

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

CONSULTATION DOCUMENT

CONSULTATION ON THE ALTERNATIVE INVESTMENT FUND RULEBOOK

[MFSA REF.: 07/2013]

26th March 2013

Closing Date: 26th April 2013

Note: The documents circulated by the MFSA for the purpose of consultation are in draft form and consist of proposals. Accordingly, these proposals are not binding and are subject to changes and revisions following representations received from Licence Holders and other involved parties. It is important that persons involved in the consultation bear these considerations in mind.

1. Introduction

Directive 2011/61/EU of the European Parliament and of the Council of 8th June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 also known as the [Alternative Investment Fund Managers Directive](#) ('AIFMD') was published in the Official Journal of the European Union on 1st July 2011.

The AIFMD regulates the activity of alternative investment fund managers and aims at creating a comprehensive and effective regulatory and supervisory framework for Alternative Investment Fund Managers (AIFMs) in the European Union. By 22nd July, 2013 Member States are required to adopt and publish the laws, regulations and administrative provisions necessary to comply with the provisions of the Directive.

2. Proposed Transposition of the AIFMD into Maltese Law

The Authority has to date, issued three consultation documents on the implementation of the AIFMD namely:

2.1 Consultation on the proposed amendments to the Investment Services Act and proposed draft regulations:

On 3rd September 2012, the Authority issued for consultation proposed amendments to the Investment Services Act together with the following draft regulations:

- Investment Services Act (Alternative Investment Fund Manager Passport) Regulations;
- Investment Services Act (Marketing of Alternative Investment Funds) Regulations;
- Investment Services Act (Alternative Investment Fund Manager Third Country) Regulations; and
- Investment Services Act (Alternative Investment Fund Managers) Regulations.

The consultation period ran till 30th September 2012. The Authority evaluated the feedback received from the industry and carried out changes to drafts which had been submitted for consultation. The Regulations have been published in the Government Gazette and are available for download from the Authority's website.

2.2 Consultation on the proposed revisions to the Investment Services Rules for Investment Service Providers:

On 3rd December 2012, the Authority issued for consultation a significantly revised version of the Investment Services Rules for Investment Services Providers. The proposed amendments to the Investment Services Rules for Investment Services Providers seek to provide a consolidated Rule Book applicable to all Investment Services Licence Holders aiming at providing certainty as to which supervisory regime is applicable to each Category of Licence Holders.

The industry was requested to provide feedback on Part BIII which transposes the provisions of the AIFMD in relation to AIFMs and Part BIV which creates a specific section of the Rule Book which will be applicable to custodians of collective investment schemes.

The Authority received submissions from eight members of the financial services industry and is currently evaluating the feedback received.

2.3 Consultation on the Rule Book applicable to *de minimis* Licence Holders

On 22nd March 2013, the Authority issued for consultation the proposed SLCs which will apply to *de minimis* Licence Holders.

Article 3 of the AIFMD lays the foundations for the *de minimis* regime. Member States are given the option to apply stricter rules to these type of AIFM.

The Authority has opted to apply a licencing regime rather than registration to *de minimis* AIFM as it considers that it is in the best interest of fund managers to be licenced particularly when dealing with potential investors.

The consultation is open until the 5th April 2013.

3. Consultation on the proposed Investment Services Rules for Alternative Investment Funds

The attached Investment Services Rules for Alternative Investment Funds is being issued for consultation with the industry. This new Rule Book proposes to provide Maltese/EU AIFMs with a simple regulatory framework which will allow them to establish AIFMD-ready funds for marketing to professional investors in Malta or across the EU. The Rule Book applies to AIFs whether these are externally managed or self-managed.

The following is the proposed structure of the Rule Book:

Part A: The Application Process

Part A to the Investment Services Rules for Alternative Investment Funds contains provisions which:

- Update the definition of “collective investment schemes” and “investment services” in line with the proposed amendments to the Investment Services Act;
- Define the licensable activities for self-managed AIFs;
- Outline the stages and requirements of the application process for an AIF licence, including the licencing time frame; and
- Identify the application documents, which must be submitted including the supplementary documents required for a self–managed AIF.

Part A is further supplemented by:

Schedule 1: The Application Form

Schedule 2: Personal Questionnaire

Schedule 3: Competency Form – Schedule 3 is a new form and it requires detailed information about the qualifications, training and experience of the proposed portfolio managers, risk managers, compliance officers and money laundering reporting officers and investment advisors.

Part B: Standard Licence Conditions

Part B of the Investment Services Rules for Alternative Investment Funds is drafted as follows:

Section 1 - General requirements: Section 1 contains the general requirements which are applicable to AIFs and *inter alia* contains rules on co-operation and communication with the Authority. **Appendix 1** supplements this section with specific rules in relation AIFs having specific characteristics.

Section 2 - Governing body of the AIF: Section 2 details the duties and responsibilities of the AIF's governing body.

Section 3 - Service providers: Section 3 stipulates the rules relating to service providers and sets out the requirements for the most commonly appointed service providers, including the AIFM, fund administrator, custodian, prime broker, auditor and external valuer.

Section 4 - Distribution of income and side letters – Section 4 deals with the distribution of income and the issue of side letters and is further supplemented by the provisions of **Appendix 2** which outlines the requirements applicable to distributions of income by an AIF.

Section 5 - Transparency requirements – Section 5 contains the rules relating to the contents of the constitutional document, offering document and annual report of the AIF, and is supplemented by the provisions of **Appendix 3 and 4**.

Section 6 - Dealings by officials of an AIF – Section 6 regulates dealings by officials/employees of the AIF and seeks to prevent conflicts of interests arising when employees deal on their own account in the AIF.

Section 7 - Marketing of an AIF – Section 7 contains the rules relating to the marketing of the AIF. The target market of an AIF is the professional investor.

Section 8 – Supplementary conditions applicable to self-managed AIFs – The AIFMD provides that where the legal form of the AIF permits internal management and where the

AIF's governing body chooses not to appoint an external AIFM, the AIF is also the AIFM and should therefore comply with all the requirements for AIFMs under the AIFM and should be authorised as such. For this reason, Section 8 outlines all the requirements which must be fulfilled by self-managed AIFs in terms of the AIFMD. These include *inter alia* the permissible activities, financial resources requirements, conditions on operational arrangements, conduct of business rules, and requirements on delegation and sub-delegation. Section 8 is further supplemented by **Appendix 7** which deals with remuneration and **Appendix 8** which deals with transparency obligations for self-managed AIFs.

4. Other Issues – ESMA Guidelines on Remuneration

On 11th February 2013, ESMA published final Guidelines sound remuneration policies under the AIFMD [ESMA 2013/201] which are intended to apply to AIFM. The Authority is currently considering the Guidelines with a view to determine the impact which these may have on the local industry and the manner in which these may be implemented. The Authority will be issuing separate note on the implementation of these Guidelines.

5. Contacts

Interested parties are to send their comments in writing by not later than **Friday 26th April 2013. Any comments and feedback are to be addressed to Mr. Christopher Buttigieg – Deputy Director - Securities and Markets Supervision Unit by e-mail on su@mfsa.com.mt and rdu@mfsa.com.mt .**

Any queries or requests for clarifications in respect of the above should be addressed to: Dr. Isabelle Agius, Regulatory Development Unit Tel: 25485359 or by e-mail on iagius@mfsa.com.mt or to Dr. Monica Nally Hennessy, Securities and Markets Supervision Unit Tel: 25485232 or by e-mail on mnallyhennessy@mfsa.com.mt

**Communications Unit
Malta Financial Services Authority
MFSA Ref: 07-2013
26th March 2013**

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES
RULES**

FOR

**ALTERNATIVE INVESTMENT
FUNDS**

Issued

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTMENT FUNDS

INTRODUCTION

These Investment Services Rules have been issued in terms of Article 6 of the Investment Services Act, 1994 and set out MFSA's regulatory regime applicable to Collective Investment Schemes set up as Alternative Investment Funds.

