INVESTMENT SERVICES RULES FOR INVESTMENT SERVICES PROVIDERS

PART A: THE APPLICATION PROCESS

Title 1 Investment Services Act, 1994

Section 1 Scope

1.1 Regulation of Investment Services

The Investment Services Act, 1994, as amended and supplemented ("the Act") provides a statutory basis for regulating the provision of Investment Services. The following sections make reference to various parts of the Act but do not attempt to reproduce it, and therefore should not be treated as a substitute for reading the Act itself.

1.2 The Meaning of "Investment Services"

1.2.1

A licensable activity takes place when an investment service is offered in respect of an instrument. It is an offence under the Act to conduct licensable activity without a licence.

1.2.2

An "Investment Service" is defined as "any Service falling within the First Schedule to the Act when provided in relation to an Instrument. The definition also provides that the service of management of investments in terms of the First Schedule shall also include the collective portfolio management of assets of a collective investment scheme when provided in relation to an asset that is not an instrument within the meaning of the Second Schedule. In line with the Directive, the "operation of an organised trading facility" is also added as an investment service.

1.2.3 Services covered by the Act

1.2.3.1 The First Schedule to the Act lists the following Services:

1.2.3.1.1 Reception and transmission of orders in relation to one or more instruments. The reception from a person of an order to buy, sell or subscribe for instruments and the transmission of that order to a third party for execution.

1.2.3.1.2 Execution of orders on behalf of other persons. Acting to conclude agreements to buy, sell or subscribe for one or more instruments on behalf of other persons.

1.2.3.1.3 Dealing on own account. Trading against proprietary capital resulting in conclusion of transactions in one or more instruments.

1.2.3.1.4 Management of investments. Managing or agreeing to manage assets belonging to another person if those assets consist of or include one or more instruments or the arrangements for their management are such that the person managing or agreeing to manage those assets has a discretion to invest any of those assets in one or more instruments.

1.2.3.1.4.1 Collective portfolio management of assets, belonging to a collective investment scheme, where the arrangements for their management are such that the person managing or agreeing to manage those assets has discretion to invest in any moveable and/or immovable property.

1.2.3.1.4.2 Management of investments may also constitute the selection or agreement to select, on a discretionary basis, instruments by reference to which benefits are wholly or partly payable under a contract of insurance falling within Class III – "linked long term", of the Second Schedule to the Insurance Business Act.

1.2.3.1.4.3 Collective portfolio management of assets, belonging to a collective investment scheme, where the arrangements for their management are such that the person managing or agreeing to manage those assets has discretion to invest in any movable and, or immovable property.

1.2.1.1.5 Trustee, custodian or nominee services.

a. Acting as trustee, custodian or nominee holder of an instrument, or of the assets represented by or otherwise connected with an instrument, where the person acting as trustee, custodian or nominee holder is so doing as part of his providing any investment service in paragraphs 1, 2, 3, 4 or 6:

Provided that for the purposes of this subparagraph, any person who is authorised or otherwise exempt from authorisation in the terms of articles 43 or 43A of the Trusts and Trustees Act shall not by virtue of holding such assets be required to have a licence in terms of this subparagraph if such person does not provide an investment service and delegates all activities which are investment services in terms of this Act to a person who is licensed to provide such services; or

b. Holding an instrument or the assets represented by or otherwise connected with an instrument as nominee, where the person acting as nominee is so doing on behalf of another person who is providing any investment service referred to in the First Schedule to the Act or on behalf of a client of such person, and such nominee holding is carried out in relation to such investment service:

Provided that for the purposes of this paragraph any person who is authorised or otherwise exempt from authorisation in the terms of articles 43 or 43A of the Trusts and Trustees Act shall not by virtue of holding such assets be required to have a licence in terms of this Act.

c. Acting as trustee or custodian in relation to a collective investment scheme.

1.2.3.1.6 Investment Advice.

Giving, offering or agreeing to give, to persons in their capacity as investors or potential investors or as agent for an investor or potential investor, a personal recommendation in respect of one or more transactions relating to one or more instruments.

1.2.3.1.6.1 For the purposes of this paragraph, a "personal recommendation" shall mean a recommendation presented as suitable for the person to whom it is addressed, or which is based on a consideration of the circumstances of that person, and must constitute a recommendation to take one of the following steps:

a. to buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular instrument;

b. to exercise or not to exercise any right conferred by a particular instrument to buy, sell, subscribe for, exchange, or redeem an instrument;

c. to select one or more instruments by reference to which benefits are wholly or partly payable under a contract of insurance falling

within the meaning of Class III – "linked long term", of the Second Schedule to the Insurance Business Act.

A recommendation is not a personal recommendation if it is issued exclusively through distribution channels or to the public.

1.2.3.1.7 Underwriting of instruments and, or placing of instruments on a firm commitment basis. The underwriting or placing of instruments such that the person providing the service assumes the risk of bringing a new securities issue to the market by buying the issue from the issuer thereby guaranteeing the sale of a certain number of shares to investors.

1.2.3.1.8 Placing of instruments without a firm commitment basis.
The marketing of newly-issued securities or of securities which are already in issue but not listed, to specified persons and which does not involve an offer to the public or to existing holders of the issuer's securities – without assuming the risk of guaranteeing the sale of a certain number of shares by buying the relative securities from the issuer.

1.2.3.1.9 Operation of a Multilateral Trading Facility ("MTF").
The operation of a multilateral system which brings together multiple third party buying and selling interests in instruments – in the system and in accordance with non-discretionary requirements – in a way that results in a contract.

1.2.3.1.10 Operation of an Organised Trading Facility ("OTF").
The operation of multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interest in bonds, structure finance products, emission allowance or derivatives are able to interact in the system in a way that results in a contact in accordance with requirements prescribed.

1.2.3.1.11 Data reporting services as a regular occupation or business, this will capture an investment firm or a market operator operating a trading venue as

- an APA(Approved Publication Arrangements),
- a CTP (Consolidated Tape Providers) or
- an ARM (Approved Reporting Mechanism).

An indication of the service shall be included in their licence.

1.2.4 Instruments covered by the Act

1.2.4.1 The Act defines an "Instrument" as "any instrument, contract or right falling within the Second Schedule to this Act and whether or not issued in Malta".

1.2.4.2 The Second Schedule to the Act lists the following Instruments:

1.2.4.2.2 1 Transferable Securities.
Those classes of securities which are negotiable on the capital market and include:

a. shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depository receipts in respect of shares;
b. bonds or other forms of securitised debt, including depository receipts in respect of such securities; and
c. any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.

1.2.4.2.2 2 Money Market Instruments.
Those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.

1.2.4.2.2 3 Units in collective investment schemes.

1.2.4.2.2 4 Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash.

1.2.4.2.2 5 Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event).

1.2.4.2.2 6 Options, futures, swaps, and any other derivative contracts relating to commodities, that can be physically settled provided that they are traded on a regulated market, within the meaning of the Financial Markets Act and, or a Multilateral Trading Facility within the meaning of the First Schedule to the Act.

1.2.4.2.2 7 Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled, are not for commercial purposes, are not included in article 6 of the Second Schedule to the Act, and, which have the characteristics of other derivative instruments, having regard to whether, inter alia, they are

cleared and settled throughout recognized clearing houses or are subject to regular margin calls.

1.2.4.2.2 8 Derivative instruments for the transfer of credit risk means those securities giving the right to acquire or sell any transferable security or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures

1.2.4.2.2 9 Financial contract for differences or under any other contract the purpose or intended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price for property of any description or in an index or other factor designated for that purpose in the contract.

1.2.4.2.2 10 Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in the Second Schedule to the Act, which have the characteristics of other derivative instruments, having regard to whether, inter alia, they are traded on a regulated market within the meaning of the Financial Markets Act or a Multilateral Trading Facility within the meaning of the First Schedule to the Act, are cleared and settled through recognized clearing houses or are subject to regular margin calls.

1.2.4.2.2 11 Certificates or other instruments which confer property rights in respect of any instrument falling within the Second Schedule to the Act.

1.2.4.2.2 12 Foreign exchange acquired or held for investment purposes.

1.2.4.2.2 13 Emission allowances consisting of any units recognised for compliance with requirements prescribed by Emission Trading Scheme Directive (2003/87/EC)

2. Requirement for an Investment Services Licence

2.1 General Information

Article 3 of the Act states that:

(1) No person shall provide, or hold himself out as providing, an investment service in or from within Malta unless he is in possession of a valid investment services licence.

(2) No body corporate, unincorporated body or association formed in accordance with or existing under the laws of Malta, shall provide or hold itself out as providing an investment service in or from within a country, territory or other place outside Malta unless it is in possession of a valid investment services licence."

2.1.1 An Investment Services Licence is required whether the Investment Service is being provided in Malta or overseas. If the Investment Service is provided in Malta to overseas residents, a Licence is required regardless of type of person involved.

2.1.2 Under article 3(2) of the Act, it is illegal to use Malta as a base for providing Investment Services overseas without having an Investment Services Licence. Otherwise Malta would be vulnerable to unscrupulous operators with no recourse through the Maltese courts.

2.1.3 The authorisation shall in no case be granted solely for the provision of ancillary services as outlined in Annex I Section B of the MiFID II.

