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The new Solvency II Regulatory Framework

The Insurance Business Act has been amended by Act No. XXXIII of 2015 and published in the Government Gazette, No.19,503, on the 20th November 2015 to transpose Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast), (the “Solvency II Directive”). The amendments relating to the said Act are to come into force on the 1st January 2016.

The Solvency II Directive is a recast of several EU Insurance Directives which codifies and harmonises EU insurance regulation. This Directive introduces a new regulatory framework for insurance and reinsurance undertakings which main objective is to provide for adequate protection of policyholders and beneficiaries and lays down a solvency regime which is expected to result in better protection for policyholders. Moreover, the Solvency II Directive introduces a new Chapter on the supervision of insurance and reinsurance undertakings in a group, which enables supervisory authorities to form a more soundly based judgment on their financial situation through the college of supervisors, and seeks to facilitate a more efficient capital management by groups.

The new solvency framework will consist of three main areas, or 'pillars', of regulation. Pillar 1 consists of the quantitative requirements and includes rules relating to the valuation of assets and liabilities, technical provisions, own funds, the Solvency Capital Requirement, the Minimum Capital Requirement and investment rules. These new solvency requirements will be more risk-sensitive and more sophisticated than in the past, thus enabling a better coverage of the real risks run by any particular insurance or reinsurance undertaking. Moreover, this pillar also reflects new risk management practices to define required capital and manage risk. Pillar 2 provides for an effective system of governance to ensure the adequate management of insurance or reinsurance undertakings, with a clear allocation of responsibilities and effective reporting lines, and identifies several functions such as the risk management function, the actuarial function, internal controls and internal audit functions, which insurance and reinsurance undertakings will be required to have in place. Pillar 3 addresses issues of transparency, reporting to supervisory authorities and disclosure to the public, thus enhancing market discipline and increasing comparability, leading to more fair competition.

The Solvency II Directive is a framework Directive under the Lamfalussy process which has been supplemented with delegated acts issued by the European Commission in the form of an EU Regulation entitled the Commission Delegated Regulation (EU) 2015/35 of 10 October 2014, with Implementing or Regulatory Technical Standards issued in the form of EU Regulations and with Guidelines issued by EIOPA in accordance with Regulation (EU) No. 1094/2012 of the European Parliament and of the Council of the 24 November 2010, establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority). Unlike the Solvency II Directive which requires transposition in the Member State's legal framework, EU Regulations have direct effect and as from the date they come into force, are considered to form part of the Member State's legal framework.

As part of the transposition exercise of the Solvency II Directive into the Maltese legal framework, apart from the publication of Act XXXIII of 2015, the subsidiary legislation issued under the Insurance Business Act will be amended in order to be aligned with the requirements, as well as with the terminology of the Solvency II Directive. Moreover, the amended Insurance Business Act and regulations made thereunder will be supplemented by Insurance Rules to be issued under the said Act. These Insurance Rules are being consolidated in a single Rulebook and will transpose specific provisions of the Solvency Directive. Some of the current insurance rules are being retained, aligned and updated as part of the transposition exercise of the Solvency II Directive.

The amendments to the Insurance Business Act, regulations and Insurance Rules, were subject to a consultation process with the insurance market. Furthermore, the MFSA held various meetings with licence holders in preparation for the implementation of the Solvency II Directive and issued circulars to provide guidance to licence holders to assist them with the preparation and implementation of the Solvency II framework.

Changes in the Accounting regime

Directive 2013/34/EU of the European Parliament and of the Council was published in the EU Official Journal on 29 June 2013, which also repealed the fourth and seventh accounting directives dealing with the preparation of separate and consolidated accounts.

The requirements of this new directive were transposed in Legal Notice 289 of 2015 entitled Accountancy Profession (General Accounting Principles for Small and Medium-Sized Entities) Regulations, 2015, and in the Companies Act (the "Act").

These will be applicable to financial reporting periods beginning on or after 1st January 2016.

The amendments to the Act include:

- changes in the provisions applicable to small companies (article 185);
- abridged accounts no longer possible (but simpler accounts required of small companies);
- small companies need not prepare directors' report;
- small and private exempt companies need not file profit & loss account;
- removal of the financial holding company exemption;
- removal of extension of period allowed for laying accounts before general meeting (Form U);
- changes to rules regarding the profits available for distribution;
- Third and Fourth Schedules re-drafted (technical accounting detail removed); the new Fourth Schedule refers to a new report on Payment to Governments required to be prepared by Large companies and Public Interest Entities which are active in the extractive industry or the logging of primary forests;
- changes to the Sixth Schedule about the directors' report

ECB Comprehensive Assessment exercise

The Malta Financial Services Authority (MFSA) and the Central Bank of Malta (CBM) issued a [Joint Press Release](#) following the publication of results of the Comprehensive Assessment exercise by the European Central Bank.