These Rules transpose and implement:

- i. Certain provisions of the Directive of the European Parliament and of the Council of 8th June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulation (EC) No 1060/2009 and (EU) No 1095/2010 collective investment in transferable securities (UCITS Directive);
- ii. Certain provisions of the Commission Delegated Regulation (EU) 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;
- iii. Certain provisions of the Commission Implementing Regulation (EU) establishing the procedure for AIFMD which choose to opt-in under Directive 2011/61/EU of the European Parliament and of the Council;

These Rules also implement the various Guidelines and Recommendations issued by ESMA at Level III.

These Rules are divided in the following sections:

Part A: The Application Process

This Part provides:

- i. a detailed description of the Application Process and includes as Schedules, the relevant Application Documents for an AIF Licence;
- ii. an outline of the licensing requirements applicable to Alternative Investment Funds in terms of the Investment Services Act, 1994;
- iii. a non-exhaustive list of documents to be submitted by an applicant in support of an application for a Collective Investment Scheme Licence;
- iv. the requirements applicable for the licensing of additional sub-funds within an existing umbrella Scheme; and

- v. the requirements applicable for the approval of additional classes of shares of an existing Scheme (which classes of shares do not constitute one or more sub-funds).

Part B: Standard Licence Conditions

Part B outlines the SLCs applicable to all AIFs. In particular Sections 1 to 7 of Part B are applicable to all AIFs whether these are third party managed or self-managed. Section 8 of Part B provides the additional conditions which are applicable exclusively to self-managed AIFs.

Other Investment Services Rules issued by the MFSA in terms of the Investment Services Act, 1994

The MFSA has also issued:

i. Investment Services Rules for Investment Services Providers.

The Investment Services Rules for Investment Services Providers set out MFSA's regulatory regime applicable to Investment Services Licence Holders, including MiFID Firms, UCITS Management Companies, Alternative Investment Fund Managers (AIFMs) and Custodians. They also include the Rules which are applicable to European Investment Firms establishing a Branch in Malta and to European Management Companies which provide services in Malta, on a cross border basis in terms of the passporting provisions set out in the MIFID, UCITS Directive and AIFMD.

ii. Investment Services Rules for Recognised Persons and Private Retail Collective Investment Schemes.

These Investment Services Rules set out MFSA's regulatory regime applicable to Recognised Persons, namely Recognised Fund Administrators, Recognised Private Collective Investment Schemes and Recognised Incorporated Cell Companies.

iii. Investment Services Rules for Retail Collective Investment Schemes

The Investment Services Rules for Retail Collective Investment Schemes set out the MFSA's regulatory regime applicable to Retail Collective Investment Schemes. These Rules include the Standard Licence Conditions applicable to Maltese Non-UCITS and Maltese UCITS Collective Investment Schemes respectively.

iv. Investment Services Rules for Professional Investor Funds.

These Investment Services Rules set out MFSA's regulatory regime applicable to Collective Investment Schemes set up as Professional Investor Funds and provide for three principal classes of Professional Investor Funds:

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

- PIFs promoted to Experienced Investors (or Experienced Investor Funds);
- PIFs promoted to Qualifying Investors (or Qualifying Investor Funds); and
- PIFs promoted to Extraordinary Investors (or Extraordinary Investor Funds).

TABLE OF CONTENTS

Part A: The Application Process

1. Investment Services Act, 1994
 - 1.1 Regulation of Alternative Investment Funds
 - 1.2 Definition of a Collective Investment Scheme
 - 1.3 Definition of an Alternative Investment Fund
 2. Requirement for a Collective Investment Scheme Licence for Alternative Investment Funds
 - 2.1 General Information
 - 2.2 Licenceable activities for self-managed AIFs
 3. Criteria which MFSA will apply in considering an application for a Licence
 4. Standard Licence Conditions
 5. Listing on the Malta Stock Exchange
 6. Applications for an AIF Licence
 - 6.1 The Application Process
 - 6.2 Application Documents
 - 6.3 Licencing of additional sub-funds of an existing AIF
 - 6.4 Applications for the approval of additional classes of shares of an existing AIF
 7. Marketing of AIFs
 - 7.1 Notification Procedure
 - 7.2 Notification Requirements
 8. Fees
- Schedule 1: Application for a Licence to operate as an AIF
Schedule 2: Personal Questionnaire
Schedule 3: Competency Form

Part B: Standard Licence Conditions applicable to AIFs

- Appendix 1 Supplementary Licence Conditions applicable to AIFs adopting different structure
- Appendix 2 Distribution of Income
- Appendix 3 Contents of the Constitutional Documents
- Appendix 4 Contents of the Offering Documents
- Appendix 5 Results of Stress Tests – Risk Management Function
- Appendix 6 Results of Stress Tests – Liquidity Management Function
- Appendix 7 Remuneration Policy
- Appendix 8 Transparency Requirements
- Annex I AIF Specific Information pursuant to Article 24(1) AIFMD
- Annex II AIF Specific Information to be made available to the Competent Authority pursuant to Article 24(2) AIFMD
- Annex III AIF Specific Information to be made available to the Competent Authority pursuant to Article 24(4) AIFMD

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTMENT FUNDS

PART A: THE APPLICATION PROCESS

1. INVESTMENT SERVICES ACT, 1994 (“THE ACT”)

1.1 Regulation of Alternative Investment Funds (“AIFs”)

The Investment Services Act, 1994 (“the Act”) provides the statutory basis for regulating collective investment schemes constituted in or operating in or from Malta. AIFs are a special class of collective investment schemes which fall within the provisions of the Act. 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 Definition of a Collective Investment Scheme

As indicated above, AIFs are a special class of collective investment scheme. The Act defines “Collective Investment Schemes” as any scheme or arrangement which has as its object, or as one of its objects, the collective investment of capital acquired by means of an offer of units for subscription, sale or exchange and which has the following characteristics:

- a. the scheme or arrangement operates according to the principle of risk spreading; and either
- b. the contributions of the participants and the profits or income out of which payments are to be made to them are pooled; or
- c. at the request of the holders, units are or are to be repurchased or redeemed out of the assets of the scheme or arrangement, continuously or in blocks at short intervals; or
- d. units are, or have been, or will be issued continuously or in blocks at short intervals.

Provided that the Competent Authority may issue a licence with respect to a scheme or arrangement whose units are to be offered for subscription, sale or exchange to:

- i. Licence Holders; or
- ii. persons whose ordinary business involves the acquisition and disposal of instruments of the same kind as the instrument or instruments in which the scheme or arrangement invests; or

- iii. persons whose ordinary business involves the acquisition and disposal of property of the same kind as the property, or a substantial part of the property, in which the scheme or arrangement invests; or
- iv. persons who by regulation under the Act are exempt from the requirement of an Investment Services Licence provided that the scheme or arrangement invests in instruments or property in respect of which such persons are exempt.

Notwithstanding that a scheme or arrangement whose units are to be offered for subscription, sale or exchange to persons referred to in paragraphs (i), (ii), (iii) and (iv) of the proviso does not have the characteristic listed in paragraph (a), and in any such case, such scheme or arrangement shall be deemed to be a collective investment scheme:

Provided further that an alternative investment fund that does not have the characteristic listed in paragraph (a) shall be deemed to be a collective investment scheme.