2.1.4 For further details, reference should be made to:
* the Investment Services Act (Exemption) Regulations, 2007,
*the European Passport Rights for Investment Firms Regulations, 2007,
*the Investment Services Act (UCITS Management Company Passport) Regulations, 2011, *the Investment Services Act (Alternative Investment Fund Manager Passport) Regulations, 2013,
*the Investment Services Act (Marketing of Alternative Investment Funds) Regulations, 2013, and
*the Investment Services Act (Alternative Investment Fund Manager Third Country) Regulations, 2013.

2.2 Licensable activities for UCITS Management Companies

2.2.1 A UCITS Management Company may only be authorised to provide the licensable activities provided hereunder:

[1] A UCITS Management Company shall not engage in activities other than the management of UCITS Schemes, with the exception of the

additional management of other Schemes which are not UCITS but the units of which cannot be marketed in other Member States or EEA States and for which the UCITS Management Company is subject to the MFSA's prudential supervision.

The activity of "Management of a UCITS" shall include the following functions:

(i) Investment management.

(ii) Administration:
a. legal and fund management accounting services;
b. customer inquiries;
c. valuation and pricing (including tax returns);
d. regulatory compliance monitoring;
e. maintenance of unit-holder register;
f. distribution of income;
g. unit issues and redemptions;
h. contract settlements (including certificate dispatch);
i. record keeping.

(iii) Marketing.

[2] Without prejudice to indent [1] above, the MFSA may authorise the UCITS Management Company to provide, in addition to the Management of UCITS, the following services:

a. management of portfolios of investments including those owned by pension funds, in accordance with mandates given by investors on a discretionary, client-by-client basis, where such portfolios include one or more of the instruments listed in the Act;

b. as non-core services:

i. investment advice concerning one or more of the instruments listed in the Act;

ii. safekeeping and administration in relation to units of collective investment undertakings.

[3] A UCITS Management Company shall not be authorised to provide only the services referred to in indent [2] above, or to provide non-core services referred to in point (b) of indent [2] above without being authorised for the services referred to in point (a) of indent [2] above.

2.3 Licensable activities for AIFMs

2.3.1 An AIFM may only be authorised to provide the licensable activities provided hereunder:

[1] An AIFM shall not engage in activities other than those prescribed hereunder and the additional management of UCITS subject to authorisation in terms of the Act and in terms of Part BII of the Investment Services Rules for Investment Services Providers. The activities the AIFM can be licenced to provide are the following:

(a) Investment management functions which the AIFM shall at least perform when managing an AIF:

[i] Portfolio management;

[ii] Risk management.

(b) Other functions that an AIFM may additionally perform in the course of the collective management of an AIF:

[i] Administration

- legal and fund management accounting services;
- customer inquiries;
  - valuation and pricing, including tax returns;
  - regulatory compliance monitoring;
  - maintenance of unit-/shareholder register;
  - distribution of income;
  - unit/shares issues and redemptions;
  - contract settlements including certificate dispatch;
  - record keeping.

[ii] Marketing;

[iii] Activities related to the assets of AIFs, namely services necessary to meet the fiduciary duties of the AIFM, facilities management, real estate administration activities, advice to undertakings on capital structure, industrial strategy and related matters, advice and services relating to mergers and the purchase of undertakings and other services connected to the management of AIFs and the companies and other assets in which it has invested.

[2] By way of derogation from indent [1] above, the MFSA may authorise an AIFM to provide, in addition to the activities outlined above, the following services:

a. management of portfolios of investments including those owned by pension funds and institutions for occupational retirement provision in accordance with Article 19(1) of Directive 2003/41/EC, in accordance with mandates given by investors on a discretionary, client-by-client basis;

b. non-core services comprising:

i. investment advice concerning one or more of the instruments listed in the Act;

ii. safekeeping and administration in relation to shares or units of collective investment undertakings;

iii. reception and transmission of orders in relation to financial instruments.

[3] The AIFM shall not be authorised to provide:

a) Only the services referred to in indent [2] above;

b) Non-core services referred to in paragraph (b) of indent [2] above without also being authorised to provide the services referred to in paragraph (a) of indent [2] above;

c) Only the activities referred to in paragraph (b) of indent [1] above; or

d) The services referred to in paragraph (a) (i) of indent [1] above without also providing the services referred to in paragraph (a) (ii) of indent [1] above or vice versa.

2.3.2 Licence Holders authorised under the Investment Services Act and credit institutions authorised under the Banking Act, 1994 shall not be required to obtain a licence issued in terms of the Act in order to provide investment services such as individual portfolio management in respect of AIFs.

2.3.3 Licence Holders shall, directly or indirectly, offer units or shares of AIFs to, or place such units or shares with investors in any Member State or EEA State only to the extent the units or shares can be marketed in

accordance with the provisions of the Investment Services Act (Alternative Investment Fund Managers Passport) Regulations, 2013.

2.4 De Minimis AIFMs

2.4.1 AIFMs which satisfy one of the following conditions shall not be subject to Part BIII of the Investment Services Rules but shall comply with the requirements laid down in this section:

(a) Either directly or indirectly, through a company with which the AIFM is linked by common management or control, or by a substantive direct or indirect holding, manage portfolios of AIFs whose assets under management, including any assets acquired through use of leverage, in total do not exceed a threshold of EUR 100 million; or

(b) Either directly or indirectly, through a company with which the AIFM is linked by common management or control, or by a substantive direct or indirect holding, manage portfolios of AIFs whose assets under management in total do not exceed a threshold of EUR 500 million when the portfolios of AIFs consist of AIFs that are unleveraged and have no redemption rights exercisable during a period of 5 years following the date of initial investment in each AIF;

2.4.2 The AIFMs referred to in paragraphs (a) and (b) above, shall comply with the following requirements:

[i] They shall identify themselves and the AIFs that they manage to the MFSA at the time of application[1];

[ii] They shall provide information on the investment strategies of the AIFs that they manage to the MFSA at the time of application;

[iii] They shall regularly, provide the MFSA with information on the main instruments in which they are trading and on the principal exposures and most important, concentrations of the AIFs that they manage in order to enable the MFSA to monitor systemic risk effectively; and

[1] De minimis AIFMs shall compile Schedule A1 at the time of application.

[iv] They shall notify the MFSA in the event they no longer meet the conditions referred to in paragraphs (a) and (b) of this Section.

[v] They shall provide the MFSA with any additional information required from time to time.

2.4.3 Licence Holders referred to in paragraphs (a) and (b) above shall not benefit from any rights granted in terms of the Directive unless they choose to apply for a full AIFM Category 2 licence, subject to the full conditions of Part BIII of these Investment Services Rules.

2.4.4 Where the conditions prescribed in paragraphs (a) and (b) are no longer met, the Licence Holder concerned shall inform the MFSA thereof and shall apply for an upgrade to its Category 2 Licence within 30 days from the date of notification to the MFSA.

2.4.5 AIFMs referred to in paragraphs (a) and (b) above shall further comply with the requirements prescribed in the following Commission Regulations namely:

[I] Commission Implementing Regulation (EU) No 447/2013 of 15 May 2013 establishing the procedure for AIFMs which choose to opt-in under Directive 2011/61/EU of the European Parliament and of the Council; and

[II] Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision.

3. Criteria which MFSA will apply in considering an application for a Licence

3.1 Article 6 of the Act prohibits the MFSA from granting an Investment Services Licence unless it is satisfied that the Applicant is a fit and proper person to provide the relevant Investment Services and activities. The Applicant shall comply with relevant rules and regulations as applicable and suitable to the type of licence.

3.2 When considering whether to grant or refuse an Investment Services Licence, the MFSA must take account of:

a. the degree of protection to the investors;

b. the protection of the reputation of Malta taking into account Malta's international commitments; and

c. the promotion of competition and choice.

The onus of proving sufficient assurance to the Authority is on the Applicant or Licence Holder. The MFSA conduct an independent assessment from the publicly available information on "fit and proper" suitability, therefore when arriving at its decision the Authority will also take on the account its findings .
It is an criminal offence to provide inaccurate, false or misleading information to the MFSA.

3.3 In general terms, there are three criteria which must be met, to satisfy the "fit and proper" test:

3.3.1 Integrity involves the Licence Holder and its employees being of good repute and acting honestly and in a trustworthy fashion in relation to its clients and other parties.

3.3.2 Competence means that those people carrying on the business of the Licence Holder must be able to demonstrate an acceptable amount of knowledge, professional expertise and experience. The degree of competence required will depend upon the job being performed. The MFSA will take into account the qualifications, experience and skills of those involved. Sound and prudent management, adequate resources, and a scrupulous attitude towards clients are essential. The business should be well organised, it should have adequate controls, and it should maintain sufficient records to demonstrate these attributes. Individuals

should have a sufficient understanding of the business, and of the Investment Services and Instruments (including the related markets) with which they are dealing.

3.3.3 Solvency means ensuring that proper financial control and management of liquidity and capital is applied. The business should have sufficient Financial Resources to meet not only the financial demands on the business but also the Capital Resources Requirement or the Financial Resources Requirement established by the MFSA, as applicable.