The European Central Bank (ECB) has published the results of the Comprehensive Assessment (CA) exercise undertaken on nine banks located in eight Member States participating in the Single Supervisory Mechanism (SSM) falling under, or likely to fall under, direct ECB supervision.



Similar to the exercise conducted in 2014, the latest Comprehensive Assessment consisted of two components, namely an Asset Quality Review (AQR) and a Stress Test (ST) on the basis of the methodologies devised by the ECB. One of the nine banks included in the Comprehensive Assessment involved a credit institution licensed by the Malta Financial Services Authority (MFSA), namely Medifin Holding Ltd, the holding company of Mediterranean Bank plc, and its subsidiaries Mediterranean Corporate Bank Ltd, and MeDirect Bank SA established in Belgium. Thus, on the basis of the criteria established by the ECB, Medifin Holding Ltd will be classified as a significant institution and directly supervised by the ECB from January 2016.

Medifin Holding Ltd started the exercise with a CET1 ratio of 10.72%. The AQR resulted in a downward adjustment of 87bps, so that the CET1 capital ratio following the AQR, at 9.85%, remained above the 8% minimum threshold.

Meanwhile, the impact of the Stress Test was estimated at 125bps under the more benign baseline scenario and 473bps under the adverse scenario. As a result of the Group registered profits during the period October 2014 to August 2015, Medifin Holding Ltd increased its CET 1 capital through a shareholder capital contribution of €28.7 million. Therefore, the results of the Stress Test show that under the adverse scenario, including the full impact of the AQR, Medifin's CET1 capital ratio at the end of September 2015 - the established cut-off date for the CA Disclosure Template - was above the 5.5% minimum threshold.

The Comprehensive Assessment results for Medifin Holding Ltd may be accessed through the website of the Central Bank of Malta and that of the Malta Financial Services Authority, respectively.

Further information on the Comprehensive Assessment and results for all the nine banks participating in this exercise is available on the website of the ECB.

EU-wide Transparency Exercise 2015

The European Banking Authority (EBA) published this month the outcome of its 2015 EU-wide transparency exercise and provided detailed bank-by-bank data on capital positions, risk exposure amounts and asset quality on 105 banks from 21 countries of the European Economic Area (EEA) as part of its ongoing commitment to enhancing transparency in the EU Banking sector. The data, which shows improvements in the resilience of the EU banking sector, is published at the highest level of consolidation, covering around 70% of total EU banking assets for the reference dates of 31 December 2014 and 30 June 2015. By disclosing these fully comparable figures in user friendly formats, the EBA aims to promote greater understanding of capital positions and exposures of the EU banking sector and foster market discipline in the Single Market.



Piers Haben, Director of Oversight at the EBA explained: this transparency exercise, the EBA's fifth annual release of consistent bank by bank data, demonstrates an increasing resilience in the EU banking sector as capital levels have strengthened further. Nonetheless, EU banks will need to continue addressing the level of non-performing loans which remain a drag on profitability. Haben added that: the breadth of individual bank data, and the quality of the interactive tools available, is testimony to the EBA's efforts to enhance transparency, foster market discipline and reinforce investors' confidence.

In particular, the outcomes of this exercise show that, in general, EU banks have continued to strengthen their capital positions, mainly through raising additional equity and retaining earnings. This places them in a better position to increase lending to the real economy, as shown by a modest overall increase in exposures during 2015. The common equity tier 1 ratio (CET1) reached 12.8% as of June 2015, 11.8% on a fully loaded basis. Leverage ratios published here appear to have benefited from capital improvements in recent years with an EU aggregate ratio at 4.9% as of June 2015.

The quality of assets and the levels of profitability have also improved, albeit from a low base and remain a source of concern. Non-performing exposures, for the first time published following the EBA's harmonised definition, are close to 6% of total loans and advances across the EU, 10% if only non-financial corporations are considered, albeit with substantial variations across countries and banks. Profitability has improved through 2015 but remains weak by historical standards and relative to banks' estimated cost of equity. EU banks aggregate return on regulatory capital is 9.1% as of June 2015.

Finally, in terms of sovereign exposures, the data released today shows that a home bias when investing in sovereign debt is still relevant although gradually receding, as banks reported in June 2015 an increase in their holdings of non-domestic sovereign debt.

The full report is available on: <https://goo.gl/LmGiQP>

Financial services done right – The Report Company

In an in-depth review of the Maltese financial services industry, The Report Company explains how “an auspiciously-timed revolution in Malta’s financial services industry has seen the country emerge as one of the EU’s most attractive finance centres, using its agility to create innovative products and capitalising on the skills of its highly-trained workforce”.



The reportage adds that since joining the EU, consistent growth in Malta’s financial services sector has come through the highly regarded administration of investment funds, asset management and other technical financial services. As well as regulatory vigour and beneficial tax treaties, the development of new products helped bring more direct foreign investment to the country than any other sector.

