

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

7th March, 2013

Amendment of the Investment Services Rules applicable to Money Market Funds

The MFSA is today publishing a revised version of the Investment Services Rules for Professional Investor Funds and of the Investment Services Rules for Retail Collective Investment Schemes and the Investment Services Rules for Professional Investor Funds (hereinafter referred to as the “Rules”).

The changes to the Rules, as indicated below were made following a peer review which has been carried out by ESMA with a view to ensure uniform requirements applicable to money market funds, across all the EU Member States.

Further to the above, the following amendments have been made:

Investment Services Rules for Professional Investor Funds

Appendix 1 – Supplementary Licence Conditions

A new Section 6, herewith attached as Annex 1, has been introduced prescribing the conditions applicable to Money Market funds which will be set up as Professional Investor Funds.

Investment Services Rules for Retail Collective Investment Schemes

Appendix 7 - Supplementary Licence Conditions Applicable to Schemes set up as Money Market Funds

In paragraph 1 Appendix (sub-paragraph 1.1), a specific requirement has been added so that all Retail Collective Investment Schemes established as money market funds shall have the primary objective of maintaining the principal investment of the fund and shall aim to provide a return in line with money market rates. Accordingly, the new sub-paragraph 1.1 of Appendix 7 will read as follows:

“1.1. A money market fund shall:

(a) comply with the provisions of the Act, the applicable conditions prescribed in Parts A and B of these Rules as well as the supplementary licence conditions prescribed hereunder.; and

(b) have the primary objective of maintaining the principal investment of the fund and shall aim to provide a return in line with money market rates.”

In paragraph 4 of this Appendix it is now clearly established that the MFSA shall not allow a fund to include the term “money market fund” in its name unless the fund adheres with the supplementary conditions set out in this Appendix. The new paragraph 4 will therefore now read as follows:

“4. Applicability

4.1. Funds labelled or marketed as money market funds which are created on or after the 1st July 2011 shall comply with these SLCs . The MFSA shall not allow a fund to include the term “money market fund” in its name unless the fund adheres with the above supplementary licence conditions, as applicable.”

Any queries with regards to the updated Rules should be addressed to Dr. Sarah Pulis, Manager, Securities and Markets Supervision Unit [e-mail: spulis@mfsa.com.mt] or Mr. Nathan Fenech Analyst, Securities and Markets Supervision Unit [e-mail: nfenech@mfsa.com.mt]; or Mr. Jonathan Sammut, Analyst, Securities and Markets Supervision Unit [e-mail: jsammut@mfsa.com.mt]

**Communications Unit
Malta Financial Services Authority
7th March, 2013**

Annex 1 – New Section 6 of Appendix 1 to the Investment Services Rules for Professional Investor Funds

6 Supplementary Conditions for Professional Investor Funds set up as Money Market Funds in accordance with CESR/10-049 (CESR's Guidelines on a common definition of European money market funds)

General Requirements

- 6.1 A money market fund shall;
- (a) comply with the provisions of the Act, the applicable conditions prescribed in Parts A and B of these Rules as well as the supplementary licence conditions prescribed hereunder.; and
 - (b) have the primary objective of maintaining the principal investment of the fund and shall aim to provide a return in line with money market rates.
- 6.2 A money market fund shall provide appropriate information to investors on the risk and reward profile of the fund so as to enable them to identify any specific risks linked to the investment strategy of the fund.
- 6.3 A money market fund shall indicate, in its prospectus drawn up in accordance with the Investment Services Act (Prospectus of Collective Investment Schemes) Regulations, 2005, whether it is a Short-Term Money Market Fund or a Money Market Fund.
- 6.4 A money market fund shall invest in money market financial instruments which comply with the criteria prescribed hereunder in SLC 6.5 or in deposits with credit institutions.
- 6.5 A money market fund shall only invest in the following types of money market financial instruments:
- a. Money market financial instruments admitted to or dealt in on a Maltese regulated market which has been granted authorisation in terms of the Financial Markets Act (Cap. 345) and which appears on the list of regulated markets prepared and published by the European Commission;
 - b. Money market financial instruments dealt in on another regulated market in another Member State or EEA State, which operates regularly and is recognised and open to the public and which appears on the list of regulated markets prepared and published by the European Commission;
 - c. Money market financial instruments admitted to official listing on a stock exchange in a third country or dealt in on another regulated market in a third country which operates regularly and is recognised and open to the public provided that the choice of stock exchange or market has been approved by the competent authorities or is provided for in law or the fund rules or the instruments of incorporation of the investment company;

- d. Money market financial instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Community or the European Investment Bank, a third country or by a public international body to which one or more Member States belong;
- e. Money market financial instruments issued by an undertaking any securities of which are dealt in on regulated markets referred to in points (a), (b) or (c);
- f. Money market financial instruments issued or guaranteed by an establishment subject to prudential supervision, in accordance with criteria defined by Community law, or by an establishment which is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down by Community law;
- g. Money market financial instruments issued by other bodies belonging to the categories approved by the competent authority of the home Member State provided that investments in such instruments are subject to investor protection equivalent to that laid down in points (d), (e) or (f) and provided that the issuer is a company whose capital and reserves amount to at least € 10,000,000 and which presents and publishes its annual accounts in accordance with Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies, and is an entity which, within a group of companies which includes one or several listed companies, is dedicated to the financing of the group or is an entity which is dedicated to the financing of securitisation vehicles which benefit from a banking liquidity line.