1.3 Definition of “AIF”

The Act also defines an “AIF” as “a collective investment scheme, including subfunds thereof, which raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors, and which does not qualify as a UCITS Scheme in terms of the UCITS Directive.”

In terms of the AIFMD the following undertakings shall not be considered as AIFs:

- (i) A holding company;
- (ii) An institution for occupational retirement provision which is covered by Directive 2003/41/EC,
- (iii) Employee participation schemes or employee savings schemes;
- (iv) Securitisation special purpose vehicles.

2. REQUIREMENT FOR A COLLECTIVE INVESTMENT SCHEME LICENCE FOR ALTERNATIVE INVESTOR FUNDS

2.1. General Information

Article 4 of the Act states:

- “4 (1) *Subject to the provisions of subarticle (3), no Collective Investment Scheme shall issue or create any units or carry on any activity in or from within Malta unless there is in respect of it a valid Collective Investment Scheme licence.*
- (2) *Subject to the provisions of subarticle (3), no Collective Investment Scheme formed in accordance with or existing under the laws of Malta shall issue or create any units or carry on any activity in or from within a country, territory or other place outside Malta unless there is in respect of it a valid Collective Investment Scheme licence.*
- (3) *No Collective Investment Scheme shall be precluded by the provisions of subarticle (1) from issuing or creating such units or from taking such steps as may be necessary for the incorporation or, as the case may be, the establishment of the scheme or from taking such steps as may be necessary for securing the authorisation of the scheme by the competent authority.”*

Subarticle 4(1) makes it illegal for any Scheme, including a Scheme set up as an AIF, to operate in or from Malta without having a licence.

Subarticle 4(2) makes it illegal for a Scheme including an AIF, to use Malta as a base without having a licence.

Subarticle 4(3) permits the initial steps in establishing a Scheme including an AIF, to be taken before a Licence has been obtained but the Scheme may not deal with investors before it is licensed.

Under Article 12(1) of the Act, certain exemptions have been granted from the requirement to obtain a Collective Investment Scheme licence. For further details, reference should be made to the Investment Services Act (Exemption) Regulations, the Investment Services Act (Recognition of Private Collective Investment Schemes) Regulations, the Investment Services Act (Marketing of Alternative Investment Funds) Regulations and the Investment Services Act (Alternative Investment Fund Manager Third Country) Regulations.

2.2. Licensable activities for Self-Managed AIFs

A self-managed AIF may only be authorised to provide the licensable activities which consist in the internal management of the AIF as provided hereunder:

- (a) Investment management functions which the self-managed AIF shall at least perform:
- [i] Portfolio management;
 - [ii] Risk management.
- (b) Other functions that a self-managed AIF 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 self-managed AIF, 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.

Self-managed AIFs 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 (Marketing of AIFs) Regulations.

3. CRITERIA WHICH MFSA WILL APPLY IN CONSIDERING AN APPLICATION FOR A LICENCE

The MFSA may only grant a Collective Investment Scheme licence to an AIF if it is satisfied to the extent that it can be, that the AIF will comply in all respects with the provisions of the Act, the relevant Regulations and these Rules and that its directors and officers, or in the case of a unit trust/common contractual fund or limited partnership, its Trustee(s) or General Partner(s) respectively, are fit and proper persons to carry out the functions required of them in connection with the AIF.

In accordance with Article 6(3) of the Act, when considering whether to grant or refuse a Licence, the MFSA will, in particular, have regard to:

- a. the protection of investors and the general public;
- b. the protection to the reputation of Malta taking into account Malta's international commitments;
- c. the promotion of competition and choice; and
- d. the reputation and suitability of the applicant and all other parties connected with the AIF.

The MFSA will consider the nature of the AIF and the nature of investors to whom it will be marketed. It will also look into the experience and track record of all parties who will be involved with the AIF. Such persons should be of good standing and should be competent. The MFSA has the right to refuse a Licence if it does not approve a party involved with the AIF.

Although the Act provides for the licensing of many different kinds of Schemes, the MFSA applies the same standards relating to the "fit and proper" status of the Applicant and its Service Providers. The "fit and proper" test is one which an Applicant and a Licence Holder must satisfy on a continuing basis. Each case is assessed on its own merits and on the basis of the relevant circumstances. The onus of proving that it meets the required standards on an on-going basis is on the Applicant and/or licensed AIF as the case may be. The MFSA's approach is cumulative. It may decide that an AIF has failed the test on the basis of considering various circumstances, each of which on its own may or would not lead to that conclusion. An open and honest relationship with the MFSA is essential. When arriving at its decision as to whether an Applicant has met the required standards, the MFSA will take account both of what is said and of what is not said (for example in respect of a person's criminal record) that ought to have been disclosed. It should be noted that it is an offence to provide inaccurate, false or misleading information to the MFSA.

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

- a. integrity;
- b. competence; and
- c. solvency.

Integrity involves the AIF and its officers and its Service Providers acting honestly and in a trustworthy fashion.

Competence means that the persons responsible for running the AIF 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.

Solvency means ensuring that proper financial controls and management of liquidity and capital is applied.

4. STANDARD LICENCE CONDITIONS

The MFSA aims to provide a regulatory framework which is both robust and simultaneously adaptable to allow AIFMs and promoters to innovate and to develop new products to meet the changing needs of the market.

The Standard Licence Conditions prescribed in sections 1 - 7 of Part B of these Rules are applicable both to externally managed AIFs as well as to self-managed AIFs. The additional conditions prescribed in section 8 of Part B of these rules apply exclusively to self-managed AIFs.

5. LISTING ON THE MALTA STOCK EXCHANGE

An AIF that has been granted or has applied for a Collective Investment Scheme licence may apply for admissibility to listing with the Listing Authority (the MFSA is the Listing Authority in terms of the Financial Market Act, 1990).

Where an application for admissibility to listing has been submitted concurrently with an application for a Collective Investment Scheme licence, the documents submitted as part of the application for a Collective Investment Scheme licence need not be resubmitted as part of the application for admissibility to listing. Furthermore – provided that during the application for a Collective Investment Scheme licence, the MFSA is informed of the AIF's intention to apply for admissibility to listing – once these documents have been approved by the MFSA, they will be deemed to be approved in relation to both the application for a Collective Investment Scheme licence as well as in relation to the application for admissibility to listing.

6. APPLICATIONS FOR AN AIF LICENCE

6.1. *The Application Process*

When submitting an application for a Collective Investment Scheme licence under the Act, the AIF should ensure that the appropriate Application Form (Schedule 1 to this Part refers) is completed.

The application requirements and the ongoing requirements, to which licences are subject, are summarised below.

There are three phases - as follows:-

Phase One - Preparatory

- a. MFSA recommends that the promoters arrange to meet representatives of the MFSA to describe their proposal. This preliminary meeting should take place in advance of submitting an Application for a licence. Although guidance will be given on the relevant regulatory requirements and on the completion of the Application documents, responsibility for the formulation of the proposal and the completion of the Application documents will remain with the Applicant. It is essential that the Applicant provides a comprehensive description of the proposed activity at the beginning of Phase One.
- b. After preliminary discussions, the promoters should submit a draft (rather than a Final) Application Form, together with supporting documents as specified in the Application Form itself.
- c. The draft Application and the supporting documentation will be reviewed and comments provided to the Applicant.
- d. The MFSA may ask for more information and may make such further enquiries as it considers necessary. The ‘fit and proper’ checks – which entail following up the information which has been provided in the Application documents – begin at this stage.
- e. The MFSA will consider the nature of the proposed AIF and a decision will be made regarding which “Standard Licence Conditions” (SLCs) should apply. The licence conditions are very important since they represent the ongoing requirements to which the Applicant will be subject, if and when licensed.