4. Categories of Licences

4.1 There are four categories of Investment Services Licences as follows:

4.1.1 Category 1a:
Licence Holders authorised to receive and transmit orders in relation to one or more instruments and, or provide investment advice and, or place instruments without a firm commitment basis but not to hold or control Clients' Money or Customers' Assets. (This Category does not include managers of Collective Investment Schemes.)

4.1.2 Category 1b:
Licence Holders authorised to receive and transmit orders, and, or provide investment advice in relation to one or more instrument and, or place instruments without a firm commitment basis solely for professional clients and, or eligible counterparties but not to hold or control Clients' Money or Customers' Assets. (This Category does not include managers of Collective Investment Schemes.)

4.1.3 Category 2:
Licence Holders authorised to provide any Investment Service and to hold or control Clients' Money or Customers' assets, but not to operate a multilateral trading facility or deal for their own account or underwrite or place instruments on a firm commitment basis.

4.1.4 Category 3:
Licence Holders authorised to provide any investment service and to hold and control Clients' Money or Customers' Assets.

4.1.5 Category 4(a):
Licence Holders authorised to act as trustees or custodians of all types of Collective Investment Schemes.

4.1.6 Category 4 (b):
Licence Holders authorised to act:

(a) as custodians of AIFs which have no redemption rights exercisable during the five year period from the date of initial investment and which generally do not invest in assets that must be held in custody in terms of the Investment Services Rules.

(b) as custodians to AIFs marketed in Malta in terms of regulation 7 of the Investment Services Act (Alternative Investment Fund Manager) (Third Country) Regulations.

4.1.7 Data Reporting Service Providers

Licence Holders authorised to act:
- approved publication arrangements ("APA") firms who make public the details of transactions in financial instruments; (art 20 and 21 of MiFIR)
- approved reporting mechanism ("ARM[i]") a firm who reports the details of transactions to regulators for the purposes of market abuse surveillance; (art 26 of MiFIR)
- consolidated tape providers ("CTP") a person authorised under the Directive to provide the service of collecting trade reports for financial instruments from regulated markets, MTFs, OTFs and APAs and consolidating them into a continuous electronic live data stream providing price and volume data per financial instrument (MiFID II Article (4)(1)(53).

4.2 Notes

4.2.1 Licence Holders' Capital Resources Requirements or Financial Resources Requirements as applicable and the fees they must pay depend on the Category of the Investment Services Licence. The nature of the activities an Investment Services Licence Holder can offer will be described in the Licence. Some of the categories of Investment Services Licences are cumulative, but this is not the case with Category 4 Licences. Therefore, it may be necessary, for example, to apply for both a Category 2 and a Category 4 licence.

4.2.2 Where a Category 2 Licence Holder is providing the services of collective portfolio management, its licence will indicate whether it relates to the provision of fund management services to UCITS and/or Alternative Investment Funds or where relevant whether the Licence Holder is a De Minimis AIFM.

4.2.3 A Licence Holder will be considered to be "holding or controlling" Clients' Money or Customers' Assets where, for example, the Licence Holder holds a mandate over the client's bank account or holds a power of attorney by which he can control a customer's assets. For the purposes of categorisation, a Licence Holder will not be considered to be holding or controlling Clients' Money or Customers' Assets if it does not handle Clients' Money and if:

a. the Licence Holder does not handle customers' cheques, certificates or other documents constituting or evidencing title, and a recommendation by the Licence Holder can be effected only by the

customer or a third party, such as a bank, acting on the customer's behalf; or

b. where the Licence Holder handles customers' cheques, certificates or other documents constituting or evidencing title, it has ensured that all customers have instructed all third parties with which the Licence Holder will carry out business on behalf of customers, that all cheques, certificates and other documents constituting or evidencing title to assets or money are to be issued only in the names of the customers or the names of persons specified by the customers, and all such third parties have confirmed their agreement in writing.

4.2.3.1 In either case (a) or (b), the Licence Holder's involvement with Clients' Money and assets must be limited entirely to situations governed by these arrangements. In addition, the Licence Holder must not handle bearer securities on behalf of customers. A Licence Holder which meets these criteria will remain subject to the relevant requirements concerning the safeguarding of Customers' assets.

4.3 The MFSA will determine into which category each Licence Holder falls.

5. Compliance and Prevention of Money Laundering

5.1 Role of Compliance Officer

5.1.1 As the Regulator of Investment Services in Malta, the MFSA requires licensees to adhere strictly to the requirements imposed under the law, the regulations and other rules in force. As part of the licensing process, every Applicant will be asked to identify one individual who will be responsible for ensuring the Licence Holder's adherence to the Licence Conditions listed in Parts BI, BII, BIII and BIV of these Rules.

5.1.2 The role of a Compliance Officer is onerous – not least because of the extent of responsibility and the possibility of censure by the Regulator if problems arise. No individual should accept this responsibility lightly – and certainly not without due consideration of the information that follows. Compliance Officers are advised to ensure they are clear about the extent of responsibilities. Compliance Officers should also be clear whether they could be held personally responsible in the event of a problem. Some specific points that Compliance Officers should consider are:

a. As the person made responsible for all aspects of compliance, the Compliance Officer will be expected to demonstrate independence of judgement and to exercise proper day-to-day supervision and control over the activity of the Company as a Licence Holder under the Investment Services Act.

b. In order to be able to satisfy these requirements, the Compliance Officer must familiarise him/herself thoroughly with the Licence Conditions that attach to the Licence Holder's licence as well as any relevant Guidance issued by MFSA – and take steps to ensure that the Licence Holder's staff are familiar with those Licence Conditions that are relevant to their role within the Company.

c. In particular, the Compliance Officer must pay particular attention to SLC 1.20 of Part BI, SLC 2.17 of Part BII, SLC 1.26 of Part BIII and SLC 1.22 of Part BIV of these Rules which require the Licence Holder to establish, implement and maintain adequate polices and procurers to identify breaches by the Licence Holder of the applicable regulatory requirements, and to minimise the risk of such breaches.

d. The MFSA also expects the Compliance Officer not to breach, or to permit breaches by others, of internal control procedures and systems or Licence Conditions imposed upon the Licence Holder's

business by the MFSA. If the Compliance Officer becomes aware of such breaches, (s)he is expected to draw them to the attention of the person concerned and, where appropriate, to the attention of the Partners/ Board of Directors (as appropriate). All such breaches and action taken as a result should be recorded in writing.

e. The MFSA also expects the Compliance Officer to ensure, so far as is possible, that incorrect or misleading information is not provided deliberately or recklessly to the MFSA either in supervisory returns or in any other way.

f. The MFSA requires very high standards of conduct and compliance from all its Licence Holders. Consequently, a breach of any Licence Condition, and in particular, evidence of bad faith, lack of care and concern for the interests of customers, deceptive acts and behaviour, and incompetence, are all considered to be serious matters.

g. The Authority considers it important to ensure that Compliance Officers understand the requirements placed upon them. Therefore the Authority is always available to discuss any doubts, worries, suspicions or queries that may arise from time to time in respect of their role.

5.1.3 Before a Compliance Officer is appointed, the Licence Holder must formally propose appointment to MFSA – after having conducted its own due diligence checks and the request shall be accompanied by the Competency Form set out in Schedule I to Part A of the Investment Services Rules duly completed by the person proposed. Once satisfied the MFSA will then write to the person proposed reminding said person of the nature of the role and asking that person to confirm in writing his/ her understanding of the requirements and their acceptance of the responsibilities attached to the Compliance role.

5.2 Role of Money Laundering Reporting Officer

5.2.1 Investment Services Licence Holders carry on "relevant financial business" for the purposes of the Prevention of Money Laundering and Funding of Terrorism Regulations [L.N. 180 of 2008] as amended. Accordingly, besides adhering to the Prevention of Money Laundering Act, 1994, Licence Holders are required to adhere to the Regulations and any relevant Guidance Notes issued by the Financial Intelligence Analysis Unit.

5.2.2 Regulation 15 of the Prevention of Money Laundering Regulations and the Funding of Terrorism Regulations requires that an Investment

Services Licence Holder appoints a Money Laundering Reporting Officer. The person assuming this role may or may not act as Compliance Officer having the duties outlined in section 5.1 above. The role of the Money Laundering Reporting Officer is an onerous one and should only be accepted by individuals who fully understand the extent of responsibilities attached to the role.

5.2.3 In this regard, particular attention should be given to the following:

a. The Money Laundering Reporting Officer should familiarise himself/herself thoroughly with the Prevention of Money Laundering Act, 1994, and the provisions amending the Act, the Regulations made thereunder, as well as the Implementing Procedures as well as any guidance notes issued by the Financial Intelligence Analysis Unit.

b. The Money Laundering Reporting Officer should also ensure that all staff are familiar with the relevant provisions of the legislation mentioned in (a) above, and that regular training is being given in this regard. Note is to be taken of training that has been carried out and records retained of the persons trained and when. Care should also be taken when new staff is recruited to ensure that they obtain the necessary training.

c. Any suspicious transactions are to be reported directly to the Financial Intelligence Analysis Unit, even if the transaction is not carried out.

d. An internal reporting procedure should be set up to ensure that staff can report any such transactions without hindrance and that clear reporting lines are in place. Senior management is to be made aware of such reports and should not be in a position to suppress them.

e. The Money Laundering Reporting Officer should ensure that proper Know Your Customer procedures are in place and that the procedures set out in the Implementing Procedures relating to the identification and verification of natural or legal persons are complied with. In this regard, it would be pertinent to point out that copies of identification documents are to be retained of all customers and these should invariably be authenticated.

f. Particular care is to be taken as to identification procedures and records of corporate entities with authenticated copies of identification records being retained for all directors of such entities.

