

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES RULES
FOR RETAIL COLLECTIVE INVESTMENT
SCHEMES**

Schedule D

**National Rules for Marketing of European
UCITS Schemes in Malta**

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Issued on: 1 November 2007

Last Updated: ▼

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INVESTMENT SERVICES RULES FOR RETAIL COLLECTIVE INVESTMENT SCHEMES

PART A – THE APPLICATION PROCESS

Schedule D: National Rules for Marketing of European UCITS Schemes in Malta

1. Member State:

Malta Financial Services Authority

2. Date of Last Update:

May – June 2011

3. Supporting documents or information to the notification letter that are not required by the Directive but by national law:

A European UCITS Scheme is required to provide the MFSA with the information indicated below as part of the notification for the marketing of the units of the European UCITS Scheme in Malta:

i. *Facilities in Malta*

In terms of Regulation 9(5) of the Investment Services Act (Marketing of UCITS) Regulations, 2011 a European UCITS which intends marketing its units in Malta, shall, take the measures necessary to ensure that facilities are available in Malta for making payments to unit holders, repurchasing or redeeming units and making available the information which European UCITS Schemes are obliged to provide.

This requirement may be satisfied by:

- a. the appointment of at least one of the following entities to carry out the above-mentioned services:
 - an Investment Services Licence Holder; or
 - a local branch of a European Investment Firm passporting into Malta in terms of Regulation 3 of the European Passport Rights for Investment Firms Regulations, 2004 as amended; or
 - a local branch of a European Management company passporting into Malta in terms of Regulation 9 of the Investment Services Act (UCITS Management Company Passport) Regulations, 2011;

OR

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b. other arrangements entered into by the European UCITS Scheme subject to the approval of the MFSA following submission of relevant details by the European UCITS Scheme to the MFSA.

Once the European UCITS has accessed the Maltese market, the MFSA shall be provided with relevant information on the manner in which the requirement referred to above will be satisfied.

ii. Information provided to Maltese Investors by a European UCITS

In addition to the Key Investor Information Document, a European UCITS Scheme is required to provide Maltese investors with the following information and documents upon request and free of charge:

- a. A Prospectus;
- b. An Annual Report for each financial year;
- c. A Half-Yearly Report covering the first six months of the financial year.

4. Additional Information

The required documents may be sent to the MFSA via e-mail to au@mfsa.com.mt.

5. Language of translations

Required documents must be submitted in English. Translations are not required to be sworn as true.

6. Documented evidence of fee payment

A receipt will be mailed by the MFSA to the applicant after receipt of the notification fee.

In terms of the Investment Services Act (Licence and Other Fees) Regulations, 2008, a European UCITS is required to pay a non-refundable notification fee as prescribed hereunder. Once the notification procedure has been satisfactorily completed, the European UCITS is required to pay the following Supervisory Fee. The Supervisory Fee is payable annually on the anniversary of the authorisation by the MFSA from the commencement of marketing in Malta, within seven business days thereof.

	Notification Fee €	Annual Supervisory Fee €
European UCITS Scheme marketing their units in Malta	2,000	2,500
Sub-Funds (Fee is applicable per sub-fund up to 15 sub-funds)	450	450

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 A statement that such authorisation does not constitute a warranty by the MFSA as to the performance of the European UCITS Scheme (and where applic... [1]

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<u>Sub-Funds (Fee is applicable per sub-fund for 16 sub-funds and over)</u>	<u>250</u>	<u>250</u>
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7. Conditions for ending marketing/ registration with the MFSA

A European UCITS shall notify the MFSA about any cessation of marketing of its units.

8. Investment Advertisements

The MFSA has the right to verify that marketing information, to the exclusion of the Key Investor Information Document, the Prospectus and the Annual and Half-Yearly Reports, comply with the provisions of the Act. The Investment Services Act, 1994 defines 'Investment Advertisements' as "...any form or medium of advertising or promotional activity, other than a prospectus, the contents of which, either invites persons, or contains material calculated to induce persons:

- i. to become or offer to become participants in a collective investment scheme...".

