

Regulatory Compliance Update

Q1 2024

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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, Company Service Providers and Insurance.

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 Establishing and classifying the organisation's size

On the 1st of February 2024, the Malta Financial Services Authority ("MFSA") issued a [Circular](#) whereby it was explained that the MFSA will start collecting data in relation to the organisation's size classification of applicants and existing authorised persons. Applicants, through the submission of a self-declaration form, would need to establish their organisation size and categorise themselves as a microenterprise, small enterprise, medium-sized enterprise or a non-small/medium-sized enterprise.

1.2 Amendments to the Investment Services Rulebooks

On the 5th of February 2024, the MFSA issued a [Circular](#) aimed towards updating licence-holders of recent regulatory updates on the Investment Services Rulebooks. In total, twelve amendments have been made, spanning across various Rulebooks, including miscellaneous changes.

Specifically, these amendments are relevant when intending to surrender a Collective Investment Scheme ("CIS") licence. Instead of needing a shareholder's resolution to surrender such CIS licence, a resolution from the CIS's governing body will now suffice.

1.3 Consultation document on the proposed establishment of a framework for CISs structured as limited partnerships without legal personality

On the 21st of February 2024, the MFSA published a [Consultation Document](#) on the proposed setting up of a framework for CISs which are structured as limited partnerships without legal personality. Subsequently, on the 25th of March 2024, the MFSA issued a [Note](#), advising stakeholders that the period of consultation on the proposed framework had been extended to the 31st of March 2024. The MFSA is proposing the establishment of this legal framework *in lieu* of the lack of choice towards setting up a CIS as a limited partnership without separate legal personality.

1.4 Amendments to the Investment Services Rulebooks in relation to the Money Market Funds ("MMF") Regulation

On the 28th of March 2024, the MFSA issued a [Circular](#) relating to amendments made to the Investment Services Rulebooks, namely the European Securities and Markets Authority ("ESMA") [guidelines](#) on stress test scenarios established under the MMF Regulation. These guidelines are applicable to competent authorities, money market funds and managers of MMFs. The numerous rulebooks which have been amended prior to the publication of this guideline update have also been outlined in this Circular.

1.5 Submission of liquidity stress testing data through the LH Portal

On the 29th of February 2024, the MFSA issued a [Circular](#) relating to a change in the submission of the required data

which CISs must upload for the purposes of the MFSA's liquidity stress testing programme. As from 2024, submissions are to take place through the MFSA's LH Portal as opposed to via email.

A new LH Portal project, named 'Liquidity Stress Testing', has been created and will be used for the purpose of return submissions in respect of this annual exercise. Compliance Officers of Investment Funds will be contacted by the MFSA in due course.

1.6 The adoption of the Alternative Investment Fund Managers Directive II ("AIFMD II")

On the 26th of March 2024, [EU Directive 2024/927](#) amending the AIFMD and the current UCITS Directive was published in the Official Journal of the European Union. Notwithstanding that it will enter into force on the 15th of April 2024, measures transposing article 1(12) and article 2(7) regarding article 20(a) of the UCITS Directive may be transposed up until the 16th of April 2027.

2.0 COMPANY SERVICE PROVIDERS

2.1 Circular addressed to Company Service Providers ("CSPs")

On the 23rd of January 2024, the MFSA issued a [Circular](#) informing CSPs of the numerous changes that were made in the CSP Rulebook. As a result of these changes, CSPs will no longer be required to submit certain documentation on a standalone basis. A [Circular](#) was subsequently published on the 19th of February 2024 informing CSPs of when they could download the Annual Compliance Return ("ACR") for completion and submission prior to the deadline.

2.2 Circular addressed to CSPs on the submission of the Annual Compliance Return

Further to the Circular published on the 23rd of January 2024, the MFSA, by means of a [Circular](#) issued on the 19th of February 2024, informed CSPs that the revised ACR template had been made available for download. The changes to the ACR template reflect the amendments made to the CSP Rulebook, which include minor amendments to the set of questions made, in addition to modifications in the naming convention of submissions.

3.0 INSURANCE

3.1 MFSA issues a Circular appending to the feedback following consultation to the approved Insurance Distribution Rules

The MFSA issued a [Circular](#) and subsequent [Feedback Statement](#) on the 8th of August 2023 on the [Consultation Document](#) published in January 2023. The Consultation Document proposed changes to the Insurance Distribution Rules based on regulatory and market observations. Further to the Consultation Document, the MFSA issued a Feedback Statement on the comments received from interested parties in relation to the Consultation.