5.2.4 Before a Money Laundering Reporting Officer is appointed, the Licence Holder must formally propose appointment to the MFSA – after having conducted its own due diligence checks and the request shall be accompanied by the Competency Form set out in Schedule I to Part A of the Investment Services Rules duly completed by the person proposed. Once satisfied the MFSA will then write to the person proposed reminding that person of the nature of the role and asking that person to confirm (in writing) his/her understanding of the requirements and their acceptance of the responsibilities attached to the role of Money Laundering Reporting Officer.

6. The Application Process

6.1 Article 3 of the Act provides that: "No person shall provide, or hold himself out as providing, an investment service in or from Malta unless he is in possession of a valid investment services licence".

6.2 There are three phases of licence application:

6.2.1 Preparatory

a. It is recommended to hold a preliminary meeting in advance of submitting an Application for an Investment Services Licence. It is essential that the Applicant submits a comprehensive written description of the proposed activity before the meeting.

b. An application form, together with supporting documents as specified in the Application Form will need to be submitted to ausecurities inbox ausecurities@mfsa.com.mt.

c. . The MFSA will review and will provide comments upon submission of the application, the Authority may ask for more information if it considers necessary.

6.2.2 Pre-Licensing

a. Once the review of the draft Application and supporting documents has been completed and the draft Licence Conditions have been agreed, the Authority will issue its "in principle" approval for the issue of a licence.

b. The Applicant will be required to finalise any outstanding matters, as indicated in the Licence Conditions, submit of signed copies of the revised Application Form together with supporting documents in their final format, and any other issues raised during the Application process.

c. An Investment Services Licence will be issued as soon as all pre-licensing issues are resolved.

6.2.3 Post-Licensing / Pre-Commencement of Business

N.B The Applicant may be required to satisfy a post-licensing matters prior to formal commencement of business.

Disclaimer:
The MFSA is not liable in damages for any acts or omissions unless the act or omission is shown to have been done or omitted in bad faith.

The MFSA reserves the right, to vary or revoke any condition of a Licence or to impose new conditions.

6.3 Additional conditions applicable to the application process of AIFMs

6.3.1 Without prejudice to the generality of Article 6(6) of the Act, the MFSA shall inform an applicant for a licence to provide services as an AIFM in writing within three months of the submission of a complete application, whether or not authorisation has been granted. The MFSA may prolong this period for up to three additional months, where it considers necessary due to the specific circumstances of the case and after having notified the applicant accordingly. An application is deemed to be complete if the applicant has at least submitted the information referred to in the Checklist to the Application Form in Schedule A2 of these Rules to the satisfaction of the Authority.

6.3.2 An AIFM may start managing AIFs in Malta with investment strategies described in accordance with the Application Form submitted to the MFSA as soon as the licence is granted, but not earlier than 1 month after having submitted any missing information referred to hereunder:

(a) Information on arrangements made for the delegation and sub-delegation to third parties of functions referred to in Part BIII of these Rules;

(b) The memorandum and articles of association of each AIF which the AIFM manages or intends to manage;

(c) Information on the arrangements made for the appointment of the custodian for each AIF which the AIFM intends to manage;

(d) Any additional information referred to in Part BIII of these Rules for each AIF which the AIFM manages or intends to manage.

7. Fees

7.1 Application Fee

The Application Fee is payable on the initial submission and those fees are non-refundable

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7.2 Annual Supervisory Fees

7.2.1 Investment Services Licence Holders Categories 1 - 4

7.2.1.1 Investment Services Licence Holders are required to pay the Annual Supervisory Fee upon the submission of the annual audited financial statement .The Annual Supervisory fee to be paid by category 1- 3 investment services licence holders is computed with reference to the revenue of the year immediately preceding the year when the fee is payable. Category 4 licence holders are liable to pay a fixed Annual Supervisory Fee as indicated in the table below.

7.2.1.2 A newly authorised investment services licence holder will be required to pay the minimum annual supervisory fee for the first year of operation upon receipt of the licence. The fee payable shall be proportionate to the period remaining between the date of the granting of the licence and the date of the submission of the annual audited financial statements.

7.2.1.3 The applicable fees payable (in terms of L.N. 9 of 2014) are provided in the tables hereunder:

FEES FOR CATEGORY 1 - 4 LICENCE HOLDERS PURSUANT TO ARTICLE 3 OF THE INVESTMENT SERVICES ACT			
	Application Fee	Supervisory Fee	
Category 1a:	€ 2,500	For revenue up to € 50,000 Further tranches of € 50,000 up to a maximum of € 1,000,000	€ 2,000 € 350 per tranche or part thereof.
Category 1b:	€ 3000	For revenue up to € 50,000 Further tranches of € 50,000 up to a maximum of € 1,000,000.	€ 2,750 € 350 per tranche or part thereof.

Category 2:	€ 5,000	For revenue up to € 250,000. Further tranches of € 250,000 up to a maximum of € 5,000,000	€ 4,500 € 400 per tranche or part thereof.
Category 3:	€ 7,000	For revenue up to € 250,000 Further tranches of € 250,000 up to a maximum of € 50,000,000.	€ 6,000 € 400 per tranche or part thereof
Category 4a	€ 17,000	€ 15,000	
Category 4b	€7,500	€5,000	

7.2.2 Tied Agents

7.2.2.1 The Application Fee for Registration of Tied Agents is payable at time of application and the Annual Supervisory Fee is payable on the anniversary of the grant of Registration, provided that the first Annual Supervisory Fee is payable at time the registration certificate is granted.

TIED AGENTS REGISTERED PURSUANT TO THE INVESTMENT SERVICES ACT (TIED AGENTS) REGULATIONS		
	Application Fee	Supervisory Fee
Individuals:	€ 300	€ 300
Not Individuals:	€ 350	€ 350 and € 250 per individual employed by such Tied Agent and who is directly involved in the provision of Tied Agent activities.

7.2.3 Fees for European UCITS Management Companies, European AIFMs and European Investment Firms establishing a branch in Malta.

7.2.3.1 European UCITS Management Companies and AIFMs and European Investment Firms establishing a branch in Malta shall pay the Application fee on notification of intention to establish a branch in Malta. The first Annual Supervisory Fee is payable on the commencement of business and thereafter annually on the anniversary of the date of their commencement of business.

EUROPEAN MANAGEMENT COMPANIES PROVIDING SERVICES THROUGH THE ESTABLISHMENT OF A BRANCH PURSUANT TO REGULATION 9 OF THE INVESTMENT SERVICES ACT (UCITS MANAGEMENT COMPANY PASSPORT) REGULATIONS		
	Application Fee	Annual Supervisory Fee

European Management Companies	€ 1,250	€ 4,000
EUROPEAN AIFMS PROVIDING SERVICES THROUGH THE ESTABLISHMENT OF A BRANCH PURSUANT TO REGULATION 7 OF THE INVESTMENT SERVICES ACT (ALTERNATIVE INVESTMENT FUND MANAGER PASSPORT) REGULATIONS		
European AIFMS	€ 1,250	€ 4,000
EUROPEAN INVESTMENT FIRMS ESTABLISHING A BRANCH IN MALTA PURSUANT TO REGULATION 3 OF THE INVESTMENT SERVICES ACT (EUROPEAN PASSPORT RIGHTS FOR INVESTMENT FIRMS) REGULATIONS		
	Application Fee	Annual Supervisory Fee
European Investment Firms authorised to receive and transmit orders in relation to one or more instruments and, or provide investment advice and, or place instruments without a firm commitment basis, in terms of MiFID but are not authorized to hold and control Clients Money or Customers' Assets.	€ 750	€ 1,200
European Investment Firms authorized to provide any investment service in terms of MiFID and to hold and control Clients' Money or Customers' Assets but not to operate a multilateral trading facility or to deal for their own account or underwrite or place instruments on a firm commitment basis.	€ 1,000	€ 3,000
European Investment Firms authorized to provide any investment service in terms of MiFID, and to hold and control Clients' Money or Customers' Assets.	€ 1,650	€ 3,600

7.2.4 Fees for marketing of units or shares of an AIF by an AIFM pursuant to regulation 7 and 22 of the Investment Services Act (Alternative Investment Fund Managers) (Third Country) Regulations

7.2.4.1 AIFMs wishing to market in Malta, units or shares of an AIF shall pay the Application Fee on notification of intention to commence marketing

in Malta. The first Annual Supervisory Fee is payable on commencement of marketing and thereafter annually on the anniversary of the date of their commencement of such marketing in Malta.

