

Malta Financial Services Authority

Capital Markets Rules

Definitions

Term	Meaning
Accountant/s	In the case of an Issuer registered in Malta, an individual who holds a warrant to practise the profession of accountant issued under the Accountancy Profession Act (Cap. 281 of the Laws of Malta) or an accountancy firm as defined by the said Act.  Where the Issuer is registered or incorporated in any State other than Malta, a person in possession of an equivalent authorisation to act as an accountant or to practise as an accountancy firm.
Administrator	A person who may or may not be the Manager or who carries out all or part of the general administration of a Collective Investment Scheme.
Accountancy Profession Act	Accountancy Profession Act 1987 (Cap. 281 of the Laws of Malta).
Admissible to Listing	Admissible to Listing in accordance with the provisions of Article 12 of the FMA and “Admissibility to Listing” and “Admissibility” shall be construed accordingly.
Admission to Listing or Trading	Admission to Listing or Trading on a Regulated Market in accordance with the provisions of Article 12 of the FMA and “Admitted to Listing or Trading” or “Admission” or “Admit to Listing” shall be construed accordingly.
Advertisement	Announcements directly or indirectly relating to a specific offer to the public, or part thereof, of securities or to an admission to trading on a regulated market and aiming to specifically promote the potential subscription or acquisition of securities.
Announcement	Company announcements made by the Issuer in compliance with the ongoing listing obligations and “Company Announcement” shall be construed accordingly.
Annual Accounts	The individual or consolidated accounts of a Company or a Group of Companies, as the case may be, prepared in accordance with the national law of the State in which the Company or the parent Company of the Group is registered or incorporated and “Annual Financial Statements” shall be construed accordingly.
Annual Financial Report	The report that is required to be prepared in terms of Capital Markets Rules 5.55 or 8.114.
Applicant	An Issuer which is applying for the Admission of its Securities to Listing.
Approval	The positive act at the outcome of the scrutiny of the completeness of the Prospectus by the MFSA including the consistency of the information given and its comprehensibility.
Auditor	In the case of an Issuer registered in Malta, a person holding a practising certificate to practise in the field of auditing or an audit firm as defined by the Accountancy Profession Act.

	Where the Issuer is registered or incorporated in any State other than Malta, a person in possession of an equivalent authorisation to practise as an auditor or as an audit firm.
Available to the public	<p>The information shall be deemed to be available to the public when published either</p> <ul style="list-style-type: none"> <li>a) by insertion in one or more widely circulated newspapers; or</li> <li>b) in a printed form to be made available, free of charge, to the public at the offices of the market on which the securities are being traded or proposed to be traded, or</li> <li>c) in a printed form to be made available, free of charge, at the registered office of the Issuer and, if applicable, at the offices of the financial intermediaries placing or selling the securities, including Paying Agents; or</li> <li>d) in an electronic form on the Issuer’s website or, if applicable, on the website of the financial intermediaries placing or selling the securities, including Paying Agents; or</li> <li>e) in an electronic form on the website of the Regulated Market where the securities are being traded or proposed to be traded; or</li> <li>f) in an electronic form on the website of the MFSA if the said Authority has decided to offer this service.</li> </ul> <p>Where, however, the information is made available to the public in accordance with paragraphs (a), (b), or (c), the Issuer or persons responsible for drawing up a prospectus, shall also publish the said information in terms of paragraph (d).</p>
Base Prospectus	A Prospectus containing all relevant information as specified in Chapter 4 concerning the Issuer and the securities Admitted to Trading, and, at the choice of the issuer, the final terms of the offering.
Business Day	<p>(1) (In relation to anything done or to be done in (including to be submitted in place to a place in) Malta), any day which is not a Saturday or a Sunday or public holiday in terms of the National Holidays and other Public Holidays Act (Cap. 252 of the Laws of Malta);</p> <p>(2) (In relation to anything done or to be done by reference to a market outside Malta) any day on which that market is normally open for business; and the term “Working Day” shall be construed accordingly.</p>
Capital Markets Rules	The Rules issued by the competent authority under Part III of the FMA..
Central Securities Depository	As defined in Article 2 of the FMA.