Focusing on education and human resources, the editorial speaks about the role of the MFSA-run educational consultative council, which has been monitoring the graduate training market to better establish how to meet the specific requirements of the industry. “Having experienced half a dozen different focuses in modern times, the economy is now more than ever in need of a sizeable, highly skilled workforce, sourced both from its higher education institutions as well as the greater EU market”.

The report lauds the innovative efforts of the Authority, noting how Malta became the first EU country to offer protected cell company status to the insurance sector. In 2013, new regulations were introduced to provide for the authorisation of reinsurance special purpose vehicles (SPRVs), making Malta a key jurisdiction for alternative risk transfer. “We are not creating new regulation,” commented MFSA Chairman Prof Joe Bannister on the issue, “but simply taking the existing regulation and seeing how we can come up with modifications which will not infringe any legislation or any directive. That will give the industry the edge.”

The interview also looks at developments with regards to the Maltese-based European Wholesale Securities Market (EWSM). Prof Bannister explained that the market is “essentially is for small to medium sized industries to raise capital, not through equity but through debt instruments. There appeared to be a lacuna in the European market and this is now being tapped through this exchange. Obviously, it is a new culture that small companies have to embrace whereby, rather than raising money from the banks, they can go themselves directly to the market.”

The full report may be accessed through <https://goo.gl/YSxM7B>.

CHOGM Business Forum - Financial Centres as Catalysts of Growth

The 10th Commonwealth Business Forum was held in Malta in November, bringing together 1300 business leaders from 75 countries with Heads of Government, Ministers and senior officials from the 53 Commonwealth countries and beyond with the theme “Creating a more prosperous Commonwealth.”



The MFSA Chairman Professor Joe Bannister chaired a discussion panel on the issue of “Financial Centres as Catalysts of Growth”. This was one of a number of panel discussions which, building on the overall CHOGM theme of “Adding Global Value” focused on the six pan-Commonwealth themes: financial services, technology, infrastructure, healthcare, tourism and sustainability.

The Forum endeavored to identify opportunities where the Commonwealth can add value, helping to develop the six themes into ongoing programmes led by the Enterprise and Investment Council.

Prime Minister Dr Joseph Muscat said: “I firmly believe strengthening trade and investment is a key area where the Commonwealth can add value. The Commonwealth can be a powerful voice in international trade negotiations, and in creating an equitable and sustainable environment for businesses from all parts of the Commonwealth to flourish in domestic, regional and global markets.”

Lord Marland, Chairman of the Commonwealth Enterprise and Investment Council said “The Business Forum continues to be a growing part of CHOGM, the number of businesses attending continues to grow and has doubled since Malta hosted the Forum for the first time in 2005. Trade, investment and private sector led development are of vital importance to all our countries and we are determined to deliver on the potential of the Commonwealth. It is vital for the future of the Commonwealth that we ensure talk is translated into action.”

European Supervisory Authorities Press Releases

European Securities and Markets Authority (ESMA)



05/11/2015 - [ESMA publishes responses to the Consultation on Draft implementing technical standards under MiFID II](#)

06/11/2015 - [ESMA Consultation paper on indirect clearing under EMIR and MiFIR](#)

06/11/2015 - [ESMA appoints new members to its Management Board](#)

09/11/2015 - [ESMA publishes MAD/MAR Q&A](#)

13/11/2015 - [ESMA updates EMIR standards on data reporting](#)

17/11/2015 - [ESMA consults on the validation and review of CRAs' methodologies](#)

19/11/2015 - [ESMA will not exempt the collateralisation of bank guarantees for energy derivatives under EMIR](#)

26/11/2015 - [ESMA and SFC to exchange information on derivative contracts held in trade repositories](#)

European Banking Authority (EBA)



11/11/2015 - [EBA consults on information exchanges between authorities regarding qualifying holdings](#)

12/11/2015 - [EBA publishes benchmarking report on the use of higher ratios for variable remuneration](#)

12/11/2015 - [EBA updates on remuneration practices and the use of allowances across the EU](#)

13/11/2015 - [EBA consults on draft Guidelines on the treatment of CVA risk under SREP](#)

European Insurance and Occupational Pensions Authority (EIOPA)

- 04/11/2015** - [EIOPA Stakeholder Groups selection procedure – deadline extended to 15 November 2015](#)
- 06/11/2015** - [EIOPA produces a draft ITS on the Solvency II equity transitional measures](#)
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MFSa Circulars