MARKETING OF UNITS OR SHARES OF AN AIF BY AN AIFM PURSUANT TO REGULATION 7 AND 22 OF THE ISA (ALTERNATIVE INVESTMENT FUND MANAGERS) (THIRD COUNTRY) REGULATIONS		
	Application Fee	Annual Supervisory Fee
AIF	€2500	€3000
Per AIF sub- fund	€450	€500

8. Variation of Investment Services Licence

8.1 A request for a variation of a Licence should be submitted to the MFSA in writing. This request should be supported by relevant arguments and supporting documentation as appropriate.

8.2 In particular, when dealing with AIFMs, the MFSA may restrict the scope of the authorisation as regards the investment strategies of AIFs which the AIFM is allowed to manage.

9. Cessation of Investment Service business

9.1 Investment Services Licence Holders should inform the MFSA at an early stage of their intentions to surrender their licence.I In order to protect the interests of customers and investors the MFSA may request to delay the surrender of licence or wind-up of the business.

9.2 The following confirmations / action / documentation should be submitted to the MFSA in this regard:

a. A formal request to the MFSA asking for approval to surrender the licence;

b. A certified true copy of the Directors'/ General Partners' Resolution confirming the Licence Holder's intention to surrender its Investment Services Licence, subject to the Authority's approval and once the necessary formalities are finalised;

c. due notice to the clients of its intention to surrender its licence. Confirmation to this effect should be submitted to MFSA;

d. A confirmation (where appropriate) that each client has specifically consented to the transfer of that client's business to another appropriately licensed firm;

e. A confirmation that no litigation is pending which arises out of any event that occurred whilst the Licence Holder was licensed;

f. A confirmation that the Licence Holder will remove from all letterheads, and any other stationery, any reference to being licensed by the Authority;

g. A confirmation that the Licence Holder has informed its auditor and insurer (in respect of its money policy and/ or professional

indemnity insurance, if any) of the its intention to surrender its Licence;

h. A confirmation from the auditors of the Licence Holder specifying the date by when all business and obligations arising from the Licence Holder's activities related to its Investment Services Licence have been settled;

i. a declaration that there are no pending complaints against the Licence Holder; and

j. a declaration that all contributions due to date by the Licence Holder to the Investor Compensation Scheme have been made (where applicable)[2]

9.2.1 This list may not be exhaustive and it is the Licence Holder's responsibility to ensure all its responsibilities have been satisfied.

9.3 Once all the requirements listed above are satisfied, an internal process will be set in motion for approval of the surrender of the Investment Services Licence. Once a decision is taken, this will be conveyed to the Licence Holder which will cease to be licensed thereafter. The Licence Holder should then return its original licence to the MFSA. Moreover, following the Authority's approval of the surrender, unless arrangements are made for the winding up of the Licence Holder, a certified true copy of the Constitutional Document of the Licence Holder duly amended to remove all references to Investment Services activity from its Objects Clause and, (where appropriate) to change the name of the Licence Holder should be submitted to the Authority.

9.4 The MFSA will ordinarily issue a public notice regarding the surrender of the Licence. The wording of the public notice will be provided to the Licence Holder for its comments prior to being published.

[2] Category 1 Investment Services Licence Holders do not fall within the remit of the Investor Compensation Scheme.

10. Standard Licence Conditions/ Ongoing Regulatory Requirements

10.1 The Standard Licence Conditions for Investment Services Licence Holders are set out in Part B of these Rules.

10.2 The Licence Conditions included in Part BI of these Rules transpose part of the requirements of:

- the Markets in Financial Instruments Directive (Directive 2016/43/EC) and the relevant Commission regulations as applicable to Investment Firms;

- Directive 2009/65/EC of the European Parliament and of the Council, of 13th July 2009, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS);

- Commission Directive 2010/42/EU, of 1st July 2010, implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedures;

- Commission Directive 2010/43, of 1st July 2010, implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company.

- Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/ EC and 2006/49/EC (referred to in these Rules as the CRD)

10.3 The Licence Conditions included in Part BII of these Rules transpose part of the requirements of:

- Directive 2009/65/EC of the European Parliament and of the Council, of 13 July 2009, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS);

- Commission Directive 2010/43, of 1 July 2010, implementing Directive 2009/65/EC of the European Parliament and of the

Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company.

10.4 Part CI of these Rules includes the ongoing regulatory requirements applicable to European Investment Firms providing Investment Services in Malta through the establishment of a branch in terms of the European Passport Rights for Investment Firms Regulations, 2007.

10.5 Part CII of these Rules includes the ongoing regulatory requirements applicable to European Management Companies providing services in Malta on a cross border basis or through the establishment of a branch in terms of the Investment Services Act (UCITS Management Company Passport) Regulations, 2011.

10.6 Part CIII of these Rules includes the ongoing regulatory requirements applicable to European AIFMs providing services in Malta on a cross border basis or through the establishment of a branch in terms of the Investment Services Act (Alternative Investment Fund Managers Passport) Regulations.

10.7 Part CIV of these Rules includes the ongoing regulatory requirements applicable to Third Country AIFMs providing services in Malta in terms of the Investment Services Act (AIFM Third Country) Regulations.

10.8 For detailed standard licence conditions applicable to an investment services and activities potential applicants should refer to the relevant rules as outlined above.

11. Appointment of Tied Agents

11.1.1 In terms of the Investment Services (Tied Agents) Regulations, 2017 (hereinafter referred to as the "Tied Agents Regulations"), Tied Agents established in Malta may be appointed by:

a. Maltese investment firm (excluding UCITS Management Companies and AIFMs) as defined in Tied Agents Regulations; and / or

b. European Investment Firms as defined in Tied Agents Regulations

Together referred in this rule as an Investment Firm.

11.1.2 Investment Firm may appoint Tied Agents to carry out business in Malta or in another EU or EEA Member State provided that such Tied

Agent is registered in the appropriate register maintained by the EU or EEA Member State in which such Tied Agent is established.

11.1.3 A Tied Agent is a natural or a legal person who, under the full and unconditional responsibility of only one Investment Firm on whose behalf it acts, carries out one or more of the following services:

a. Promoting of investment and/or ancillary services to clients or prospective clients;

b. Receiving and transmits instructions or orders from the client in respect of investment services or instruments;

c. Places instruments; and / or

d. Provides investment advice to clients in respect of those investments or services.

11.1.4 Tied Agents shall act only on behalf of one Investment Firm.

11.1.5 These Rules, pertaining to the appointment of Tied Agents have been issued pursuant to MFSA's powers under the Tied Agents Regulations.

11.2 Process for Registration of Tied Agents

11.2.1 In terms of the Tied Agents Regulations, a Investment Firm may appoint a Tied Agent for the purposes of promoting its services, soliciting business or receiving orders from clients or potential clients and transmitting them, placing instruments and providing investment advice in respect of such instruments and services offered by the Investment Firm.

11.2.2 In the case of a legal person, being proposed as a Tied Agent, such person's constitutional documents (e.g. Memorandum and Articles of Association, Certificate of Incorporation) – a copy of which would need to be submitted to the MFSA – should also include a reference to tied agency activities in the object clause.

11.2.3 In terms of regulation 9(2) of the Investment Services Act (Tied Agents) Regulations, it is up to the licence holder proposing a person as the tied agent to ensure that such appointee is of sufficiently good repute and possesses appropriate general, commercial and professional knowledge so as to be able to communicate accurately all relevant information regarding the proposed services to the clients. The Investment firm

appointing a tied agent will be required to provide a declaration outlining the above.

11.2.4 For this purpose, the Investment Firm shall carry out all the relevant due diligence checks it deems necessary in respect of the proposed person.

11.2.5 On receipt of all the necessary application documents and fees, the MFSA will carry out the assessment as to the proposed person's fitness and properness. The Authority in the assessment will take on the account the business activities and service for which the tied agent is proposed. In relation of activities which are associated with high risks or targeting retail clients the MFSA reserves rights to request information about the proposed tied agent appointee including but not limited to: personnel profiles, experience, structure of a tied agent and reporting lines as it deemed suitable and necessary to fulfil the role. The MFSA will register the Proposed Person in the public register established in terms of the Tied Agents Regulations. Such registration will be confirmed by the issue of a Registration Certificate to the Proposed Person.

11.2.6 When a European investment firm is making use of the right to free establishment to provide investment services through a tied agent established in Malta where the investment firm has no existing branch, the tied agent will be treated as a branch presence in Malta (in this regards the relevant passporting notification procedure for an establishment of branch needs to be followed). When the tied agent of a European investment firm is established in Malta where the investment firm already maintains a branch, the tied agent is assimilated to that branch.

11.3 Eligibility Criteria for Tied Agents

11.3.1 MFSA will only consider admitting individuals to the register of Tied Agents established in terms of the Tied Agents Regulations, provided that the Investment Firm seeking to appoint such individuals as its Tied Agents confirms to the MFSA that the persons concerned:

a. are established in Malta or, in the case of appointments by Licence Holders, in another EU or EEA Member State which does not allow its own investment firms to appoint Tied Agents;

b. are aged 18 years or over;

c. have attained, to the satisfaction of the Licence Holder, secondary school level education;

d. have a clean conduct certificate issued in their regard by the Malta Police or the equivalent authority in an EU or EEA Member State, as applicable; and

e. where applicable, prima facie satisfy the MFSA's standard competence requirements applicable to investment advisors.

