

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

CONSULTATION DOCUMENT

**CONSULTATION ON PROPOSED AMENDMENTS TO
CHAPTER 8 OF THE LISTING RULES REGULATING
EXCHANGE TRADED FUNDS IN MALTA**

[MFSA REF: 10 - 2017]

7th December 2017

Closing Date: 12th January 2018

1. Introduction

Exchange-Traded Funds, or ETFs, are investment funds which tracks indexes, baskets of stocks, or a commodity. ETFs are normally structured as open-ended pooled investment vehicles aimed to move in tandem with the securities they are designed to follow. The main objective of an ETF is to be the market rather than to beat the market. ETFs can be considered as a recent financial innovation and they have many features which makes them different from other pooled investments. Although ETFs have distinctive features, European ETFs at their core are UCITS products and are regulated as such.

ETFs can be perceived as an attractive investment for various reasons. ETFs are associated with passive investment strategies because they try to track an index without trying to outperform it. As a result lower fees are charged compared with actively managed portfolios. ETFs can be traded intraday like regular listed equities on stock exchanges and normally they are actively and constantly traded. As a result, ETFs normally have higher daily liquidity.

An ETF gives the ability to diversify over a broad market sector with a single investment. An investor can obtain exposure to an entire index simply by buying an ETF share. There are many types of ETFs which focus on market indexes, specific industries and even countries.

2. The amendment of the Listing Rules for the listing of ETFs

In October 2016, the Malta Stock Exchange Plc (“MSE”) launched the National Capital Markets Strategic Plan whereby it proposed a number of initiatives as part of its long-term strategy to develop a liquid and efficient securities market. One of these initiatives was to encourage foreign ETFs to list on a regulated market in Malta. Moreover the MSE wished to enable the formation of local ETF Listings.

The Authority notes that the nature of ETFs has changed over time. They began as traditional passive products but has now evolved to cover a much broader range of investment strategies including smart beta, active and commodity strategies.

The Listing Authority has approved the introduction of draft rules for the listing of ETFs, contained in Section 6 of Chapter 8 of the Listing Rules, in order to begin the process of introducing ETFs on the Maltese market, a draft thereof is contained as Annex I to this Consultation Paper.

Section 6 is based on the European Model and it is divided into three sections;

- Introduction;
- Conditions to be fulfilled by a scheme seeking authorisation for Admissibility for Listing; and
- Continuing Obligations of ETFs Authorised as Admissible for Listing.

3. Invitation for Feedback

The Authority invites feedback from parties interested in sharing their knowledge and experience in order to analyse how ETFs can impact the local Maltese market and how ETFs can impact market liquidity. Additionally, the feedback received would help the Authority to understand the risks associated with the introduction of ETFs in the local scene.

All feedback received would be welcome as it would help the Authority to ensure that the benefits of innovation derived from the ETFs are delivered within a robust but enabling regulatory framework.

4. Contacts

Interested parties are to send their comments in writing by not later than **Friday 12th January 2018**.

Any comments and feedback are to be addressed to the Capital Markets Team within the Securities and Markets Supervision Unit on capitalmarkets@mfsa.com.mt.

**Communications Unit
Malta Financial Services Authority
MFSA Ref: 10-2017
7th December 2017**

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Annex I – Proposed Listing Rules on Listing of ETFs

Section VI – Exchange Traded Funds

Part A - Application Procedures and Requirements for open ended Schemes seeking Authorisation for Admissibility for Listing

Introduction

8.197 This section applies to the Admissibility for Listing of open ended Schemes which once their Units have been admitted to the official list of a Regulated Market will satisfy the below definition of Exchange Traded Funds.

For the purposes of this section an Exchange Traded Fund or ETF means an open ended Scheme:

- (a) which is an index tracker fund or an actively managed exchange traded fund; and
- (b) whose Units have been admitted to the official list of a Regulated Market and are traded on a Regulated Market; and
- (c) which is authorised and regulated as a UCITS or such other EU regulated Scheme

Conditions to be fulfilled by a Scheme seeking authorisation for Admissibility for Listing

8.198 An ETF should fulfil all the conditions which need to be fulfilled by a Scheme in terms of Section I – Application Procedures and Requirements for open ended Schemes seeking Authorisation for Admissibility for Listing.

8.199 An ETF should also fulfil the following conditions:

8.199.1 Service providers to an Applicant must be free of conflicts between duties to the Applicant and duties owed by them to third parties and other interests, unless it can be demonstrated that arrangements are in place to avoid detriment to the Applicant's interests.

8.199.2 Units of the same class may not be issued at a price which is less than the net asset value per Unit of that class at the time of such issue unless authorised by a majority of the unitholders of that class or offered first on a pro-rata basis to those unitholders.

Part B – Continuing Obligations of ETFs Authorised as Admissible for Listing

8.200 An ETF is required to comply with the continuing obligations as set out in Section II – Continuing Obligations of Open ended Schemes Authorised as Admissible for Primary Listing with the exception of Listing Rule 8.25.1.

8.201 An actively managed ETF should be required to regularly report and disseminate indicative net asset values at appropriate intervals through a recognised data provider.