- 02/11/2015** - [Notice to Financial Services Licence Holders - FATF identifies jurisdictions with strategic deficiencies](#)
- 03/11/2015** - [Solvency II Circular for Insurance and Reinsurance Undertakings: Full Solvency II XBRL Taxonomy package](#)
- 04/11/2015** - [Circular to Investment Services Licence Holders on the Assessment of Appropriateness and Suitability of Investment Products or Instruments as required by the Investment Services Rules](#)
- 10/11/2015** - [Circular regarding Variable Remuneration in respect of FY 2015](#)
- 11/11/2015** - [Quantitative reporting requirements under Solvency II](#)
- 12/11/2015** - [Circular addressed to the Category 3 Investment Services Licence Holders – Disclosure of the leverage ratio](#)
- 17/11/2015** - [Circular addressed to the Category 1, 2 and 3 Investment Services Licence Holders on the MFSa's position regarding Government Securities](#)
- 18/11/2015** - [Circular to MiFID firms which are required to submit either the Appendix 2A - Financial Return for Category 1 & Category 4b and the Appendix 2C - Automated COREP Return as part of their regulatory reporting requirements](#)
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Consultation Papers and Documents

- 05/11/2015** - [MFSa-CBM Consultation on the methodology for the identification of other systemically important institutions \(O-SII\) and the related capital buffer calibration](#)
- 16/11/2015** - [Consultation on insurance rules to be issued under the Insurance Business Act](#)
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MFSA Licences - October 2015

NEW LICENCES

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licences issued to **Woodman Funds SICAV plc** in respect of two sub-funds.
- Collective Investment Scheme licence issued to **Hyperion Energy Investment Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Polaris Finance SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Velocity Classic Auto Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Paragon SICAV plc** in respect of one sub-fund.

Alternative Investment Funds targeting Professional Investors

- Collective Investment Scheme licence issued to **Millennium Global Funds SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Elef Global Investments SICAV plc** in respect of one sub-fund.

UCITS

- Collective Investment Scheme licence issued to **EIGER SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Merill SICAV plc** in respect of one sub-fund.

Incorporated Cells

- Collective Investment Scheme licence issued to **Together Fund IC SICAV plc**.

Recognised Fund Administrators

- Certificate issued to **Finanz-Fund Services Limited**.

Trustees and Fiduciaries

- Authorisation issued to **Finco Trust Services Limited** to act as Trustee or co-Trustee, to provide fiduciary services and to act as administrators of private foundations.

Company Service Providers

- Registration certificate issued to **S&D Yachts Limited**.
- Registration certificate issued to **CA International Limited**.
- Registration certificate issued to **AppleBe Limited**.
- Registration certificate issued to **Papilio Corporate Limited**.

- Registration certificate issued to **Papilio Services Limited**.
- Registration certificate issued to **Vella & Associates**.
- Registration certificate issued to **Credence Corporate & Advisory Services Limited**.

Securitisation Vehicles

Notified Securitisation Vehicles

- Acknowledgement issued to **AMAGIS SCC PLC**.
- Acknowledgement issued to **BLUE SEC PLC**.

SURRENDERED LICENCES

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

- Surrender of licence issued to **Villers Investment Funds SICAV plc** in respect of one sub-fund.
- Surrender of licence issued to **Norwatt Nordic Power SICAV plc**.

Professional Investor Funds targeting Experienced Investors

- Surrender of licence issued to **GSC SICAV plc** in respect of one sub-fund.

UCITS

- Surrender of licence issued to **Celsius Global Funds SICAV plc** in respect of one sub-fund.

Investment Services

- Cancellation of Category 1A licence issued to **Cosmic Financial Services (Malta) Limited**.

Trustees and Fiduciaries

- Surrender of licence issued to **Mamo and Mercieca Limited**.
- Surrender of licence issued to **Finco Control Company Limited**.

EXTENDED AND REVISED LICENCES

Collective Investment Schemes

- Licence issued to **Eurasia Alternative Investment Funds SICAV plc** was converted from Professional Investor Fund to Alternative Investment Fund.
- Licence issued to **Cygnus Master SICAV Limited** was converted from Professional Investor Fund to Alternative Investment Fund.

- Licence issued to **Cygnus SICAV Limited** was converted from Professional Investor Fund to Alternative Investment Fund.

Insurance

Insurance Undertakings

- Extension of license issued to **Bray Insurance Company Limited** to carry on business of insurance under the Insurance Business Act.

Registry of Companies - New Registrations - October 2015

| Companies | Partnerships |
|-----------|--------------|
| 412 | 9 |

Forthcoming Events

December 1 - [KPMG Biennial Financial Services Conference 2015](#)

December 11 - [Institute of Directors - The EU's corporate governance agenda – what remains to be done?](#)



Training by members of the ECC:

- [Malta International Training Centre](#)
- [Malta Institute of Accountants](#)
- [Institute of Financial Services](#)
- [Institute of Legal Studies](#)
- [Institute of Financial Services Practitioners](#)
- [Malta Institute of Management](#)
- [Castille Institute](#)
- [PricewaterhouseCoopers](#)



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