents when planning their regulatory compliance efforts for the upcoming year.

4.0 MFSA GENERAL UPDATES

4.1 *Payment of Application Fees, Supervisory Fees, or Penalties*

In a [Circular](#) addressed to all authorised persons, on 7 October 2022 the MFSA notified the industry of a new BOV Bill payment facility for BOV account holders. Payment can be affected by authorised persons or by third parties on behalf of an authorised person. A [guidance document](#) was enclosed with the Circular to guide users on how to use the facility.

4.2 *Use of Electronic Signatures*

On 15 November 2022, the MFSA notified the industry that it shall accept electronically signed documents signed using a qualified electronic signature as defined and regulated under Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions

in the internal market and repealing Directive 1999/93/EC' ('eIDAS').

The MFSA highlighted that it reserves the right to independently verify the validity of electronic signatures used to sign documents submitted to it, and if it determines that the electronic signature is in breach of the eIDAS or any provision of the law, the MFSA shall consider the submission thereof to be invalid and any such document in question shall have to be resubmitted.

OUR REGULATORY COMPLIANCE EVENTS

Insurance CPD Training – November / December 2022

Mamo TCV Advocates organised a [training program](#) in satisfaction of the CPD requirements within Chapter 7 of the Insurance Distribution Rules for relevant persons and employees involved in insurance distribution activities.

The training program consisted of seven sessions covering a number of different facets of insurance law and the regulation of the insurance market.

Following the successful uptake of this program, Mamo TCV intends to organise another program of a similar nature for this year, 2023.

Future updates and events

Should you be interested in receiving our Quarterly Regulatory Compliance Update in relation to regulatory developments and/or joining future events organised by Mamo TCV on regulatory & compliance matters, we invite you to subscribe to our dedicated mailing list through the following link: [**subscribe here**](#).

Our Regulatory Compliance Services

Having a strong compliance culture is crucial and our multidisciplinary regulatory cross-sectoral compliance team assists our clients in having the required policies and procedures to remain compliant with the local regulatory framework, as well as providing advice with respect to any changes required to their business model to better comply with the relevant requirements. Our team also delivers tailor-made training sessions to staff of regulated entities.

Key Contacts

Do not hesitate to reach out to **Michael Psaila, Katya Tua, Edmond Zammit Laferla**, or your usual contacts at Mamo TCV, should you wish to discuss the contents of this Regulatory Compliance Quarterly Update or any other financial services regulatory compliance matters.

This document does not purport to give legal, regulatory, financial or tax advice.

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