Phase Two – Pre-Licensing

- f. Once the review of the draft Application and supporting documents has been completed, the Authority, if satisfied with the draft documentation provided, will issue its ‘in principle’ approval for the issue of a licence.
- g. At this stage, the Applicant will be required to finalise any outstanding matters. Submission 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, should be resolved as part of Phase Two.
- h. A licence will be issued as soon as all pre-licensing issues are resolved.

Phase Three – Post-Licensing/Pre-Commencement of Business

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

Phase Three – Post-Licensing/Pre-Commencement of Business – Self-Managed AIFs

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

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 a self-managed AIF 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.

A self-managed AIF may start providing an investment service 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 SLCs 8.59 – 8.67 of Part B of these Rules;
- (b) The memorandum and articles of association of the AIF;
- (c) Information on the arrangements made for the appointment of the custodian;
- (d) Any additional information referred to in SLC 8.68 of Part B of these Rules.

6.2. Application Documents

An applicant for an AIF Licence whether externally managed or self-managed is ordinarily required to submit the documents listed hereunder. The MFSA reserves the right to request such additional information as it may require when processing an application for a licence.

6.2.1. Investment Companies

- i. Application Form (Schedule 1 to this Part);
- ii. Draft version of the Offering Document/ Marketing Document;
- iii. Draft version of the Memorandum & Articles of Association of the AIF;
- iv. Draft Board of Directors' resolution:
 - confirming the Directors' intention to apply for a licence in favour of the AIF;
 - identifying the person(s) responsible for signing the application documents;
 - identifying the person(s) responsible for acting as a point of liaison with the MFSA;
 - identifying the person(s) responsible on behalf of the Board for the Compliance obligations of the AIF;
 - identifying the person(s) responsible on behalf of the Board for the AML obligations of the AIF;
 - approving and assuming responsibility for the contents of the Offering Document/ Marketing Document;
- v. Application Fee;
- vi. Directors of the AIF:
 - where Individuals
 - Personal Questionnaires of the proposed Director(s);
 - where Corporate, regulated in a recognised jurisdiction
 - details of the regulatory status of the proposed Corporate Director(s);
 - name of the individual that will represent the Corporate Director on the Board of Directors of the AIF;
- vii. Founder Shareholder(s) – that hold more than 10% of the voting shares:
 - where Individuals
 - Personal Questionnaire of the proposed Founder Shareholder(s);
 - where Corporate, regulated in a recognised jurisdiction
 - details of the regulatory status of the proposed Corporate Founder Shareholder(s);

where Corporate, not regulated in a recognised jurisdiction

- Personal Questionnaire of the Directors of the proposed Corporate Founder Shareholder(s);
- Personal Questionnaire of the qualifying beneficial owners of the proposed Corporate Founder Shareholder(s); and
- last three years' audited financial statements of the proposed Corporate Founder Shareholder(s).

viii. Portfolio Manager, Risk Manager, Compliance/ Money Laundering Reporting Officer, and Investment Advisor:

Personal Questionnaire of the persons proposed to carry out these functions (excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.

6.2.2. Limited Partnerships

- i. Application Form (Schedule 1 to this Part);
- ii. Draft version of the Offering Document/ Marketing Document;
- iii. Draft version of the Deed of Partnership;
- iv. Resolution of the General Partner(s):
 - confirming its/ their intention to apply for a licence in favour of the AIF;
 - identifying the person(s) responsible for signing the application documents;
 - identifying the person(s) responsible for acting as a point of liaison with the MFSA;
 - identifying the person(s) responsible on behalf of the General Partner(s) for the Compliance obligations of the AIF;
 - identifying the person(s) responsible on behalf of the General Partner(s) for the AML obligations of the AIF; and
 - approving and assuming responsibility for the contents of the Offering Document/ Marketing Document.
- v. Application Fee;
- vi. General Partner(s) of the AIF:
 - where Individuals
 - Personal Questionnaire of the proposed General Partner(s);

where Corporate, regulated in a recognised jurisdiction

- details of the regulatory status of the proposed Corporate General Partner(s);
- the name of the individual who will represent the Corporate General Partner(s);

where Corporate, not regulated in a recognised jurisdiction

- Personal Questionnaire of the Directors of the proposed Corporate General Partner(s);
 - Personal Questionnaire of the qualifying beneficial owners of the proposed Corporate General Partner(s);
 - the name of the individual who will represent the Corporate General Partner(s); and
 - last three years' audited financial statements of the proposed Corporate General Partner(s).
- vii. Portfolio Manager, Risk Manager, Compliance/ Money Laundering Reporting Officer, and Investment Advisor:
Personal Questionnaire of the persons proposed to carry out these functions (excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.

6.2.3. Unit Trust/ Common Contractual Fund

- i. Application Form (Schedule 1 to this Part);
- ii. Draft version of the Offering Document/ Marketing Document;
- iii. Draft version of the Trust Deed/ Fund Rules;
- iv. A resolution of the proposed AIFM:
 - confirming the AIFM's intention to apply for a licence in favour of the AIF;
 - identifying the person(s) responsible for signing the application documents;
 - identifying the person(s) responsible for acting as a point of liaison with the MFSA;
 - identifying the person(s) responsible on behalf of the AIFM for the Compliance obligations of the AIF;
 - identifying the person(s) responsible on behalf of the AIFM for the AML obligations of the AIF; and
 - approving and assuming responsibility for the contents of the Offering Document;
- v. Application Fee;
- vi. Details of the regulatory status of the proposed Trustee.
- vii. Portfolio Manager, Risk Manager, Compliance/ Money Laundering Reporting Officer, and Investment Advisor:

Personal Questionnaire of the persons proposed to carry out these functions (excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.

6.2.4. Incorporated Cell Companies (ICCs) – (Investment Companies set up in terms of Legal Notice 559 of 2010)

- i. Application Form (Schedule 1 to this Part);
- ii. Draft version of the Offering Document/ Marketing Document;
- iii. Draft version of the Memorandum & Articles of Association of the AIF;
- iv. Draft Board of Directors' resolution:
 - confirming the Directors' intention to apply for a licence in favour of the AIF as an Incorporated Cell Company;
 - identifying the person(s) responsible for signing the application documents;
 - identifying the person(s) responsible for acting as a point of liaison with the MFSA;
 - identifying the person(s) responsible on behalf of the Board for the Compliance obligations of the AIF;
 - identifying the person(s) responsible on behalf of the Board for the AML obligations of the AIF;
 - approving and assuming responsibility for the contents of the Offering Document/ Marketing Document;
- v. Application Fee;
- vi. Directors of the AIF:
 - where Individuals
 - Personal Questionnaires of the proposed Director(s);
 - where Corporate, regulated in a recognised jurisdiction
 - details of the regulatory status of the proposed Corporate Director(s);
 - name of the individual that will represent the Corporate Director on the Board of Directors of the AIF;
- vii. Founder Shareholder(s) – that hold more than 10% of the voting shares:
 - where Individuals
 - Personal Questionnaire of the proposed Founder Shareholder(s);
 - where Corporate, regulated in a recognised jurisdiction
 - details of the regulatory status of the proposed Corporate Founder Shareholder(s);

where Corporate, not regulated in a recognised jurisdiction

- Personal Questionnaire of the Directors of the proposed Corporate Founder Shareholder(s);
 - Personal Questionnaire of the qualifying beneficial owners of the proposed Corporate Founder Shareholder(s); and
 - last three years' audited financial statements of the proposed Corporate Founder Shareholder(s).
- viii. Portfolio Manager, Risk Manager, Compliance/ Money Laundering Reporting Officer, and Investment Advisor:
Personal questionnaire of the persons proposed to carry out these functions (excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.

