

## INVESTMENT SERVICES RULES FOR INVESTMENT SERVICES PROVIDERS

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### PART C: RULES FOR PERSONS EXERCISING EUROPEAN PASSPORT RIGHTS IN MALTA

#### Part C –II: Rules for European Management Companies providing services in Malta

In terms of Article 16 of the UCITS Directive (Directive 85/611/EEC as amended 2009/65/EC) as partially transposed by the Investment Services Act (UCITS Management Company Passport) Regulations, 2011, Undertakings for the Collective Investment in Transferable Securities and Management Companies Regulations, 2004, as amended (hereinafter referred to as “the UCITS Regulations”), a European Management Company may provide cross-border services in Malta either by:

- i.a. establishing a branch in Malta; or
- ii.b. providing services in Malta from its Home Member State under the freedom to provide services.

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The purpose of this Part is to specify which of the Standard Licence Conditions contained in Part B of these Investment Services Rules, are applicable to European Management Companies providing services in Malta in exercise of passport rights.

#### A. European Management Companies providing services in Malta under the Freedom to Provide Services.

The following SLCs set out in Part B of these Rules, apply to European Management Companies providing services in Malta under the freedom to provide services: —

#### Part B: Section 3 Disclosure Requirements for Information to Clients, including Marketing Communications

SLC 3.01	General
SLCs 3.02 – 3.09	Marketing Information and other Information for Retail Clients and Potential Retail Clients

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• ~~B.~~ **European Management Companies Establishing a Branch in Malta.**

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The following SLCs apply to European Management Companies providing cross-border services in Malta through the establishment of a branch:

Organisational Requirements:

1.01 European Management Companies providing services in Malta through the establishment of a branch shall, in so far as its branch operations in Malta are concerned:

- a. establish, implement and maintain decision-making procedures and an organisational structure which clearly and in a documented manner specifies reporting lines and allocates functions and responsibilities;
- b. ensure that the persons which it employs are aware of the procedures which must be followed for the proper discharge of their responsibilities;
- c. establish, implement and maintain adequate internal control mechanisms designed to ensure compliance with its regulatory requirements.
- d. employ personnel with the skills, knowledge and expertise necessary for the proper discharge of responsibilities allocated to them;
- e. maintain adequate and orderly records of their business and internal organisation.

For these purposes, the European Management Companies shall take into account the nature, scale and complexity of their business, and the nature and range of investment services and activities undertaken in the course of that business.

Other Requirements:

<del>Part BIII: Section 2</del>	
<del>Conduct of Business</del>	
<del>SLC 3.02 to 3.12</del> <del>2.01 — 2.02</del>	<del>Criteria for the Identification of Conflicts of Interest</del> <del>General</del>
<del>SLCs 2.03 — 2.12</del>	<del>Client Classification</del>

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<a href="#">SLC 3.16 to 3.19</a>	<a href="#">Duty to <del>a</del>Act in the <del>B</del>best <del>i</del>Interests of <del>the</del>UCITS and their <del>u</del>Unit-<del>h</del>Holders</a>
<a href="#">SLC 3.20 to 3.24</a>	<a href="#">Due <del>D</del>diligence <del>r</del>Requirements</a>
<a href="#">SLC 3.25 to 3.29</a>	<a href="#">Handling of <del>s</del>Subscription and <del>r</del>Redemption <del>o</del>Orders: <del>R</del> - <del>R</del>eporting <del>o</del>Obligations in <del>r</del>Respect of <del>the</del><del>e</del>Execution of <del>s</del>Subscription and <del>r</del>Redemption <del>o</del>Orders</a>
<a href="#">SLC 3.30 to 3.36</a>	<a href="#">Best <del>e</del>Execution – Execution of Decisions to Deal on Behalf of the Managed UCITS<del>s</del></a>
<a href="#">SLC 3.37 to 3.42</a>	<a href="#">Placing <del>o</del>Orders to <del>d</del>Deal on <del>b</del>Behalf of <del>the</del>UCITS with <del>o</del>Other <del>e</del>Entities for <del>e</del>Execution</a>
<a href="#">SLC 3.43 – 3.44</a>	<a href="#">General Principles of Handling of <del>o</del>Orders</a>
<a href="#">SLC 3.45 – 3.49</a>	<a href="#">Aggregation and <del>a</del>Allocation of <del>t</del>Trading <del>o</del>Orders</a>
<a href="#">SLC 3.50 – 3.51</a>	<a href="#">Safeguarding the <del>b</del>Best <del>i</del>Interests of UCITS in <del>i</del>Inducements</a>
<a href="#">SLC 3.18 and 3.19</a> <del>SLCs 2.13 – 2.26</del>	<a href="#">Duty to act in the best interests of the UCITS and their unit-holders</a> <del>Client Profile Requirements</del>
<del>SLCs 2.27 – 2.37</del>	<del>Client Disclosure Requirements</del>
<del>SLCs 2.38 – 2.39</del>	<del>Retail Client Agreement</del>
<del>SLCs 2.40 – 2.53</del>	<del>Client Reporting</del>
<del>SLCs 2.63 – 2.71 (as portfolio managers)</del>	<del>Best Execution Requirements</del>
<del>SLCs 2.72 – 2.81</del>	<del>Client Order Handling Rules</del>
<del>SLCs 2.83 – 2.85</del>	<del>Record Keeping</del>
<del>SLCs 2.86 – 2.93</del>	<del>Safeguarding of client assets</del>
<del>SLCs 2.94 – 2.101</del>	<del>Conflicts of Interests</del>
<del>SLCs 2.102 – 2.105</del>	<del>Staff Dealing</del>
<del>SLCs 2.114 – 2.116</del>	<del>Conditions applicable to the provision of information</del>
<del>SLC 2.117</del>	<del>Complaints Handling</del>

<del>Part B: Section 3 Disclosure Requirements for Information to Clients, including Marketing Communications</del>	
<del>SLC 3.01</del>	<del>General</del>
<del>SLCs 3.02 – 3.09</del>	<del>Marketing Information and other Information for Retail Clients and Potential Retail Clients</del>
<del>SLCs 3.10 – 3.14</del>	<del>Information about Financial Instruments</del>
<del>SLCs 3.15 – 3.21</del>	<del>Disclosure Requirements applicable to Licence Holders holding or controlling Client Assets</del>
<del>SLC 3.22</del>	<del>Information about Costs and Associated Charges</del>
<del>SLC 3.23</del>	<del>Information Drawn up in accordance with Directive 85/611/EEC (“the UCITS Directive”)</del>

With a view to ensuring compliance with the above-mentioned SLCs, European Management Companies should also take into account any relevant Guidance Notes issued by the MFSA from time to time.

**Enforcement**

The attention of European Management Companies providing services in Malta on a cross border basis is drawn to Regulation 4913 of the [UCITS Regulations Investment Services Act \(UCITS Management Company Passport\) Regulations, 2011](#) which lays down MFSA’s powers with respect to the enforcement of, inter alia, the observance of the Rules indicated above by European Management Companies.