Investment Advertisements relating to European UCITS Schemes issued in Malta shall be drawn up in compliance with the relevant requirements of Section 3 of Part B of the current Investment Services Rules for Investment Services Providers¹. Reference should also be made to the MFSA's Guidance Notes relating to the above mentioned Rules. In addition, where the UCITS' name includes 'pension' or 'retirement' or other similar term, or where the UCITS is promoted as suitable for private retirement planning, all advertisements pertaining to the scheme, are also to include the disclosure required under section 3 above pertaining to the local pension system.

¹Part B of the Investment Services Rules for Investment Services Providers and the Guidance Notes are available on MFSA's web-site at the following link: <http://www.mfsa.com.mt/pages/viewcontent.aspx?id=262>

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Scheme: ¶
EUR 2,000¶
Sub-Funds (where applicable): . ¶
EUR 450 per sub-fund (up to 15 sub-funds)¶
EUR 250 per sub-fund (16 sub-funds and over)¶
¶
Once the notification procedure has been satisfactorily completed, the European UCITS is required to pay the following annual supervisory fee in terms of the above mentioned regulations: ¶
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Scheme: ¶
EUR 2,500¶
Sub-Funds (where applicable): . ¶
EUR 450 per sub-fund (up to 15 sub-funds)¶
EUR 250 per sub-fund (16 sub-funds and over)¶

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Name of the European UCITS Scheme and where applicable the Sub-Funds that are authorised for marketing in Malta in terms of the UCITS Directive and a statement to this effect;

A statement that such authorisation does not constitute a warranty by the MFSA as to the performance of the European UCITS Scheme (and where applicable its Sub-Funds), and that the MFSA is not in any way liable for the performance or default of the European UCITS Scheme;

Name of the Home State of the European UCITS Scheme;

Name of the Home State Authority of the European UCITS Scheme;

Details of the facilities available in Malta for making payments to unit holders, repurchasing or redeeming units and making available the information which European UCITS Scheme are obliged to provide. [This should include contact details – where applicable – of the entity appointed in terms of para 3(i)(a) of this Schedule];

A statement indicating where complaints may be forwarded;

A statement containing a brief description of the Maltese tax implications applicable to investors in the European UCITS Scheme; and

Date.

Where the European UCITS' name includes the term 'pension' or 'retirement' or other similar term, the Information Sheet for Investors in Malta should also include the following disclosure:

'It is important to note that the reform of the local pension system in Malta has not been finalised and is still on-going. The pension system in Malta is still based on a state pension. Whilst this UCITS is called [to insert name of UCITS], and could be used for private retirement planning, no financial product enjoys fiscal or other incentives to qualify as a 'pension product' as part of the current pension system in Malta. Hence, the [to insert name of UCITS], should not be interpreted as being linked in some way with any local pension reform.'

Rather than issuing a separate Information Sheet for Investors in Malta, the European UCITS may include equivalent information in its main Prospectus.

The specimen Information Sheet for Investors in Malta shall be provided to MFSA as part of the notification procedure of the European UCITS Scheme.

Recognition of electronic means for submitting documents eg. per fax or e-mail?

YES

Does the two month period apply to the notification of the new sub-funds?

YES

May the two-month period be shortened?

YES

The MFSA is committed to process notifications of European UCITS Schemes including sub-funds, as quickly as possible and will aim to notify the European UCITS Scheme that it may market its units in Malta, as far as possible, in advance of the two month time limit stipulated in the UCITS Regulations.

Confirmation of the date of receipt of the complete notification within one month?

YES

Maximum submission period for missing documents and information in the case of incomplete notification?

YES – 30 working days from the date the MFSA informs the European UCITS Scheme of the missing documents or information.

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Transitional provisions with respect to the General reservation under point 3 of CESR's guidelines:

NONE

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