6.2.5. *Incorporated Cells (ICs) (Investment Companies set up in terms of Legal Notice 559 of 2010)*

- i. Application Form (Schedule 1 to this Part);
- ii. Draft version of the Offering Document/ Marketing Document;
- iii. Draft version of the Memorandum & Articles of Association of the AIF;
- iv. Draft Board of Directors' resolution:
 - confirming the Directors' intention to apply for a licence in favour of the AIF to operate as, an incorporated cell of the SICAV Incorporated Cell Company (SICAV ICC) or incorporated cell of the Recognised Incorporated Cell Company (RICC);
 - identifying the person(s) responsible for signing the application documents;
 - identifying the person(s) responsible for acting as a point of liaison with the MFSA;
 - identifying the person(s) responsible on behalf of the Board for the Compliance obligations of the AIF;
 - identifying the person(s) responsible on behalf of the Board for the AML obligations of the AIF;
 - approving and assuming responsibility for the contents of the Offering Document/ Marketing Document;
- v. A copy of the Resolution passed by the Board of Directors of the SICAV ICC (umbrella fund) or the RICC which:
 - Approves the name of the incorporated cell being established;
 - Approves the terms of the memorandum and articles of association of the incorporated cell and resolves that the said memorandum and articles of association of the incorporated cell are to be entered into by the incorporated cell company; and

- Authorises, if applicable, the subscription by the incorporated cell company of a share or shares in the incorporated cell.

- vi. Application Fee;

- vii. Directors of the AIF:
 - where Individuals
 - Personal Questionnaires of the proposed Director(s);

 - where Corporate, regulated in a recognised jurisdiction
 - details of the regulatory status of the proposed Corporate Director(s);
 - name of the individual that will represent the Corporate Director on the Board of Directors of the AIF;

- viii. Founder Shareholder(s) – that hold more than 10% of the voting shares:
 - where Individuals
 - Personal Questionnaire of the proposed Founder Shareholder(s);

 - where Corporate, regulated in a recognised jurisdiction
 - details of the regulatory status of the proposed Corporate Founder Shareholder(s);

 - where Corporate, not regulated in a recognised jurisdiction
 - Personal Questionnaire of the Directors of the proposed Corporate Founder Shareholder(s);
 - Personal Questionnaire of the qualifying beneficial owners of the proposed Corporate Founder Shareholder(s); and
 - last three years' audited financial statements of the proposed Corporate Founder Shareholder(s).

- ix. Portfolio Manager, Risk Manager, Compliance/ Money Laundering Reporting Officer, and Investment Advisor:
Personal Questionnaire of the persons proposed to carry out these functions (excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.

6.2.6. Supplementary Application Documents – Self-Managed AIF

- i. Personal Questionnaire and detailed Curriculum Vitae of the members of the Investment Committee/ Portfolio Manager;
- ii. Terms of reference regulating the procedures of the Investment Committee;
- iii. Confirmation from the Portfolio Manager(s) (as applicable) that he/she/they will:

- a) operate in accordance with the investment objective and policy described in the AIF's Offering Document in general and the investment guidelines issued by the investment committee in particular;
 - b) report to the Investment Committee on a regular basis any transactions effected on behalf of the AIF; and
 - c) provide to the Investment Committee, any information as the Investment Committee may require from time to time;
- iv. Confirmation from the Portfolio Manager(s)/ Investment Committee that they have appropriate resources available to them to ensure on-going access to the market information which they would need to take account of in making investment management decisions.

6.3. *Licensing of Additional Sub-Funds of an Existing AIF*

A licensed AIF constituted in the form of an umbrella fund (i.e. with sub-funds) wishing to establish additional sub-funds, is ordinarily required to submit the following documents:

- i. formal notification to the MFSA of its intention to apply for a licence in favour of the sub-fund;
- ii. a confirmation from the Directors, General Partner or the AIFM as applicable signifying their intention to apply for a licence in favour of the sub-fund;
- iii. a final draft of the revised Offering Document/ Marketing Document/ Offering Supplement (as applicable);
- iv. the appropriate application fee (refer to Section 7 below); and
- v. a draft copy of the approval by the AIF's proposed Directors, General Partner(s) or the AIFM (as applicable) of the revised Offering Document/ Marketing Document/ Offering Supplement (as applicable).

6.4. *Applications for the approval of additional classes of shares of an existing AIF*

A licensed AIF constituted in the form of an umbrella (i.e. with sub-funds) or multi-class (i.e. without sub-funds) wishing to issue an additional class of shares/ units (which shall not constitute a distinct sub-fund of the AIF) is ordinarily required to submit the following documents:

- i. formal notification to the MFSA of its intention to issue additional classes of shares/ units;
- ii. a final draft of the revised Offering Document/ Marketing Document;
- iii. a draft copy of the approval of the AIF's proposed Directors, General Partner(s) or the AIFM – as applicable – of the Offering Document/ Marketing Document; and
- iv. a confirmation from the Directors, General Partner(s) or the AIFM (as applicable) signifying their intention to issue additional classes of shares/ units.

The issue of additional classes of shares/ units within an existing AIF – so long as the additional classes of shares/ units do not constitute a distinct sub-fund of the AIF – is not subject to any application/ supervisory fees.

7. MARKETING OF AIFs

7.1. Notification Procedure

This section should be read in conjunction with the Investment Services Act (Marketing of AIFs) Regulations. It aims at providing an overview of the requirements applicable to self-managed Maltese AIFs wishing to market their units in another Member State or EEA State in terms of Directive 2011/61/EU.

Marketing of a Maltese AIF having an external AIFM is regulated by the provisions of the Investment Services Act (Marketing of AIFs) Regulations. Alternatively, an AIFM shall refer to the Investment Services Act (Alternative Investment Fund Managers Passport) Regulations with regards to the provision of 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.

On the other hand, a self-managed or “internally managed” AIF licenced in terms of the Act may market to professional investors its units or shares in another Member State or EEA State provided that prior to commencement of marketing the conditions prescribed in Regulation 4 of the Investment Services Act (Marketing of AIFs) Regulations have been complied with as further described hereunder.

7.2. Notification Requirements

A self-managed Maltese AIF may market its units or shares to professional investors in a Member State or EEA State other than Malta provided that prior to commencement of its marketing in a Member State or EEA State, the conditions prescribed hereunder are met.

A self-managed AIF shall submit to the MFSA a notification which shall comprise the documentation and information prescribed hereunder:

- a) a notification letter, including a programme of operations concerning the self-managed AIF;
- b) the AIF’s prospectus or equivalent rules or instruments of incorporation;
- c) identification of the custodian of the AIF;
- d) a description of, or any information on, the AIF available to investors;
- e) information on where the master AIF is established if the Maltese AIF is a feeder AIF;
- f) any additional information concerning the disclosure obligations prescribed in Section 8 of Part B of these Rules;
- g) an indication of the Member State or EEA State in which the self-managed AIF intends to market its units or shares;
- h) information about arrangements made for the marketing of the self-managed AIF and, where relevant, information on the arrangements established to prevent units or

shares of the AIF from being marketed to retail investors, including in the case where the AIF relies on activities of independent entities to provide investment services

The MFSA commits itself, by no later than twenty working days after the date of receipt of a complete notification file transmit such file to the European regulatory authority of the Member State or EEA State where the self-managed AIF intends marketing its units or shares. The MFSA will also enclose a statement to the effect that the self-managed AIF can adopt a particular investment strategy:

The MFSA will transmit the complete notification file only if the self-managed AIF complies with and will continue to comply with the provisions of the AIFM Directive.