3.2 MFSA issues a Consultation Document in relation to a new chapter in the Insurance Rules entitled "Cell Companies Carrying on Business of Insurance" and amendments to Chapter 5 of the same rules

The MFSA issued a [Consultation Document](#) introducing a new chapter to the Insurance Rules. The new chapter

aims to establish clear procedures for transferring, ceasing, servicing and winding up a cell company in the insurance business. This new chapter seeks to strike a balance between protecting creditors and streamlining complex processes. It is the MFSA's intention to outline detailed procedures for various scenarios that may arise in these situations.

The MFSA is also suggesting a new addition, provision 5.5.95, to Chapter 5 of the Insurance Rules regarding risk mitigation techniques for authorized insurance companies. This provision will enforce the rule that insurance companies cannot use risk mitigation clauses or techniques to significantly reduce the counterparty default risk when calculating the solvency capital requirement for claims in cases of reinsurance undertaking defaults.

CROSS-SECTORAL REGULATORY UPDATES

4.0 SUSTAINABLE FINANCE

4.1 EU Commission's consultation on sustainable finance disclosures

On the 7th of February 2024, the MFSA issued a [Circular](#) referring to the MFSA-issued survey in relation to stakeholders' experience and views when dealing with the disclosure and reporting requirements emanating from the EU's sustainability disclosures and reporting regime.

The MFSA stated that the purpose of the survey was to gather insights relating to stakeholders' level of awareness towards compliance obligations stemming from sustainable finance disclosure and reporting. The survey also seeks to

understand the struggles and benefits that may arise from such requirements. The feedback gathered by means of this exercise formed part of the Stakeholder Engagement and Awareness component of the EU Technical Support Instrument ("TSI") multi-country project, spearheaded by the EU Commission. Subsequently, on the 1st of March 2024, the MFSA issued a reminder via another published [Circular](#) whereby it extended the deadline to complete the survey until the 13th of March 2024.

5.0 ANTI-MONEY LAUNDERING REGULATION

5.1 FIAU Note on the latest National Risk Assessment ("NRA")

On the 23rd of January 2024, the Financial Intelligence Analysis Unit ("FIAU") issued a [Note](#), bringing to the fore the latest results found in the NRA, in order for subject persons to adopt any necessary additional mitigating measures for compliance with anti-money laundering measures. The current NRA was published in December 2023.

5.2 The European Banking Authority ("EBA") extends its guidelines on ML/FT risk factors to crypto asset service providers ("CASPs")

On the 26th of January 2024, the FIAU issued a [Note](#), informing subject persons of the inclusion of CASPs in its money laundering/funding of terrorism ("ML/FT") risk factors guidelines. It clarified that this inclusion would force CASPs to mitigate any risk factors mentioned in the guidelines, in addition to the fact that it will aid all financial and credit institutions who have CASP customers in identifying crypto asset-oriented risks.

The Note also include changes to emerging ML/FT risks and extending guidance on customer due diligence for beneficial owners. The amended guidelines are set to apply on the 30th of December 2024.

5.3 2024 Risk Evaluation Questionnaire (“REQ”)

On the 31st of January 2024, the FIAU issued a [Note](#), informing subject persons of the 2024 REQ. Different deadlines have been established in April 2024 in respect of different subject persons, with the FIAU emphasising the risk of incurring an administrative fine should the deadlines not be to adhered to by the respective subject persons. Moreover, the FIAU has indicated that it will provide detailed guidance for each question.

5.4 Final Compromise Texts of the AML/CFT Package made public

On the 23rd of February 2024, the FIAU issued a [Note](#) relating to the recent EU compromise agreement on the anti-money-laundering and counter-financing of terrorism (“AML/CFT”) package. This comprehensive package includes a proposed anti-money laundering (“AML”) regulation, a proposed AML directive, a proposed regulation establishing a new EU AML authority, and a recast of the Transfer of Funds Regulation. The EU Parliament is currently deliberating on the proposed laws.

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.

MAMO TCV

ADVOCATES

Mamo TCV Advocates
Palazzo Pietro Stiges 103,
Strait Street Valletta, VLT 1436

T. +356 2540 3000
F. +356 2540 3300

info@mamotcv.com
mamotcv.com

