

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

7 December 2018

**Securities and Markets
Supervision Unit**

Unit Tel: (+356) 21441155

Dear Sir/ Madam,

Re: Circular to Collective Investment Schemes, Fund Managers and Investment Firms licensed in Malta as well as Recognised Fund Administrators in relation to submission of regulatory reporting

1. Introduction

The Authority noted a trend whereby a number of Collective Investment Schemes (including Alternative Investment Funds, Professional Investor Funds and Retails Collective Investment Schemes and their Sub-Funds), Alternative Investment Funds Managers, UCITS Management Companies, Investment Firms and Fund Administrators (*collectively referred to as "Licensed Entities" for the purpose of this Circular*) licensed by the MFSA have been failing to submit to the Authority their regulatory reporting, as defined in Section 2 (below), in a timely manner. Regretfully, certain Licensed Entities failed to submit the relevant regulatory reporting for a number of reporting periods, in certain cases repeatedly. This is considered by the MFSA as a serious breach of licensing conditions.

The purpose of this Circular is to stress the importance of timely submissions in terms of regulatory reporting and to inform the industry of the consequences of late or non-submission. Such a late or non-submission of regulatory reporting inhibits the Authority from conducting its supervisory work in an efficient manner.

2. Applicable Legal and Regulatory Framework

Without limiting the generality of article 13(1) of the Investment Services Act ("the ISAct"), Directors and Compliance Officers of Licensed Entities are required to submit to the Authority such documentation, as the Authority may require.

In addition, with regard to the Investment Services Rules applicable to the Licensed Entities, the following Standard Licence Conditions/ Rules require such Entities to submit their regulatory reporting, as applicable.

The Schedule in Attachment No 1 sets out the applicable rules which are included in various Rulebooks.

3. Obligations of the Auditor

It is to be noted that Auditors of Licensed Entities are subject to provisions of article 18 of the ISAct, which requires the Auditors to report immediately to the MFSA any fact or decision of which the Auditors become aware which: (a) is likely to lead to a serious qualification or refusal of the auditor's report on the accounts of the Licensed Entity; (b) constitutes or is likely to constitute a material breach

of the legal or regulatory provisions applicable to the Licensed Entity; (c) gravely impairs the Licensed Entity's ability to continue as a going concern; or (d) relates to any other matter which may be prescribed.

4. Regulatory implications

It is pertinent to note that non-compliant Licensed Entities are in breach of the legal and regulatory provisions as referred to in the Section 2 (above). The MFSA draws attention to the responsibility of the Board of Directors to ensure the timely submission of the regulatory reporting, irrespective of whether the relevant task has been delegated to other officers of the Licensed Entity or third party service providers. Delays in the submission of regulatory reporting could also impinging on the relevance of the said documentation for stakeholders. The Authority further informs that such late or non-submission could, in certain cases, lead to regulatory actions.

5. Action required

Accordingly, governing bodies of Licensed Entities and their Compliance Officers are to take the following actions with immediate effect:

- (a) establish whether relevant regulatory reporting has been submitted in a timely manner and/or whether the regulatory reporting still needs to be submitted as the deadline for the submission has passed ;
- (b) if regulatory reporting has not been submitted within deadlines and still outstands, this is to be logged as a breach in the respective records (i.e. Compliance Logs) of the Licensed Entity and **the regulatory reporting due is to be submitted in full as a matter of urgency and in any event by not later than Friday, 14 December 2018;** and
- (c) undertake all appropriate and immediate action as may be necessary (including such measures as the review of the relevant systems, processes and controls and/or development of schedule with relevant service providers) to ensure that going forward, the regulatory reporting is submitted within the applicable deadlines.

Contacts

Any queries in relation to this Circular are to be addressed to MFSA Securities and Market Supervision Unit at: funds@mfsa.com.mt or investmentfirms@mfsa.com.mt, as applicable.



Joseph J. Agius
Deputy Head
Securities & Markets Supervision Unit

Type of Licensed Entity	Regulatory reporting (documentation)	Relevant SLC/ Rule	Applicable Rulebook	
Alternative Investor Funds	Management Letter	SLC 3.38	Part B	Investment Services Rules for Alternative Investment Funds
	Annual Report and Audited Financial Statements	SLC 1.17 SLC 5.06 to 5.11 and 5.13		
	AIFMD Reporting	SLC 8.38, 8.43 and 8.87		
	AIFMD Reporting - Annex IV Return	Section 3 Annex 1 - 4	Appendix 8 to Part B	
Professional Investor Funds	Management Letter	SLC 1.38	Part BI	Investment Services Rules for Professional Investor Funds
	Annual Report and Audited Financial Statements	SLC 1.88 and 1.89		
	Half-yearly report			
	Management Letter	SLC 1.38	Part BII	
	Annual Report and Audited Financial Statements	SLC 1.62		
	Half-yearly report			
	Management Letter	SLC 1.37	Part BIII	
	Annual Report and Audited Financial Statements	SLC 1.64		
	Half-yearly report			
	Management Letter	SLC 4.1	Appendix 1 to Part B	
AIFMD reporting - Annex IV Return	Annex 1 - 2			
Retail Collective Investment Schemes	Half-yearly and Annual Report	SLC 10.7	Part BI	Investment Services Rules for Malta based Retail Non-UCITS Collective Investment Schemes
	Management Letter	SLC 13(1)(iii)		
	Half-yearly and Annual Report	SLC 12.8	Part BII	Investment Services Rules for Malta based Retail UCITS Collective Investment Schemes
	Financial Derivative Instruments Report			
	Management Letter	SLC 16.15		
	Half-yearly and Annual Report	Appendix II	Appendix II to Part B	Investment Services Rules for Malta based Retail UCITS Collective Investment Schemes