Upon transmission of the notification file, the MFSA will, without delay, notify the Maltese AIF thereof and the latter may start marketing its units or shares in the host Member State or EEA State as from the date of such notification.

8. FEES

The Application Fee is payable on submission of the application for an AIF Licence and is not refundable. Licensed AIFs are required to pay a Supervisory Fee on the date the Licence is granted and then annually thereafter within seven business days from the anniversary of the date when the licence was granted. A European AIFM marketing shares or units of a European AIF in Malta is required to pay a notification fee and a supervisory fee payable annually within seven business days.

The applicable fees payable in terms of the Investment Services Act (Licence and other Fees) Regulations are as follows:

	Application Fee	Annual Supervisory Fee
	€	€
AIF	2,000	2,500
Sub-Funds (Fee is applicable per sub-fund up to 15 sub-funds)	450	400
Sub-Funds (Fee is applicable per sub-fund for 16 sub-funds and over)	250	150
Sub-funds in the form of ICCs	2,000	2,500

	Notification Fee	Annual Supervisory Fee
	€	€
European AIFM marketing the units or shares of a European AIF in Malta	2,000	2,500
Sub-Funds (Fee is applicable per sub-fund up to 15 sub-funds)	450	400
Sub-Funds (Fee is applicable per sub-fund for 16 sub-funds and over)	250	150

The Fees are subject to alteration by Regulations.

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES RULES FOR
ALTERNATIVE INVESTMENT FUNDS**

Schedule 1

**Application for a Licence to operate as an
Alternative Investment Fund**

Name of Applicant:

[Redacted]

This application is:

[Redacted]

Date submitted:

[Redacted]

Issued:

Important Information

Important Information concerning Applications for a Licence to operate as an Alternative Investment Fund

- a) Part A of the Investment Services Rules for Alternative Investment Funds should be read carefully before this Application form is completed.
- b) The Authority is required by law to determine applications for Self-Managed Alternative Investment Funds within three months from receipt of a properly completed application including the relevant documentation. However the Authority aims to process applications and take decisions about applications as soon as possible. The Authority may prolong this period for up to three additional months, where it considers necessary due to specific circumstances of the case and after having notified the Applicant accordingly.
- c) Applicants should specify on the front page whether the Application is Draft or Final. In this regard, an Application Pack should be as comprehensive as possible and should be submitted complete and not in a piecemeal fashion. The Application Form should be accompanied by the appropriate fee and all the relevant documents for the processing of the respective application to commence. In the instance where Application documents are submitted in a piecemeal fashion or are incomplete, the processing of an application will not start and will be delayed until receipt of all the relevant documents and fees concerned. An Application is deemed to have been officially submitted once a full application pack (i.e. the Application Form and all relevant supporting documentation) together with the relevant application fee is submitted to the MFSA.
- d) If a licence is granted, its terms will depend (inter alia) upon all the matters and circumstances discussed as part of the Application process. It is therefore essential that all pertinent matters are brought to the attention of the MFSA to enable the Authority to form a complete and thorough understanding of the Applicant and its proposal.
- e) All questions should be answered. Preferably, replies should not go beyond the space provided for this purpose. In case of detailed explanations, separate sheets should be used. If the Applicant believes that a question does not apply, the response should be "N/A". NONE OF THE QUESTIONS ARE TO BE LEFT UNANSWERED.
- f) Responsibility for the submission of all relevant information rests with the Applicant. Timely responses from Applicants are expected. Undue and unjustifiably lengthy delays in the submission of responses from applicants may require the re-submission of updated documents.
- g) The provision of false, misleading or inaccurate information or omission of provision of material information may prejudice the status of the application and may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Investment Services Act, 1994.
- h) If, after the Application has been submitted, the Applicant becomes aware that the information submitted has changed or if the Applicant becomes aware of any material fact that affects the information submitted, the Applicant must inform the MFSA immediately.
- i) If the proposal changes significantly and materially during the Application process, then the processing time may be lengthier than in normal circumstances.
- j) Draft Application Forms and supporting documents are to be submitted unsigned. In due course – when the draft has been reviewed and amended as appropriate – the Final Application Form and supporting documents bearing original signatures should be submitted. The Final Application will take into consideration all comments and changes agreed between MFSA and the Applicant during the Application review process.
- k) The worksheets are password protected and all cells are locked except for the "yellow" cells which are write-enabled. This means that the Applicant is allowed to insert, delete or amend "yellow" cells only.
- l) Section 1 - Form 2 is to be submitted by Applicants intending to establish an Incorporated Cell. These Incorporated Cells will be treated as independent AIFs in their own right, requiring to be licenced individually. Form 2 must be signed by the Directors of the Incorporated Cell.
- m) Hard copies of Applications and supporting documents (refer to Annex 1) are to be submitted in either English or Maltese.

- n) Any supporting documents submitted as part of the Application Pack which are not either in Maltese or in English should be translated into one of these languages before being submitted to the Authority.
- o) An Excel format of the Application Form is available from MFSA's web site (www.mfsa.com.mt). Applicants are encouraged to complete the Application Form electronically.
- p) The fee structure which is current at the time of writing is shown below. Fees are not refundable. Applicants are advised to check that the fee structure below is the current at the time of submitting the Application.

	Application Fee	Annual Supervisory Fee
	<i>EUR</i>	<i>EUR</i>
AIF	2,000	2,500
Sub-Funds (Fee is applicable per sub-fund up to 15 sub-funds)	450	400
Sub-Funds (Fee is applicable per sub-fund for 16 sub-funds and over)	250	150
Sub-Funds in the form of ICCs	2,000	2,500

	Notification Fee	Annual Supervisory Fee
	<i>EUR</i>	<i>EUR</i>
European AIFM marketing the units or shares of a European AIF in Malta	2,000	2,500
Sub-Funds (Fee is applicable per sub-fund up to 15 sub-funds)	450	400
Sub-Funds (Fee is applicable per sub-fund for 16 sub-funds and over)	250	150

Covering Letter

Declaration by the Auditor

Introduction

Section 1(1) Details of the Alternative Investment Fund ('AIF')

Section 1(2) Details of Incorporated Cell

Section 2 Details of the AIFM

Section 3 Details of the External Administrator

Section 4 Details of the Investment Advisor

Section 5 Details of the Custodian/ Prime Broker

Section 6 Other Service Providers

Section 7 Annex to be completed by Self-Managed AIFs

Annex 1 Additional Information

Checklist

Validation

Covering Letter

To: The Director – Authorisation Unit
Malta Financial Services Authority
Notabile Road
Attard BKR 3000

Dear Sir/ Madam,

Re:
["the Applicant"]

In terms of article 5 of the Investment Services Act 1994 attached, please find our Application for a licence to operate as an Alternative Investment Fund.

We confirm that in determining whether to grant this licence, the MFSA may rely upon the information contained in the Application Documents and the supporting documentation attached to the Application (and/or provided at any other time).

It is warranted that:

- a. The Applicant has read the important information section included with this application. Having made all reasonable enquiries, the information supplied is, to the best of the Applicant's knowledge and belief, accurate in all material respects and does not exclude any information which might reasonably be considered as relevant;
- b. There are no inconsistencies between the provisions of the Constitutional Documents and the Offering Document submitted with this Application;
- c. The Applicant will notify the Malta Financial Services Authority of any material change in the information forming part of this Application or its supporting documents and any further information relevant to the Application concerning these or other matters which have arisen after the Application has been submitted but which are or may be relevant to the licensing decision;
- d. The person(s) whose signature(s) appear(s) below is/are duly authorised by the Applicant to make this Application;
- e. The Malta Financial Services Authority is authorised to make such enquiries as it may consider necessary in connection with this Application.

Name	<input type="text"/>
Signature	<input type="text"/>
Title	<input type="text"/>
Date	<input type="text"/>

Declaration by the Auditor

Date:

To: The Director – Authorisation Unit
Malta Financial Services Authority
Notabile Road
Attard BKR 3000

Dear Sir/ Madam,

Re: ***["the Applicant"]***

This Letter is to confirm that the Auditing Firm described below has agreed to accept appointment as auditor of the Applicant.

["the Auditing Firm"]

We are please to confirm that:

- a. we hold adequate and appropriate Professional Indemnity insurance in the context of the application;
- b. we are members of the following professional bodies/associations:
- c. in accordance with article 18 of the Investment Services Act, we undertake to report immediately to the MFSA any fact or decision about which we become aware in our capacity as auditor which:
 - is likely to lead to a serious qualification or refusal of our audit report; or
 - constitutes or is likely to constitute a material breach of the legal or regulatory requirements applicable to the Applicant in or under this Act; or
 - gravely impairs the ability of the Applicant to continue as a “going concern”, or which;
 - relates to any other matter which has been prescribed;

Moreover, in terms of the said Act we also hereby undertake to likewise report to the MFSA any fact or decisions as specified above pertaining to any person having close links with the Applicant, of which we become aware in our capacity as auditor of the Applicant and of a person having close links with the former;

- d. we shall, as requested by the Applicant, report to the MFSA in accordance with the applicable requirements of the Investment Services Rules for Alternative Investment Funds issued by the Malta Financial Services Authority;

our responsibilities as auditor of the Applicant have been defined in a signed letter of engagement which has been confirmed in writing by the Applicant and the said letter of engagement includes the matters specified in the Investment Services Rules;

e.

Yours faithfully,

Name

Signature

Title

Introduction

This section requests contact details of the promoters behind the application and their legal/ professional consultants.

While the MFSA will send correspondence regarding the Application to the Applicant through the appointed legal / professional consultants, all correspondence will be copied to the Applicant who will be considered responsible for any information submitted to the MFSA.

1.1 Promoters behind this Application:

Name:	
Address:	
E-Mail Address:	
Tel:	
Fax:	

1.2 Main Contact person(s) of the Applicant responsible for this Application:

Name:	
Address:	
E-Mail Address:	
Tel:	
Fax:	
Capacity:	

1.3 Contact details of legal/ professional consultant (where applicable):

Name:	
Address:	
E-Mail Address:	
Tel:	
Fax:	
Capacity:	

Section 1(1)
Details of the Alternative Investment Fund ('AIF')

This Section of the Application Form must be completed

1.1	Name of AIF (including where applicable the name of the sub-funds)

1.2	Legal Form of the AIF

1.3	List of Directors of the AIF

1.4	Under which laws is the AIF established/ is to be established?

1.5	Will the AIF issue classes of shares constituting Sub-Funds?

1.6	Will the AIF be open-ended or closed ended?

1.7	Does the AIF intend to appoint a Custodian?

1.8	Does the AIF intend to appoint a Prime Broker?

1.9	Does the AIF intend to appoint an external AIFM?

Section 1(1)
Details of the Alternative Investment Fund ('AIF')

This Section of the Application Form must be completed

1.10	Does the AIF intend to appoint an external Administrator?
	#REF!

1.11	Does the AIFM benefit from any exemptions under the Directive (for instance, by virtue of being a non-EU AIFM) ?
	#REF!

1.12	Does the AIF benefit from any transitional provision under the Directive (for instance by virtue of Articles 61(3) or (4) AIFMD)?
	#REF!

1.13	Does the AIF intend to appoint an external Investment Advisor?

1.14	Details of the units to be issued	
	a. <i>Nature of Shares/ units to be offered to investors in the AIF</i>	
	b. <i>Minimum Investment Amount per investor</i>	

1.15	Does the AIF intend to seek a listing on a Stock Exchange?

Section 1 - Form 2
Details of an Incorporated Cell

This Form must ONLY be completed if the AIF is being established as an Incorporated Cell

1.9	Does the Incorporated Cell intend to appoint an external Administrator?
	<input type="checkbox"/>

1.10	Does the Incorporated Cell intend to appoint an external Investment Advisor?
	<input type="checkbox"/>

1.11	Details of the units to be issued	
	Nature of Shares/ units to be offered to investors in the incorporated cell	<input type="checkbox"/>
	Minimum Investment Amount per investor	

1.12	Does the Incorporated Cell intend to seek a listing on a Stock Exchange?
	<input type="checkbox"/>

Section 2
Details of the Alternative Investment Fund Manager

2.1	Name of AIFM

2.2	Country in which the AIFM is domiciled

2.3	Is the AIFM authorised to provide discretionary management services to collective investment schemes?

2.4	Details of the primary regulator of the AIFM	
	a. Name:	
	b. Address:	
	c. Contact Person:	
	d. E-Mail:	
	e. Tel:	
	f. Fax:	

2.5	If the AIFM is not located in Malta and is not licensed elsewhere, does it intend to apply for an appropriate licence abroad?

2.6	Is the AIFM a subsidiary of an entity regulated in a recognised jurisdiction?

Section 2
Details of the Alternative Investment Fund Manager

2.7	List the Directors/ General Partners of the AIFM

2.8	Please indicate, from the list below, the services for which the AIFM shall be responsible	
1.	INVESTMENT MANAGEMENT FUNCTIONS WHICH THE AIFM SHALL AT LEAST PERFORM WHEN MANAGING THE AIF:	
a.	<i>Portfolio Management</i>	
b.	<i>Risk Management</i>	
2.	OTHER FUNCTIONS THAT AN AIFM MAY ADDITIONALLY PERFORM IN THE COURSE OF THE COLLECTIVE MANAGEMENT OF THE AIF:	
a.	<i>Administration</i>	
i.	Legal and fund management accounting services	
ii.	Customer inquiries	
iii.	Valuation and pricing, including tax returns	
iv.	Regulatory compliance monitoring	
v.	Maintenance of unit-/shareholder register;	
vi.	Distribution of income	
vii.	unit/shares issues and redemptions;	
viii.	Contract settlements, including certificate dispatch	
ix.	Record Keeping	
b.	<i>Marketing</i>	
c.	<i>Activities related to the assets of AIFs, namely services necessary to 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 the AIF and the companies and other assets in which it has invested.</i>	

Section 3
Details of the External Administrator

3.1	Name of Administrator

3.2	Country in which the Administrator is domiciled

3.3	Is the Administrator authorised to provide administration services to collective investment schemes?

3.4	Details of the primary regulator of the Administrator
a.	Name:
b.	Address:
c.	Contact Person:
d.	E-Mail:
e.	Tel:
f.	Fax:

3.5	If the Administrator is not located in Malta and is not licensed/ recognised elsewhere, does it intend to apply for an appropriate licence/ recognition abroad?

3.6	Is the Administrator a subsidiary of an entity regulated in a recognised jurisdiction?

Section 3
Details of the External Administrator

3.7	List the Directors/ General Partners of the Administrator

3.8	Please indicate the services for which the Administrator shall be responsible

3.9	The Administrator will be appointed by the:

Section 4
Details of the Investment Advisor

4.1	Name of Advisor

4.2	Country in which the Advisor is domiciled

4.3	Is the Advisor authorised to provide advisory services to collective investment schemes?

4.4	Details of the primary regulator of the Advisor	
a.	Name:	
b.	Address:	
c.	Contact Person:	
d.	E-Mail:	
e.	Tel:	
f.	Fax:	

4.5	If the Advisor is not located in Malta and is not licensed elsewhere, does it intend to apply for an appropriate licence abroad?