Certificate Representing Shares	An instrument which confers a contractual or property right (other than a right consisting of an option): (a) in respect of any shares held by a person other than the person on whom the rights are conferred by the instrument; and (b) the transfer of which may be effected without requiring the consent of that person but excluding any instrument which confers rights in respect of two or more investments issued by different persons.
Circular	The document that is sent by an Issuer to the holders of its Securities in terms of Chapter 6.
Class	Securities the rights attaching to which are, or will be, identical and which form a single issue or series.
Collective Investment Scheme or Scheme	As defined in Article 2(1) of the Investment Services Act (Cap. 370 of the Laws of Malta).
Commission Delegated Regulation (EU) 2019/815	Commission Delegated Regulation (EU) 2019/815 of 17 December 2018 supplementing Directive 2004/109/EC of the European Parliament and of the Council with regard to regulatory technical standards on the specification of a single electronic reporting format as may be further amended from time to time.
Companies Act or CA	Companies Act 1995 (Cap. 386 of the Laws of Malta).
Company	As defined in Article 2(1) of the FMA.
Connected Person of a Director	A person is a Connected Person of a Director of a Company if that person is: a) a member of the Director's family, including, without limitation, the Director's spouse or a partner, the Director's child or step-child, the Director's parents and any other dependants of the Director; or b) a body corporate in which the Director, any of the persons mentioned in paragraph (a) or both (i) holds or hold Shares of a nominal value equal to at least twenty percent (20%) of the share capital of that body corporate; or (ii) is or are entitled to control the exercise of more than twenty percent (20%) of the voting power at any general meeting of that body corporate; or c) acting in a capacity as trustee of any trust, the beneficiaries of which include: (i) the Director, the Director's dependants, including, without limitation, the Director's spouse, children or step-children ; or (ii) a body corporate with which one is associated as set out above; or d) acting in a capacity as a business partner of that Director or of any person who, by virtue of paragraph (a), (b) or (c) is connected with the Director.

Connected Client	<p>In relation to a Sponsor, any client who is:</p> <ul style="list-style-type: none"> <li>a) a partner, Director, employee or controller of the Sponsor or of an undertaking described in (d) below;</li> <li>b) the dependants, including, without limitation, the spouse or child of any individual described in (a) above;</li> <li>c) a person in his capacity as trustee of a private trust (other than a pension scheme and an employees' share scheme) the beneficiaries of which include any person described in (a) or (b) above; or</li> <li>d) an undertaking which in relation to the Sponsor is a Group company.</li> </ul>
Consolidated Accounts	<p>The financial statements of a Group presented as those of a single economic entity in accordance with the Generally Accepted Accounting Principles or with equivalent standards.</p>
Controlled Undertaking	<p>Any undertaking</p> <ul style="list-style-type: none"> <li>a) in which a natural or legal person has a majority of the voting rights; or</li> <li>b) of which a natural or legal person has the right to appoint or remove a majority of the members of the administrative, management or supervisory body and is at the same time a shareholder in, or member of, the undertaking in question; or</li> <li>c) of which a natural or legal person is a shareholder or member and alone controls a majority of the shareholders' or members' voting rights, respectively, pursuant to an agreement entered into with other shareholders or members of the undertaking in question; or</li> <li>d) over which a natural or legal person has the power to exercise, or actually exercises, dominant influence or control;</li> </ul> <p>For the purposes of paragraph (b), the holder's rights in relation to voting, appointment and removal shall include the rights of any other undertaking controlled by the shareholder and those of any natural or legal person acting, albeit in its own name, on behalf of the shareholder or of any other undertaking controlled by the shareholder.</p>
Convertible Securities	<p>Securities which are convertible into or exchangeable for other Securities or Securities accompanied by warrants or options to subscribe or purchase other Securities, and "Conversion" and "Convertible" shall be construed accordingly.</p>
Credit Institutions	<ul style="list-style-type: none"> <li>a) An undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account; or</li> <li>b) An electronic money institution within the meaning of Directive 2000/46/EC on the taking up, pursuit of and prudential supervision of the business of electronic money institutions</li> </ul>