Type of Licensed Entity	Regulatory reporting (documentation)		Relevant SLC/ Rule	Applicable Rulebook	
Investment Firms	<i>Cat. 1</i>	Annual Audited Financial Return	SLC 7.12	<i>(applicable up to 2 January 2018)</i>	Part BI of Investment Services Rules for Investment Service Providers qualifying as MiFID Firms
		Annual Report and Audited Financial Statements	SLC 7.13		
		Auditor's Managements Letter	SLC 7.13		
		Company's Reply to the Management Letter	SLC 7.27		
		Auditor's Report to the MFSA	SLC 7.13		
		Annual Financial Return	SLC 7.12		
		Interim Financial Returns	SLC 7.15		
	<i>Cat. 2, 3 and 4a</i>	Annual Audited COREP Return	SLC 7.43 & SLC 7.45		
		Annual Report and Audited Financial Statements	SLC 7.46		
		Auditor's Managements Letter	SLC 7.46		
		Company's Reply to the Management Letter	SLC 7.59		
		Auditor's Report to the MFSA	SLC 7.46		
		Annual COREP Return	SLC 7.43 & SLC 7.45		
		Interim COREP Return	SLC 7.43 & SLC 7.48		
		Annual Consolidated COREP Return	SLC 7.67		
		Interim Consolidated COREP Return	SLC 7.68		
		RMICAAP Confirmation	SLC 7.71		
		Consolidated Group Assessment	SLC 7.64		
	High Income Earners Confirmation	EBA Guidelines on the data collection exercise regarding high earners			
	<i>Cat. 3</i>	Recovery Plan	S.L. 330.09		
	<i>CI holding ISL*</i>	Consolidated Group Assessment			
	Annual Report and Audited Financial Statements	SLC 7.46			
Auditor's note declaring Net ISA Revenue					
<i>Cat. 1</i>	Annual Audited Financial Return	R4-4.3.1(i) & R4-4.3.2	<i>(applicable from 2 January 2018)</i>		
	Annual Report and Audited Financial Statements	R4-4.3.1(ii)			
	Auditor's Managements Letter	R4-4.3.1(iii)			
	Company's Reply to the Management Letter	R4-4.3.6			

		Auditor's Report to the MFSA	R4-4.3.7	<i>(applicable from 2 January 2018)</i>	Part BI of Investment Services Rules for Investment Service Providers qualifying as MiFID Firms
		Annual Financial Return	R4-4.4.1 & R4-4.4.2		
		Interim Financial Returns	R4-4.5.2 & R4-4.5.3		
		Due Diligence	R4-4.4.2		
	<i>Cat. 2, 3 and 4a</i>	Annual Audited COREP Return	R4-5.3.1(i) & R4-5.3.3		
		Annual Report and Audited Financial Statements	R4-5.3.1(ii)		
		Auditor's Managements Letter	R4-5.3.1(iii)		
		Company's Reply to the Management Letter	4-5.3.7		
		Auditor's Report to the MFSA	R4-5.3.8		
		Annual COREP Return	R4-5.4.1 & 4-5.4.2		
		Interim COREP Return	R4-5.5.2 & 4-5.5.3		
		Annual Consolidated COREP Return	R4-6.3.1 to 4-6.3.3		
		Interim Consolidated COREP Return	R4-6.4.1 to 4-6.4.3		
		RMICAAP Confirmation	R4-5.6.1		
		Consolidated Group Assessment	R4-6.2.1		
	Due Diligence	R4-5.8.2			
	High Income Earners Confirmation	R4-5.7.1			
Cat 3	Recovery Plan	S.L. 330.09			
<i>CI holding ISL*</i>	Consolidated Group Assessment	R4-6.2.1			
	Annual Report and Audited Financial Statements	R4-5.3.2			
	Auditor's note declaring Net ISA Revenue	R4-5.3.2			
UCITS Management Companies	Annual Report and Audited Financial Statements	SLC 5.08 to 5.14	<i>applicable up to 2 January 2018 and from 2 January 2018</i>	Part BII of Investment Services Rules for Investment Service Providers qualifying as UCITS Management Companies	
	Annual Financial Return				
	Interim Financial Return				
	Management letter				
	Auditors' report				

* Credit Institutions holding an Investment Services Licence

Alternative Investor Fund Managers	Management Letter	SLC 4[ii] and [iv]	Section 1 (<i>de minimis</i>)	<i>(applicable up to 2 January 2018)</i>	Part BIII of Investment Services Rules for Investment Service Providers qualifying as AIFMs
	Auditors' Report				
	Audited Annual Financial Statements	SLC 40			
	Annual Audited Financial Return				
	Annual Financial Return	SLC 6.19 to 6.23			
	Interim Financial Return				
	Annual Audited Financial Return				
	Management Letter	SLC 4[ii] and [iv]	Section 1 (<i>de minimis</i>)	<i>(applicable from 2 January 2018)</i>	
	Auditors' Report				
	Audited Annual Financial Statements	SLC 40			
	Annual Audited Financial Return				
	Annual Financial Return	SLC 6.17 to 6.23			
	Interim Financial Return				
	Annual Audited Financial Return				
	Audited Annual Financial Statements	SLC 4	Section 1 (<i>de minimis</i>)		
	AIFMD Reporting	SLC 2.08, 2.13, 7.04 to 7.05			
	General Provisions	SLC 4.04	Appendix 13 to Part B	Investment Services Rules for Investment Service Providers	
	Annex IV Return	Annex 1 - 4			
Annex 5 Return	Annex 5				