11.3.2 An additional information to the above may be required by the Authority is its deem necessary to adequately assess suitability of the applicant.

11.3.3 Where the person considered to be appointed as Tied Agent is a legal person, the above criteria would need to be satisfied by the individuals to be acting on behalf of such legal person, in carrying out the activities of a Tied Agent.

12. Exercise of Passport Rights

12.1 Maltese Investment Firms

12.2 Licence Holders which are entitled to exercise passport rights in terms of the European Passport Rights for Investment Firms Regulations, 2007 and / or under the European Passport Rights for Persons Operating Multilateral Trading Facilities Regulations, 2007 are required to follow the procedure indicated therein before they can commence to provide services in another EU / EEA Member State whether by means of the establishment of a branch or on a remote basis under the freedom of services.

12.3 For this purpose, Licence Holders should refer to Schedules DI and EI of these Rules which contain a specimen notification letter to be sent to MFSA indicating their intention to provide services on a remote basis or establish a branch in another EU / EEA Member State.

12.2 Maltese UCITS Management Companies

12.2.1 Licence Holders which are entitled to exercise passport rights in terms of the Investment Services Act (UCITS Management Company Passport) Regulations, 2011 are required to follow the procedure indicated therein before they can commence to provide services in another EU / EEA Member State whether by means of the establishment of a branch or on a remote basis under the freedom of services.

12.2.2 For this purpose, Licence Holders should refer to Schedules DII and EII of these Rules which contain a specimen notification letter to be sent to MFSA indicating their intention to provide services on a remote basis or establish a branch in another EU / EEA Member State.

12.3 Maltese AIFMs

12.3.1 Licence Holders which are entitled to exercise passport rights in terms of the Investment Services Act (Alternative Investment Fund Managers Passport) Regulations, 2013 are required to follow the procedure indicated therein before they can commence to provide services in another EU / EEA Member State whether by means of the establishment of a branch or on a remote basis under the freedom of services.

12.3.2 For this purpose, Licence Holders should refer to Schedules DIII and EIII of these Rules which contain a specimen notification letter to be sent to MFSA indicating their intention to provide services on a remote basis or establish a branch in another EU / EEA Member State.

12.3.3 Licence Holders wishing to engage in the cross-border marketing of AIFs in Malta or in any other Member State or EEA State are required to comply with the provisions of the Investment Services Act (Marketing of AIFs) Regulations, 2013.

12.4 Third Country AIFMs having Malta as their Member State of Reference

12.4.1 Third Country AIFMs are entitled to exercise passport rights in terms of the Investment Services Act (Alternative Investment Fund Managers Third Country) Regulations, 2013. In such a case the Third Country AIFM must follow the procedure outlined in Regulation 9 in the choice of Malta as a Member State of reference. Following that, the Third Country AIFM may in terms of Regulations 18 and 19, provide services in another EU / EEA Member State whether by means of the establishment of a branch or on a remote basis under the freedom of services.

13. Prudential Assessment of Acquisitions and Increase of Holdings in Investment Services Licence Holders

13.1.1 This section 13 applies to any person or persons acting in concert, desirous of acquiring directly or indirectly a qualifying shareholding in a company licensed to carry on investment services business or increasing the existing qualifying shareholding in the company concerned.

13.1.2 The scope of this section 13 is:

– to transpose the relevant provisions of the Directive 2007/44/EC of the European Parliament and of the Council, of 5 September 2007, amending Council Directive 92/49/EC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increases in holdings in the financial sector;

– to determine the criteria to be applied by the MFSA in the assessment process of a proposed acquirer; and

– to ensure that the proposed acquirer knows what information is required to be provided in order to allow the MFSA to assess the proposed acquisition in a complete and timely manner.

13.1.3 In drafting the Rules, the MFSA has been guided by the 3L3 Committees of European Financial Supervisors (EIOPA, ESMA, EBA) Guidelines for the prudential assessment of acquisitions and increases in holdings in the financial sector required by Directive 2007/44/EC which can be accessed through the following link http://www.esma.europa.eu/.

13.2 Notification Requirements

13.2.1 In terms of article 10(1) of the Act, a proposed acquirer is required to provide notification of a proposed acquisition to the MFSA as soon as a decision is made to acquire or increase a qualifying shareholding in an investment services licence holder.

13.2.2 Notification is also required:

a. if the shareholding held by the acquirer in the licence holder involuntarily reaches or exceeds 10%, 20%, 30% or 50% of the shares or voting rights in the licence holder. This may occur as a result of the repurchase by the licence holder of shares held by other shareholders, or in the event of an increase in capital in which existing shareholders do not participate. In such cases, notification

to the MFSA is still necessary upon becoming aware that a shareholding reaches or exceeds one of the thresholds referred to in this paragraph, even if the acquirer intends to reduce its level of shareholding so that it once again falls below the said thresholds;

b. when a number of persons are "acting in concert" such that each of them decides to exercise his rights linked to the shares he acquires in accordance with an explicit or implicit agreement made between them. In such a case, notification of the voting rights held collectively by these persons will have to be made to the MFSA by each of the parties concerned or by one of these parties on behalf of the group of persons so acting in concert;

c. in the case of indirect qualifying shareholdings. Where the licence holder directly concerned by the proposed acquisition, in turn, directly or indirectly, controls subsidiaries that are regulated entities subject to the supervision of their overseas regulatory authorities, the proposed acquirer is required to provide notification of its proposed acquisition to each of these authorities. However, the responsibility for the final decision regarding the prudential assessment remains with the MFSA, if the proposed acquisition relates to a licensed company.

13.2.3 If qualifying shareholdings are held indirectly through one or more third parties, all persons in the chain of holdings are subject to assessment by the Authority against the five assessment criteria, described in section 13.2 below, where a threshold mentioned in sub-paragraph (a) of paragraph (1) of this Section is reached or exceeded. These requirements may be satisfied through an assessment of the person at the top of the chain and those who hold shares in the investment services licence holder directly, unless the MFSA has doubts about intermediate holders.

13.2.4 In some cases, such as when the proposed transaction presents some complexity (linked, for instance, to the transaction itself, to the complex group structure of the proposed acquirer, to the structure of the licensed company, etc.) the proposed acquirer should in anticipation of the formal notification contact the MFSA.

13.2.5 Formal notification is to be accompanied by:

a. a Personal Questionnaire as set out in Schedule F in the case of a proposed acquirer who is an individual; and

b. the Questionnaire for Qualifying Shareholders other than Individuals as set out in Schedule G in the case of a proposed acquirer who is not an individual;

together with the information requested in Schedule H.

13.2.6 In order to avoid undue delays in the assessment process, laid down in article 10A of the Act, it is essential that the proposed acquirer promptly transmits all required information, together with the notification of its decision to the MFSA. The assessment period will only commence when all required information is transmitted to the MFSA. Without prejudice to the paragraphs hereunder, the list of information necessary to carry out the assessment as per Schedule F or G and H as appropriate shall be considered to be an exhaustive list of required information.

13.2.7 The information required shall be proportionate and adapted to the nature of the proposed acquirer and the proposed acquisition. In some cases the MFSA may not require the proposed acquirer to provide all of the information that appears in Schedule F or G and H as appropriate (for example, if the MFSA already possesses some information or can obtain it from another overseas regulatory authority).

13.2.8 In other cases, notwithstanding the exhaustive list of information referred to in the preceding paragraphs, the MFSA may consider, on the basis of its analysis of the information submitted in accordance with this Section, by the proposed acquirer, that some additional information is necessary for the assessment of the proposed acquisition. In that case, the MFSA may request, in writing, that the proposed acquirer provides the additional information. Such a request shall initiate the beginning of the interruption period referred to in article 10A of the Act. This additional information clarifies and completes the information submitted in accordance with Schedule F or G and H as appropriate.

13.2.9 In the event that any of the information submitted is false or forged, rendering the conclusions of the MFSA liable to be erroneous, the MFSA shall refuse the approval of the proposed acquisition.

13.2.9.1 Determination of Voting Rights

13.2.9.2 The voting rights held by certain entities and which are to be taken into account for the purposes of article 10 of the Investment Services Act are described below:

13.2.9.3

A. Voting Rights held by UCITS Management Companies:

A UCITS management company within the meaning of article 2(1) (b)

of Directive 2009/65/EC authorised in another Member State or EEA State or in a sector other than that in which the acquisition is proposed (the management company) and its parent undertaking:

a. need not aggregate their holdings, provided that they exercise their voting power independently of each other; but

b. must aggregate their holdings if the management company:

i. manages holdings for its parent undertaking or an undertaking in respect of which the parent undertaking is a controller; and

ii. has no discretion to exercise the voting rights attached to such holdings and may only exercise the voting rights attached to the holdings under direct or indirect instructions from its parent undertaking or an undertaking in respect of which the parent undertaking is a controller

13.2.9.4

B. Voting Rights held by European Investment Firms or Investment Services Licence Holders:

A European Investment firm or an Investment Services Licence Holder and its parent undertaking need not aggregate holdings of the parent undertaking with holdings managed by the investment firm or Licence Holder on a client by client basis, provided that the investment firm or Licence Holder:

a. has permission to provide portfolio management services; and

b. exercises its voting power independently from the parent; and

c. may only exercise the voting rights attached to such shares under instructions given in writing or by electronic means and has appropriate mechanisms in place for ensuring that individual portfolio management services are conducted independently of any other services.

