

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

02 August 2018

Attn: Directors and Compliance Officers of Collective Investment Schemes licensed in Malta

Dear Sir/ Madam,

Re: Circular to Collective Investment Schemes licensed in Malta in relation to submission of Central Bank of Malta statistical returns

The Authority notes that a number of licensed Collective Investment Schemes and their Sub-Funds (collectively referred to as “Scheme(s)”) are not submitting the Central Bank of Malta statistical returns (“the returns”) to the Authority in a timely manner.

The purpose of this Circular is to stress the importance of timely submissions of the returns and to inform the industry of the consequences of late or non-submission. Please be aware that late or non-submission of the returns inhibit the regulatory authorities from conducting their supervisory work and from meeting their national and international commitments in terms of reporting.

1. Applicable Regulatory Framework

Directors and Compliance Officers are advised that in line with article 13(8) of the Investment Services Act (“the ISAct”), Schemes are required to submit to the Central Bank of Malta such information as the Bank may reasonably require under the Central Bank of Malta Act (“the CBM Act”).

In addition, with regard to the Investment Services Rules, the following Standard Licence Conditions require Schemes to submit to the MFSA, via email fundreporting@mfsa.com.mt, any statistical returns which may be required by the Central Bank of Malta to fulfil its European and other relevant reporting obligations, as follows:

- (i) SLC 12.8 of Part BII of the Investment Services Rules for Malta based UCITS Collective Investment Schemes (“UCITS Rules”);
- (ii) SLC 1.88 of Part BI and SLC 1.62 of Part BII and SLC 1.64 of Part BIII of the Investment Services Rules for Professional Investor Funds targeting Experienced, Qualifying and Extraordinary Investors, respectively (“PIFs Rules”); and

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(iii) SLC 5.12 of Part B of the Investment Services Rules for Alternative Investment Funds (“AIF Rules”).

Furthermore, in the case of NAIFs, SLC 11.37 of Part BIII of the Investment Services Rules applicable to Licence Holders qualifying as AIFMs (“AIFM Rules”) provides that the AIFM shall submit to the MFSA any statistical returns in relation to the NAIFs which may be required by the Central Bank of Malta on the above-stated email address.

2. Submission requirements

The returns shall be submitted on a periodic basis with effect from the date advised by the Central Bank of Malta. Submission is to be made by **the 21st calendar day of the month following the end of the relevant reference period.** A copy of each return is to be submitted to the Authority as required by the Investment Services Rules.

3. Regulatory implications

In relation to the latest reporting period ended June 2018, the submission deadline was scheduled for 21st July 2018. To date a number of Schemes have not yet submitted their statistical returns, despite the reminder issued to the Schemes in advance of the submission deadline.

It is pertinent to note that non-compliant Schemes are in breach of the applicable regulatory provisions as listed under section 1 above.

The MFSA draws attention to the responsibility of the Board of Directors to ensure the timely submission of the relevant returns and information, irrespective of whether the relevant task has been delegated to other officers of the Scheme or third party service providers, and informs that regulatory action may be taken against all responsible persons in the event of such breaches.

4. Action required

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

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- (a) Establish whether relevant returns are being submitted in a timely manner;
- (b) If (a) above is not the case, this is to be logged as a breach in the respective Scheme records and all returns due are to be submitted in full and without any further delay;
- (c) Undertake all appropriate and immediate action as may be necessary (including such measures as the review of the relevant systems, processes and controls) to ensure that going forward, all returns are submitted in a timely manner.

Contacts

Any queries or comments regarding this Circular are to be addressed in writing to the Authority via e-mail on: fundreporting@mfsa.com.mt.



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