

Circular addressed to the investment services industry on proposed rules on cross sub-fund investments

The Malta Financial Services Authority is currently finalising guidelines on the introduction of cross sub-fund investments in the Investment Services Rules for Professional Investor Funds.

The Authority is proposing to introduce this concept for Professional Investor Funds targeting Qualifying and Extraordinary Investors.

In view of the above, the Authority is proposing the inclusion of the following Rules in Parts BII and BIII of the Investment Services Rules for Professional Investor Funds:

“A sub-fund may invest in units of one or more sub-funds within the same scheme, subject to this being permitted in the constitutional documents and the Offering Memorandum of the said Scheme and subject to the following:

- a) the sub-fund is allowed to invest up to 35% of its assets into another sub-fund or sub-funds within the same scheme;
- b) the target sub-fund/s may not themselves invest in the sub-fund which is to invest in the target sub-fund/s;
- c) in order to avoid duplication of fees, only one set of management, subscription and/or redemption fees applies between the sub-fund and the target sub-fund where the manager is the same or (in the case of different managers) where one manager is an affiliate of the other;
- d) for the purposes of ensuring compliance with any applicable capital requirements, cross-investments will be counted once;
- e) any voting rights acquired by the sub-fund from the acquisition of the units in the target sub-fund shall be disapplied as appropriate.”

Interested parties are kindly asked to submit any comments which they may have in relation to the aforementioned proposed rules in writing by not later than 16th November 2012.

In addition to any comments that they may wish to make, all Compliance Officers are kindly requested to advise whether any cross sub-fund investments are currently being carried out in their respective fund structures.

All responses to this circular should be made to Dr. Isabelle Agius – Regulatory Development Unit on iagius@mfsa.com.mt

Communications Unit
Malta Financial Services Authority
30th October 2012