13.2.9.5

C. Voting Rights held by Market Makers

Shares reaching or exceeding a 5% threshold of the total voting rights of an Investment Services Licence Holder held by a market maker, acting

in its capacity of a market maker need not be aggregated provided that the person acting as market maker:

a. is duly authorised by its home Member State as such in terms of the Markets in Financial Instruments Directive; and

b. neither intervenes in the management of the Investment Services Licence Holder concerned nor exerts any influence on the Investment Services Licence Holder to buy such shares or back the share price.

13.2.9.6 D. Voting Rights held by virtue of Trading Book Entries

Shares held by a credit institution or a European Investment Firm or an Investment Services Licence Holder in its trading book need not be aggregated provided that:

a. voting rights held in the trading book do not exceed 5%, and

b. the credit institution, the European Investment Firm or the Investment Services Licence Holder ensures that the voting rights attaching to shares held in the trading book are not exercised nor otherwise used to intervene in the management of the Investment Services Licence Holder in which the voting rights are being acquired.

13.2.9.7 E. Voting Rights Attaching to Shares Held for Clearing and Settlement Purposes

Shares held for the sole purpose of clearing and settlement within a short settlement cycle shall not be taken into account.

13.2.9.8 F. Voting Rights Attaching to Shares Held by Custodians

Shares held by a custodian in its capacity as custodian, shall not be taken into account provided that the custodian can only exercise the voting rights attached to the shares under instructions given in writing or by electronic means.

13.2.9.9 G. Voting Rights or Other Shares held by Credit Institutions or Investment Firms.

Voting Rights attached to shares held by a credit institution, a European Investment Firm or an Investment Services Licence Holder as a result of:

a. providing the underwriting of financial instruments; and, or

b. placing financial instruments on a firm commitment basis

in terms of point 6 of Section A of Annex I to the Directive, shall not be taken into account provided that those rights are, on the one hand, not exercised or otherwise used to intervene in the management of the issuer and, on the other, disposed of within one year of acquisition.

13.3 The Five Assessment Criteria

13.3.1 In assessing the notification provided for in article 10 of the Act and the information referred to in article 10A of the Act, the MFSA shall in order to ensure the sound and prudent management of the investment services licence holder in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the investment services licence holder, appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition against all of the following criteria:

a. the reputation of the proposed acquirer;

b. the reputation and experience of any person who will direct the business of the investment services licence holder as a result of the proposed acquisition;

c. the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the investment services licence holder in which the acquisition is proposed;

d. whether the investment services licence holder will be able to comply and continue to comply with the prudential requirements emanating from the Act any regulations issued thereunder as well as these Rules, and where applicable from the Financial Conglomerates Regulations, 2004 and Directive 2006/49/EC in particular, whether the group of which it will become a part of has a structure that makes it possible to exercise effective supervision and effectively exchange information among the MFSA and overseas regulatory authorities and determine the allocation of responsibilities amongst the MFSA and overseas regulatory authorities;

e. whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of article 1 of Directive 2005/60/EC is being or has been committed or attempted or that the proposed acquisition could increase the risk thereof.

13.3.2 The First Assessment Criterion - The reputation of the proposed acquirer.

This criterion concerns the determination of whether any doubts exist about the integrity and professional competence of the proposed acquirer and whether these doubts are founded. Such doubts may arise, for instance, from past business conduct. The assessment of the reputation is of particular relevance if the proposed acquirer is an unregulated entity but should be facilitated if the proposed acquirer is authorised and supervised within the European Union.

13.3.2.1 Without prejudice to the requirements of section 3 of this Part A, the assessment of the reputation of the proposed acquirer covers two elements:

a. integrity; and

b. professional competence.

13.3.2.1.1 Integrity

13.3.2.1.1.1 Situations Subject to Assessment

In general, the proposed acquirer is assumed to be of "good repute" (trustworthy) if there is no evidence to the contrary. Integrity requirements imply the absence of "negative records". In this regard, the MFSA retains discretionary power to determine which other situations cast doubts on the trustworthiness of the proposed acquirer. For this purpose, the following situations shall be taken into account:

a. conviction of a relevant criminal offence. Special consideration shall be given to any offence under the laws governing banking, financial, securities or insurance activity or concerning securities markets or securities or payment instruments, including laws on money laundering, market manipulation, or insider dealing and usury; to any offence of dishonesty, fraud, or financial crime; and to other offences under legislation relating to companies, bankruptcy, insolvency or consumer protection.

b. Any relevant criminal offences currently being tried or having been tried in the past and may also be relevant, as they can cast doubt on the integrity of the proposed acquirer and may mean that the integrity requirements are not met.

13.3.2.1.1.2 The integrity of the proposed acquirer is not only affected by court decisions and ongoing judicial proceedings. The following situations shall also be taken into account, since they may cast doubts on the integrity of the proposed acquirer:

– Current or past investigations and/or enforcement actions related to the proposed acquirer, or the imposition of administrative sanctions for non-compliance with provisions governing banking, financial, securities or insurance activity, or those concerning securities markets, securities or payment instruments, or any financial services legislation; or

– Current or past investigations and/or enforcement actions by any other regulatory or professional bodies for non-compliance with any relevant provisions.

13.3.2.1.1.3 In addition to considering judicial or administrative decisions or procedures, the assessment of the integrity of the proposed acquirer shall examine its correctness in past business dealings, the lack of which may undermine the integrity and trustworthiness of the proposed acquirer at the time of the proposed acquisition. The MFSA shall pay attention to:

i. Any evidence that the proposed acquirer has not been transparent, open and cooperative in its dealings with the MFSA or any overseas regulatory authority, including any evidence that the proposed acquirer knowingly ignored its notification obligation according to the Act or attempted to evade the prudential assessment that such person is required to undergo as a proposed qualifying shareholder;

ii. Refusal of a registration, authorisation, membership or licence to carry out a trade, business or profession or revocation, withdrawal, or termination of such registration, authorisation, membership, or licence, or expulsion by a regulatory or government body;

iii. Dismissal from employment or a position of trust, fiduciary relationship, or similar situation, or having been asked to resign from employment in such a position

iv. Disqualification from acting as a person who directs the business.

13.3.2.1.1.4 The MFSA shall assess the relevance of such situations on a case by case basis, recognising that the characteristics of each situation may be more or less severe and that some situations may be significant when considered together, even though each of them in isolation may not be significant.

13.3.2.1.1.5 The MFSA may judge the relevance of criminal records differently according to the type of conviction, the finality of the judgment (i.e. whether it is subject to appeal), the type of punishment, the length of any imprisonment imposed, the stage of judicial proceedings reached (conviction, trial or indictment) and the effect of rehabilitation.

13.3.2.1.1.6 In cases involving the acquisition of a new qualifying shareholding the information requirements on which the assessment of integrity is based, may vary according to the nature of the proposed acquirer (i.e. individual vs legal person, regulated or supervised entity vs unregulated entity).

13.3.2.1.1.7 However, in all cases, the proposed acquirer himself should attest in a statement that none of the situations described in points (a) to (b) and (i) to (iv) above occurs or has to the best of its knowledge occurred in the past. A delayed, incomplete or undelivered declaration will call into question the approval of the proposed acquisition.

13.3.2.1.1.8 In all cases, the MFSA should be able to verify the statement submitted by the proposed acquirer by asking such persons to provide documents evidencing that the statement is true (e.g. police conduct certificates) and, if needed, by requesting confirmation from other authorities (e.g. judicial authorities or other regulators), domestic or otherwise.

13.3.2.1.1.9 In the case of an increase in an existing qualifying shareholding, and to the extent that the integrity of the proposed acquirer has previously been assessed by the MFSA, the relevant information shall be updated as appropriate.

13.3.2.1.1.10 When assessing the integrity of the proposed acquirer, the MFSA may take into consideration any person linked to the proposed acquirer, i.e. any person who has, or appears to have, a relevant family or business relationship with the proposed acquirer.

13.3.2.1.1.11 In this context, and by way of example, (where A is the proposed acquirer and B is a connected person) a relevant business relationship could be where:

a. A is the controlling shareholder of a company and B is a board member of that company appointed by A, or vice versa;

b. A and B jointly control a company;

c. A and B are board members of a company appointed by the same shareholder;

d. A and B participate in a shareholder agreement regarding the exercise of voting rights which have a significant influence in a company.

13.3.2.1.2 Professional competence

13.3.2.1.2.1 The professional competence of the proposed acquirer covers competence in management ("management competence") and in the area of the financial activities carried out by the licence holder ("technical competence").

13.3.2.1.2.2 The management competence may be based on the proposed acquirer's previous experience in acquiring and managing holdings in companies, and should demonstrate due skill, care, diligence, and compliance with the relevant standards.

13.3.2.1.2.3 The technical competence may be based on the acquirer's previous experience in operating and managing financial firms as a controlling shareholder or as a person who effectively directs the business of a financial firm. In this case, the experience should demonstrate due skill, care, diligence and compliance with the relevant standards.