Custodian	any trustee appointed pursuant to a deed of trust or declaration of trust or any entity appointed by a Collective Investment Scheme or by a sub-fund of a Scheme, its directors, trustee, or general partner, as the case may be, to hold and keep safe any of the assets of such Scheme or sub-fund.
Debt Securities	Instruments which create or acknowledge indebtedness.
Directive 85/611/EEC	Council Directive 85/611/EEC OF 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).
Directive 2004/39/EC	Council Directive 2004/39/EC of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.
Directive 2004/25/EC	Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on Takeover Bids
Directive 2014/59/EU	Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council.
Director	Includes any person occupying the position of director of a Company by whatever name he may be called carrying out substantially the same functions in relation to the direction of the Company as those carried out by a director and in relation to an Issuer which is not a body corporate, a person with corresponding powers and duties.
EEA State	A State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2 <sup>nd</sup> May 1992 as amended by the Protocol signed at Brussels on the 17 <sup>th</sup> March 1993 and as amended from time to time.
Electronic means	Means of electronic equipment for the processing (including digital compression), storage and transmission of data, employing wires, radio, optical technologies, or any other electromagnetic means.
Equity Securities	Shares and other transferable securities equivalent to shares in companies, as well as any other type of transferable securities giving the right to acquire any of the aforementioned securities as a consequence of their being converted or the rights conferred by them being exercised, provided that securities of the latter type are issued by the Issuer of the underlying shares or by an entity belonging to the Group of the said issuer.
Equivalent Offering Document	Document published or required to be published by certain classes of Issuer and in respect of certain types of Securities in place of the Prospectus.
Expert	Any person whose profession gives authority to a statement made by him.

Financial Markets Act or FMA	Financial Markets Act (Cap. 345 of the Laws of Malta)
Financial Institution	<p>Any person who regularly or habitually acquires holdings or undertakes the carrying out of any activity listed in the Schedule to the Financial Institutions Act (Cap.376 of the Laws of Malta) for the account and at the risk of the person carrying out that activity:</p> <p>Provided that these activities are not funded through the taking of deposits or other repayable funds from the public as defined in the Banking Act (Cap.371 of the Laws of Malta):</p> <p>Provided further that this definition shall not apply to any of the above activities which is regulated under the Investment Services Act (Cap. 370 of the Laws of Malta).</p>
Generally Accepted Accounting Principles and Practice	International accounting standards as adopted by the European Commission in terms of Article 3 of Regulation No. 1606/2002 of the European Parliament and of the Council of the European Union of 19 July 2002 on the application of international accounting standards.
Group Company	In relation to any company, means any body corporate which is that Company's subsidiary or parent Company, or a subsidiary of that Company's parent Company, and the term "Group" shall be construed accordingly.
Home Member State	As defined in Article 2(1) of the FMA.
Host Member State	As defined in Article 2(1) of the FMA.
International Standards on Auditing	The International Standards on Auditing formulated by the International Auditing and Assurance Standards Board (IAASB) a committee of the International Federation of Accountants.
Investment Adviser	A person who is authorised in terms of Directive 2004/39/EC to provide investment advice to investors or potential investors.
IOSCO	The International Organisation of Securities Commissions.
Issuer	As defined in Article 2(1) of the FMA.
Key Information	Essential and appropriate structured information which is to be provided to investors with a view to enabling them to understand the nature and the risks of the Issuer, guarantor and the securities that are being offered to them or admitted to trading on a regulated market and, without prejudice to Capital Markets Rule 4.10.2, to decide which offers of securities to consider further. In light of the offer and securities concerned, the key information shall include the following elements:

	<p>(a) a short description of the risks associated with and essential characteristics of the Issuer and any guarantor, including the assets, liabilities and financial position;</p> <p>(b) a short description of the risk associated with and essential characteristics of the investment in the relevant security, including any rights attaching to the securities;</p> <p>(c) general terms of the offer, including estimated expenses charged to the investors by the Issuer;</p> <p>(d) details of the admission to trading;</p> <p>(e) reasons for the offer and use of proceeds.</p>
Legal Entity	As defined in Article 2(1) of the FMA.
Manager	The legal entity appointed by a Scheme that has overall responsibility for the management and performance of the functions of the Scheme. The functions may include the provisions of investment advice and operational services. Where the Scheme does not appoint a Manager, the functions of the Manager must be delegated by the board of Directors of the Scheme to a managing Director.
Management Company	A Company as defined in Article 1a(2) of Council Directive 85/611/EEC
Material related party transactions	Transactions entered into by the Issuer with a Related Party, where any of the tests mentioned in Capital Markets Rule 5.151 to Capital Markets Rule 5.155 (the gross assets test), Capital Markets Rule 5.156 (the profits test) and Capital Markets Rules 5.157 to 5.160 (the consideration test) result in 5% or more. In determining the materiality of the related party transactions, the audit committee shall take into account and ensure that those transactions with the same related party that have been concluded in any twelve month period or in the same financial year, and have not been subject to the requirements listed in Capital Markets Rule 5.141, are aggregated.
Market Maker	A person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against his proprietary capital at prices defined by him.
Market Value	Means the average of the prices for that Security published in the daily Official List of the Regulated Market on which such Security is Admitted to Listing and/or Trading over the last 10 Business Days prior to the relevant date or as the MFSA may calculate from time to time.
Memorandum and Articles of Association	The memorandum and articles of association of a Company and/or equivalent constitutional documents of an Applicant or Issuer.
Member State	A Member State of the European Community established by the Treaty of Rome in 1957 and amended institutionally and otherwise in 1986 by the Single European Act, in 1993 by the Treaty on European Union, in 1997 by the Treaty of Amsterdam and in 2001 by the Treaty of Niece, and as amended by accession agreements and as may be further amended from time to time.

Malta Financial Services Authority or MFSA	The competent authority as defined in the FMA
Minister	The Minister responsible for finance.
Net Annual Rent	The current income or income estimated by the valuer: <ul style="list-style-type: none"> <li>(i) ignoring any special receipts or deductions arising from the Property;</li> <li>(ii) excluding value added tax (where applicable) and before taxation (including tax on profits and any allowances for interest on capital or loans); and</li> <li>(iii) after making deductions for superior rents (but not for amortisation), and any disbursements including, if appropriate, expenses of managing the Property and allowances to maintain it in a condition to command its rent.</li> </ul>
Non-equity Securities	All securities that are not Equity Securities.
Normal Business Hours	9.00 am to 5.00 pm on each Business Day or any other times specified as such by the MFSA.
Offering Programme	A plan which would permit the issuance of Non-equity Securities, including warrants in any form, having a similar type and/or class, in a continuous or repeated manner during a specified issuing period.
Officer	In relation to a Company, includes a Director, manager or company secretary, but does not include an Auditor.
Officially Appointed Mechanism	A mechanism whereby an Issuer or the person who has applied for admission to trading on a Regulated Market without the Issuer's consent, discloses Regulated Information in a manner ensuring fast access to such information on a non-discriminatory basis.
Ordinary Business	In relation to an annual general meeting: <ul style="list-style-type: none"> <li>(a) receiving or adopting the Annual Accounts;</li> <li>(b) declaring a dividend;</li> <li>(c) reappointing Directors and appointing Directors to replace those retiring at the meeting and not offering themselves for reappointment; and</li> <li>(d) reappointing Auditors and authorising the Directors to fix their emoluments.</li> </ul>
Overseas Company	A body corporate constituted or incorporated outside Malta.
Overseas Collective Investment Scheme or Overseas Scheme	A Collective Investment Scheme formed or established other than in accordance with the Laws of Malta.



Parent Company or Parent Undertaking or Parent	In the case of a Company registered in Malta, as defined by Article 2(2) of the CA; In the case of a Company registered or incorporated outside Malta, as defined in Articles 1 and 2 of Seventh Council Directive 83/349/EEC of 13 June 1983 on consolidated accounts.
Paying Agent	A person licensed to provide investment services and duly authorised to remit transfers on behalf of an Issuer or a Scheme.
Primary Listing	A listing by virtue of which the Issuer is subject to the full requirements of the Capital Markets Rules.
Property	Immovable property as defined in articles 308 to 311 of the Civil Code.
Property Company	A Company whose principal activity is (and includes a closed-ended scheme investing or intending to invest 20% or more of its gross assets in Property): (i) the holding of Properties, both directly and indirectly and development of Properties for letting and retention as an investment; or (ii) the purchase or development of Properties for subsequent sale; or (iii) the purchase or development of Properties for retention as investments; or (iv) all or any of the above.
Prospectus	A document in such form and containing such information as may be required by or under the Prospectus Regulation
Prospectus Regulation	As defined in Article 2(1) of the FMA
Public Offer	offer of securities to the public as defined in Article 2(1) of the FMA.
Public Sector Issuers	States and their regional and local authorities, public international bodies, the European Central Bank and the central banks of States.
Published	See definition of ‘Available to the public’
Recognised Jurisdiction	Any state that is a state, country or territory that may be formally declared by directive of the MFSA to be a “Recognised Jurisdiction” and the term “non-Recognised Jurisdiction” shall be construed accordingly.
Recognised List	As defined in Article 2(1) of the FMA
Regulated Information	For the purposes of Chapter 5 - all the information which the Issuer or any other person who has applied for the admission of securities to trading on a Regulated Market without the Issuer’s consent, is required to disclose in terms of Capital Markets Rules 5.16.9, 5.16.10, 5.16.12, 5.16.14, 5.55, 5.73A, 5.74, 5.176, 5.182, 5.187 and 5.197, as well as Article 6 of Directive 2003/6/EC on insider dealing and market manipulation (market abuse).
Regulated Market	As defined in Article 2(1) of the FMA

Registrar	The person appointed as the Registrar of Companies pursuant to article 400 of the CA.
Related Party	Related Party shall have the same meaning as in the international accounting standards adopted in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council.
Secondary Listing	A listing which is not a Primary Listing.
Securities	As defined in Article 2(1) of the FMA.
Securities issued in a continuous or repeated manner	Debt Securities of the same Issuer on tap or at least two separate issues of securities of a similar type and/or Class over a period of 12 months.
Share	(In accordance with article 2(1) of the CA) a share in the share capital of a Company, and includes: (a) stock (except where a distinction between stock and shares is expressed or implied); and (b) preference shares.
Shareholder	For the purpose of Chapter 5, any natural person or Legal Entity who holds, directly or indirectly: a) shares of the Issuer in its own name and on its own account; b) shares of the Issuer in its own name, but on behalf of another natural person or Legal Entity or undertaking; c) depository receipts, in which case the holder of the depository receipt shall be considered as the shareholder of the underlying shares represented by the depository receipts.
Single electronic reporting format	The single electronic reporting format as specified by Commission Delegated Regulation (EU) 2019/815 as may be further amended from time to time.
Sponsor	Sponsor appointed in terms of Chapter 2.
Statutory Audit Regulation	Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Directive 2005/909/EC

Subsidiary Company, Subsidiary Undertaking or Subsidiary	As defined in Article 2 of the CA
Substantial Shareholder	Anyone entitled to exercise or control the exercise of ten percent (10%) or more of the votes able to be cast at general meetings of an Issuer or is in a position to control the composition of a majority of the Board of Directors of an Issuer.
Tap Issue	An issue of Securities whereby the terms of those Securities are identical to those of a previous issue other than the date of Admission and such Securities are in all respects fully fungible with those previously Admitted to Listing and to which previous Admission they relate.
Tribunal	Financial Services Tribunal established under Article 42 of the FMA
Umbrella Fund	A Collective Investment Scheme that offers access to separate portfolios or sub-funds, covering different types of investment and represented by different classes of units.
Undertaking	As defined in Article 2 (1) of the CA.
Units of a Collective Investment Undertaking or "Units"	A share in a closed-ended scheme, units in a Unit Trust or unit in any other form of Collective Investment Scheme which relate to the proportionate holding, right or interest that an investor has in such a Scheme. Any reference to fractional units relates to whole units carrying a fraction of the rights carried by whole standard units. The extent of the right to participate in Property conferred by fractional Shares in relation to standard Shares must be fixed by the constitutional documents of the Scheme.
Unit Trust	A Collective Investment Scheme constituted by a trust deed between a management Company (operator) and a trustee whereby the assets which constitute the Collective Investment Scheme are held on trust for unit holders.
Validation	Process of checking that the Annual Financial Report meets the applicable requirements in terms of Commission Delegated Regulation (EU) 2019/815 and other requirements as may be applicable.