6.6 The money market financial instruments in which a money market fund invests shall be of high quality, as determined on the basis of, *inter alia*, the following factors by the management company:

- a. the credit worthiness of the financial instrument shall be that of a money market financial instrument of high quality;
- b. the nature of the asset class represented by the money market financial instrument;
- c. for structured financial instruments, the operational and counterparty risk inherent within the structured financial transaction; and
- d. the liquidity profile of the money market financial instrument.

6.7 For the purposes of paragraph (a) of SLC 6.6 above, a money market instrument shall not be deemed to be of high quality unless it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency that has rated the instrument or, if the instrument is not rated, it is of an equivalent quality as determined by the management company's internal rating process.

- 6.8 A money market fund shall have no direct or indirect exposure to equity or commodities, including by virtue of derivatives, and shall only use derivatives in line with the fund's money market investment strategy.
- 6.9 Where derivatives which give exposure to foreign exchange are used in accordance with SLC 6.8, such derivatives shall only be used for hedging purposes.
- 6.10 A money market fund may invest in non-base currency financial instruments, but shall ensure that the currency exposure is fully hedged.
- 6.11 A money market fund shall carry out and issue daily net asset value and price calculations, and provide for daily subscription and redemption of units.
- 6.12 Where a money market fund is marketed solely as an employee savings scheme to a specific category of investors and is subject to divestment restrictions, it may provide weekly subscription and redemption of units.
- 6.13 When calculating the weighted average life for securities, including structured financial instruments, a money market fund shall base the maturity calculation on the legal residual maturity of the financial instruments until the legal redemption of the instruments.
- 6.14 Where a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity of the financial instrument, subject to the following conditions:
- a. the put option may be freely exercised by the management company at its exercise date;
 - b. the strike price of the put option shall remain close to the expected value of the financial instrument at the next exercise date; and
 - c. the investment strategy of the money market fund gives an indication that there is a high probability of the option being exercised at the next exercise date.
- 6.15 When calculating its weighted average life, a money market fund shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques.

Short-Term Money Market Funds

- 6.16 In addition to the general requirements prescribed in SLCs 6.1 to 6.15 above, a Short-Term Money Market Fund shall also comply with the following requirements.
- 6.17 A Short-Term Money Market Fund shall only invest in securities with a residual maturity until the legal redemption date which is less than or equal to three hundred and ninety-seven days.

- 6.18 A Short-Term Money Market Fund shall have a portfolio of investments with a weighted average maturity of not more than sixty days and a weighted average life of not more than one hundred and twenty days, and shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques for both its weighted average maturity and weighted average life calculations.
- 6.19 A Short-Term Money Market Fund shall only invest in other collective investment schemes which are labelled or marketed as Short-Term Money Market Funds.
- 6.20 A Short-Term Money Market Fund shall have either a constant or a fluctuating net asset value.

Money Market Funds

- 6.21 In addition to the general requirements prescribed in SLCs 6.1 to 6.15 above, a Money Market Fund shall also comply with the requirements prescribed hereunder.
- 6.22 A Money Market Fund shall only invest in securities with a residual maturity until the legal redemption date of less than or equal to two years:
- Provided that, the time remaining until the next interest rate reset date shall be less than or equal to three hundred and ninety-seven days.
- 6.23 Floating rate securities shall reset to a money market rate or index.
- 6.24 A Money Market Fund shall have a portfolio of investments which has a weighted average maturity of not more than six months and a weighted average life of not more than twelve months and shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques for both its weighted average maturity and weighted average life calculations.
- 6.25 A Money Market Fund shall only invest in other collective investment schemes which are labelled or marketed as Short-Term Money Market Funds or Money Market Funds.
- 6.26 Without prejudice to SLC 6.6(a), a Money Market Fund may invest in money market financial instruments issued or guaranteed by a central regional or local authority or central bank of a Member State, the European Central Bank, the European Union or the European Investment Bank and which are at least of investment grade quality.
- 6.27 A Money Market Fund shall have a fluctuating net asset value.

Applicability

6.28 Funds labelled or marketed as money market funds which are created on or after the 1st July 2011 shall comply with these SLCs. The MFSA shall not allow a fund to include the term “money market fund” in its name unless the fund adheres with the above supplementary licence conditions, as applicable