13.3.2.1.3 Where the proposed acquirer is a legal person

13.3.2.1.3.1 If the proposed acquirer is a legal person, the integrity requirements must be satisfied by the legal person as well as by all of the persons who effectively direct the business.

13.3.2.1.3.2 When assessing professional competence, the technical aspect should relate primarily to the financial activities currently performed by the proposed acquirer and/or by companies in the group to which such person belongs.

13.3.2.1.3.3 In the light of the above, all the persons who effectively direct the business of a proposed acquirer which is not regulated in a Member

State/ EEA State or an approved jurisdiction, will be required to submit to the MFSA a completed Personal Questionnaire as per Schedule F to these Rules.

13.3.3 The Second Assessment Criterion - The Reputation and Experience of those who will direct the business

13.3.3.1 This criterion addresses circumstances when the proposed acquirer:

a. is in a position to appoint new persons who will direct the business of the investment services licence holder, and
b. has already identified these new persons who will direct the business and that the proposed acquirer intends to appoint.

13.3.3.2 In contrast, and without prejudice to the on-going fit and proper requirements that apply to persons who currently direct the business of the investment services licence holder under the Act, this criterion does not apply to a proposed acquisition that does not involve the appointment of new persons who will direct the business.

13.3.3.3 If the proposed acquirer intends to appoint a person who is not fit and proper, then the MFSA shall oppose the proposed acquisition.

13.3.4 The Third Assessment Criterion - The Financial Soundness of the Proposed Acquirer

13.3.4.1 The financial soundness of the proposed acquirer can be understood as the capacity of the proposed acquirer to finance the proposed acquisition and to maintain a sound financial structure for the foreseeable future. This capacity should be reflected in the overall aim of the acquisition and the policy of the proposed acquirer regarding the acquisition, but also, – in the case of a change in control, in the forecast financial objectives, consistent with the strategy identified in the business plan.

13.3.4.2 The information required for the assessment of the financial soundness of the proposed acquirer will depend on the legal status of the proposed acquirer: for example, whether it is:

– an entity subject to prudential supervision;
– an entity which is not so subject; or
– an individual.

13.3.4.3 In the case of a change in control, in particular in relation to the type of business pursued and envisaged in the investment services licence holder in which the acquisition is proposed, the extent of the proposed

acquirer's compliance with prudential requirements should also be taken into account. While the objective of this criterion is to assess the financial soundness of the proposed acquirer, the objective of the fourth assessment criterion as described in section 13.2.4 below, is to assess the prospective soundness of the investment services licence holder in which the acquisition is proposed, which presupposes the financial soundness of the proposed acquirer (i.e. its ability to implement the business plan).

13.3.4.4 The MFSA shall also analyse whether the financial mechanisms, put in place by the proposed acquirer to finance the acquisition, or existing financial relationships between the proposed acquirer and the investment services licence holder concerned, could give rise to conflicts of interest that could destabilise the financial structure of the said investment services licence holder.

13.3.4.5 The MFSA shall oppose the proposed acquisition if it concludes, on the basis of its analysis of the information received, that the proposed acquirer is likely to face financial difficulties during the acquisition process or in the foreseeable future.

13.3.5 The Fourth Assessment Criterion – Compliance with prudential requirements

13.3.5.1 Whereas the Third Assessment Criterion aims basically at clarifying whether the financial situation of the proposed acquirer is sound enough to support the proposed acquisition of the investment services licence holder, this criterion requires that the proposed acquisition does not adversely affect the licence holder's compliance with prudential requirements. In particular, effective supervision, information exchange and the clear allocation of responsibilities should not be hindered as a result of the proposed acquisition.

13.3.5.2 In assessing this criterion, the MFSA shall take into consideration not only the objective facts, such as the intended share in the investment services licence holder, the reputation of the proposed acquirer, its financial soundness, and its group structure; but will also look at the proposed acquirer's declared intentions towards the investment services licence holder concerned as expressed in its strategy (business plan). This could be backed by appropriate commitments made by the proposed acquirer to meet prudential requirements under the assessment criteria laid down in this section, provided that the rights of the proposed acquirer under the Act and any regulations and rules issued thereunder are not affected. These commitments could concern, for example, the financial support provided in case of liquidity or solvency problems,

corporate governance issues, the proposed acquirer's future intended shareholding in the licence holder, directions and goals for development etc.

13.3.5.3 The MFSA shall take into account the ability of the licence holder in which the acquisition is being proposed to comply at the time of the acquisition, and to continue to comply thereafter, with all prudential requirements, including capital requirements, liquidity requirements, requirements related to governance arrangements, internal control, risk management, compliance, etc.

13.3.5.4 If the licence holder in which the acquisition is being proposed is part of a group, the group structure shall make it possible to exercise effective supervision, effectively exchange information with different overseas regulatory authorities, and determine the allocation of responsibilities among the MFSA and overseas regulatory authorities.

13.3.5.5 The prudential assessment of the proposed acquirer shall also cover its capacity to support adequate organisation of the investment services licence holder within its new group. Both the investment services licence holder concerned as well as the group should have clear and transparent corporate governance arrangements and adequate organisation, including an effective internal control system and independent control functions (risk management, compliance and internal audit).

13.3.5.6 The group of which the investment services licence holder will become a part of shall be adequately capitalised, and its own funds shall be distributed appropriately within the group according to the level of risk in each part and the requirements of any applicable law.

13.3.5.7 The MFSA shall also consider whether the proposed acquirer will be able to provide the investment services licence holder concerned with the financial support it may need for the type of business pursued by and/or envisaged for it; to provide any new capital that the investment services licence holder may require for future growth in its activities or to implement any other appropriate solution to accommodate the investment services licence holder's needs for additional own funds.

13.3.5.8 This criterion is mainly relevant in cases of change in control at the time of acquisition and on a continuous basis for the foreseeable future. The business plan provided by the proposed acquirer to the MFSA should cover at least a period of three years. On the other hand, in cases of qualifying shareholdings of less than 20%, the applicable information requirements are those set out in Parts B1 of Schedule H.

13.3.5.9 The business plan shall clarify the plans of the proposed acquirer concerning the future activities and organisation of the investment services licence holder in which the acquisition is proposed. This shall also include a description of the proposed group structure. The plan shall also evaluate the financial consequences of the proposed acquisition and include a medium-term forecast.

13.3.5.10 For the purposes of this section:

– "group structure" shall cover the members of the group, including their parent entities and subsidiaries, and intra-group corporate governance procedures (decision-making mechanisms, level of independence, capital management); and

– "to exercise effective supervision" shall mean that the MFSA is not prevented from fulfilling its supervisory duties by the investment services licence holder's close links to other persons. It also means that the MFSA shall not be prevented from fulfilling its monitoring duties by the laws, regulations, or administrative provisions of another country governing a person with close links to the investment services licence holder, or by difficulties in the enforcement of those laws, regulations or administrative provisions.

13.3.6 Fifth Assessment Criterion - Suspicion of Money Laundering or Terrorist Financing

13.3.6.1 In terms of the Prevention of Money Laundering and Funding of Terrorism Regulations, 2008, investment services licence holders are required to report transactions to the Financial Intelligence Analysis Unit and to the MFSA, whenever they suspect or have reasonable grounds to suspect that the funds involved may have been or are the proceeds of criminal activity or are linked to terrorism. Transactions should be reported whenever the circumstances surrounding them would lead a reasonable person to be suspicious. These concepts shall also be used for the prudential assessment of proposed acquirers.

13.3.6.2 If the proposed acquirer is suspected or known to be involved in money laundering operations or attempts, whether or not this is linked directly or indirectly to the proposed acquisition, the "integrity" aspect referred to in the First Assessment Criterion shall be sufficient for the MFSA to oppose the proposed acquisition.

13.3.6.3 Similarly, if the proposed acquirer is "listed" as being a terrorist or if he is suspected or known to finance terrorism, the said "integrity" aspect

shall also be sufficient to allow the MFSA to oppose the proposed acquisition.

13.3.6.4 The MFSA can also oppose the acquisition even when there are no criminal records, or where there are no reasonable grounds to doubt the integrity of the proposed acquirer, if the context of the acquisition would increase the risk of money laundering or terrorist financing. This could be the case, for example, if the proposed acquirer is established in a country or territory considered by the FATF (Financial Action Task Force) to be "non-cooperative", or, more broadly, in a country or territory that has not taken sufficient measures to comply with the FATF-GAFI 40 and 9 recommendations.

13.3.6.5 In addition to information relating to the proposed acquirer collated during the assessment process, the MFSA shall collect information from (for example) court decisions, public prosecutor's files, FATF-GAFI country assessment or typology reports which may offer a comprehensive overview of the most recurrent money laundering or terrorist financing typologies, etc.

13.3.6.6 The money laundering or terrorist financing assessment complements the integrity assessments referred to in the First Assessment Criterion and shall be carried out regardless of the value and other characteristics of the proposed acquisition.

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[i] An ARM is required to perform validation of the transaction reports against the requirements established under Article 26 of MiFIR for: field, format and content of fields in accordance with Table 1 of Annex I to Commission Delegated Regulation (EU) of 28.7.2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities.