MFSA

MALTA FINANCIAL SERVICES AUTHORITY

## Circular addressed to Investment Services Licence Holders

On Monday 14th December 2015 the European Banking Authority (EBA) published a report, in collaboration with the European Securities Market Authority (ESMA), in response to the European Commission's call for advice on the suitability of certain aspects of the prudential regime for investment firms.

The report focuses mainly on the lack of risk sensitivity in the Capital Requirements Directive (CRD) and Regulation (CRR) regime for investment firms and outlines findings and lists recommendations aiming to provide a more proportionate and less complex prudential regime for investment firms.

In this respect, the first recommendation proposed by the EBA refers to the development of a new categorisation of investment firms, which will distinguish between [i] systemic and "bank-like" investment firms to which full CRD/CRR requirements should apply and [ii] other investment firms, namely those that are considered "not systemic" or "not interconnected", for which specific requirements should be defined.

The report also indicates that it is necessary to make a distinction between [i] investment firms for which prudential requirements equivalent to the ones of credit institutions apply and [ii] investment firms that are not systemic or interconnected, for which specific requirements under a less complex prudential regime could be developed. Therefore, the future categorisation of investment firms under the CRD IV should be achieved with reference to the systemic importance of the investment firm or its ability to run 'bank-like' activities, expressed through consistent indicators, both qualitative and quantitative; this would lead to clearer segregation in the population of investment firms within the EU. These new categorisations would lead to a more proportional framework.

It is important to remark that the above is still being submitted as a recommendation and more work is required in order to set out detailed, well-researched and reasoned policy options for such a modified prudential regime for investment firms. The EBA is proposing that this work will be completed in a second phase with a second, more in-depth report. However, the complexity of the considerations concerning such a regime will require substantial time and resources.

The report also includes another recommendation which refers to the waiver for commodity trading firms, currently benefitting from the exemption under both the large exposures and capital adequacy provisions under Articles 493 and 498 of the CRR. It is being suggested that the exemption is to be extended until 31 December 2020 so that regulators can assess whether a more proportionated framework is suitable for commodity trading firms.

The EBA's report can be accessed via the following link:
https://www.eba.europa.eu/documents/10180/983359/EBA-Op-2015-20+Report+on+investment+firms.pdf

**Contacts**

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