4.6	Is the Advisor a subsidiary of an entity regulated in a recognised jurisdiction?

Section 4
Details of the Investment Advisor

4.7	List the Directors/ General Partners of the Advisor

4.8	Please indicate the services for which the Advisor shall be responsible

4.9	The Advisor will be appointed by the:

Section 5
Details of the Custodian/ Prime Broker

5.1	Name of Custodian/ Prime Broker

5.2	Country in which the Custodian/ Prime Broker is domiciled

5.3	Is the Custodian/ Prime Broker authorised to provide Custody/ Prime Broking services to collective investment schemes?

5.4	Details of the primary regulator of the Custodian/ Prime Broker	
a.	Name:	
b.	Address:	
c.	Contact Person:	
d.	E-Mail:	
e.	Tel:	
f.	Fax:	

5.5	If the Custodian/ Prime Broker is not located in Malta and is not licensed elsewhere, does it intend to apply for an appropriate licence abroad?

5.6	Is the Custodian/ Prime Broker a subsidiary of an entity regulated in a recognised jurisdiction?

Section 5
Details of the Custodian/ Prime Broker

5.7	List the Directors/ General Partners of the Custodian/ Prime Broker

5.8	Please indicate the services for which the Custodian/ Prime Broker shall be responsible

Section 6
Other Service Providers

This Section of the Application Form must be completed

6.1	AIF's Auditor	
a.	Name:	
b.	Address:	
c.	Contact Person:	
d.	E-Mail:	
e.	Tel:	
f.	Fax:	

6.2	AIF's Legal Advisors: Lead Counsel (where applicable)	
a.	Name:	
b.	Address:	
c.	Contact Person:	
d.	E-Mail:	
e.	Tel:	
f.	Fax:	

6.3	AIF's Legal Advisors: Maltese Counsel (where applicable)	
a.	Name:	
b.	Address:	
c.	Contact Person:	
d.	E-Mail:	
e.	Tel:	
f.	Fax:	

Section 6
Other Service Providers

This Section of the Application Form must be completed

6.4 AIF's Local Representative (where applicable)	
a. Name:	
b. Address:	
c. Contact Person:	
d. E-Mail:	
e. Tel:	
f. Fax:	

6.5 AIF's Compliance Officer	
a. Name:	
b. Address:	
c. Relationship with the AIFM/ AIF	
d. E-Mail:	
e. Tel:	
f. Fax:	

6.6 AIF's MLRO	
a. Name:	
b. Address:	
c. Relationship with the AIFM/ AIF	
d. E-Mail:	
e. Tel:	
f. Fax:	

Section 6
Other Service Providers

This Section of the Application Form must be completed

6.7	AIF's External Valuer	
a.	Name:	
b.	Address:	
c.	Relationship with the AIFM/ AIF	
d.	E-Mail:	
e.	Tel:	
f.	Fax:	

7.1 A Self-Managed AIF applying for a licence shall provide the following additional information apart from that which is already indicated in this Application Form:

- a. *A programme of activity setting out the organisational structure of the applicant, including information on how the Applicant intends to comply with the following obligations:*
- (i) *Compliance with the prescribed authorisation process for AIFMs;*
 - (ii) *Operating and organisational conditions for the Applicant including the general requirements, remuneration policy, conflicts of interest, risk and liquidity management, valuation policy, delegation of functions, and the appointment of a custodian;*
 - (iii) *Transparency obligations including disclosure to investors and reporting obligations to MFSA;*

7.2 A Self-Managed AIF applying for a licence shall provide information on the remuneration policies and practices as prescribed in the Investment Services Rules for Alternative Investment Funds.



7.3 A Self-Managed AIF applying for a licence shall provide the following additional information:

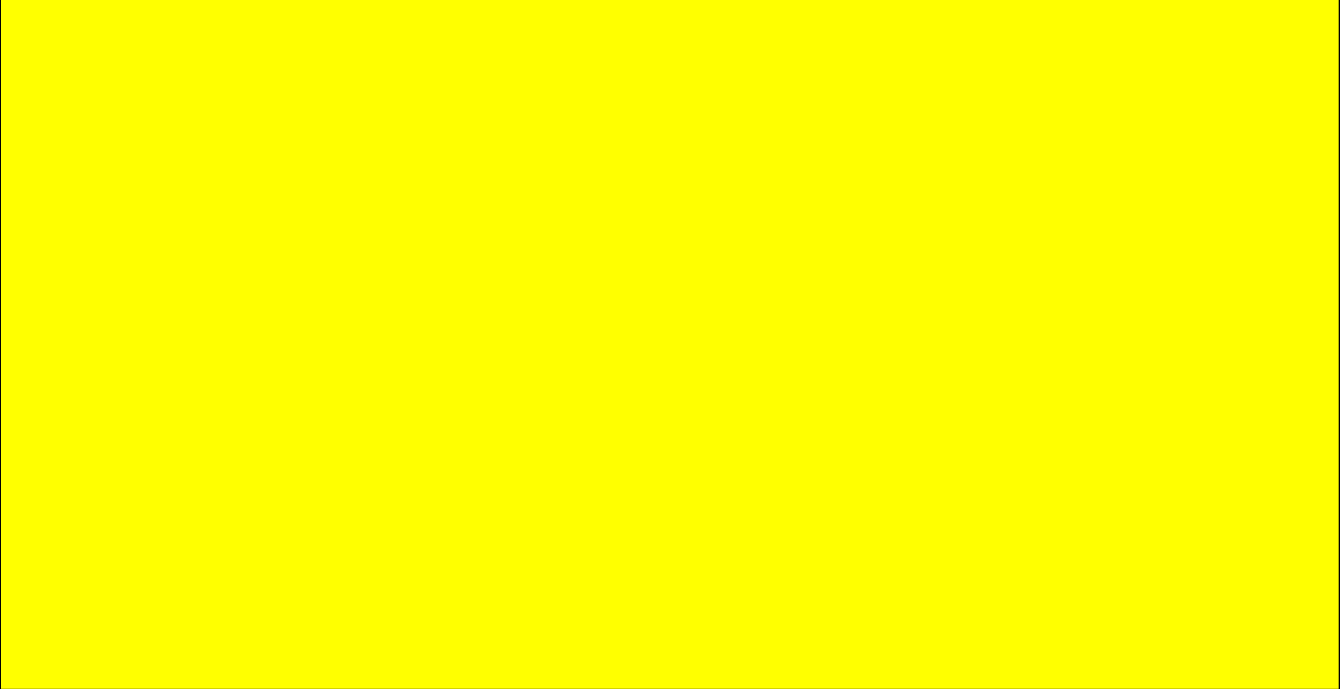
- a. *Information about the investment strategies including the types of underlying funds if the AIF is a fund of funds, and the AIF's policy as regards the use of leverage and the risk profiles and other characteristics of the AIF;*
- b. *Information on where the master AIF is established if the AIF is a feeder AIF;*
- c. *The rules or instruments of incorporation of the AIF*
- d. *Information on the arrangements made for the appointment of the custodian in accordance with the Investment Services Rules for Investment Services Providers;*
- e. *Any additional information relating to disclosure to investors for the AIF in accordance with Appendix 6 of the Investment Services Rules for Alternative Investment Funds.*

7.4 A Self-Managed AIF applying for a licence shall provide on request:

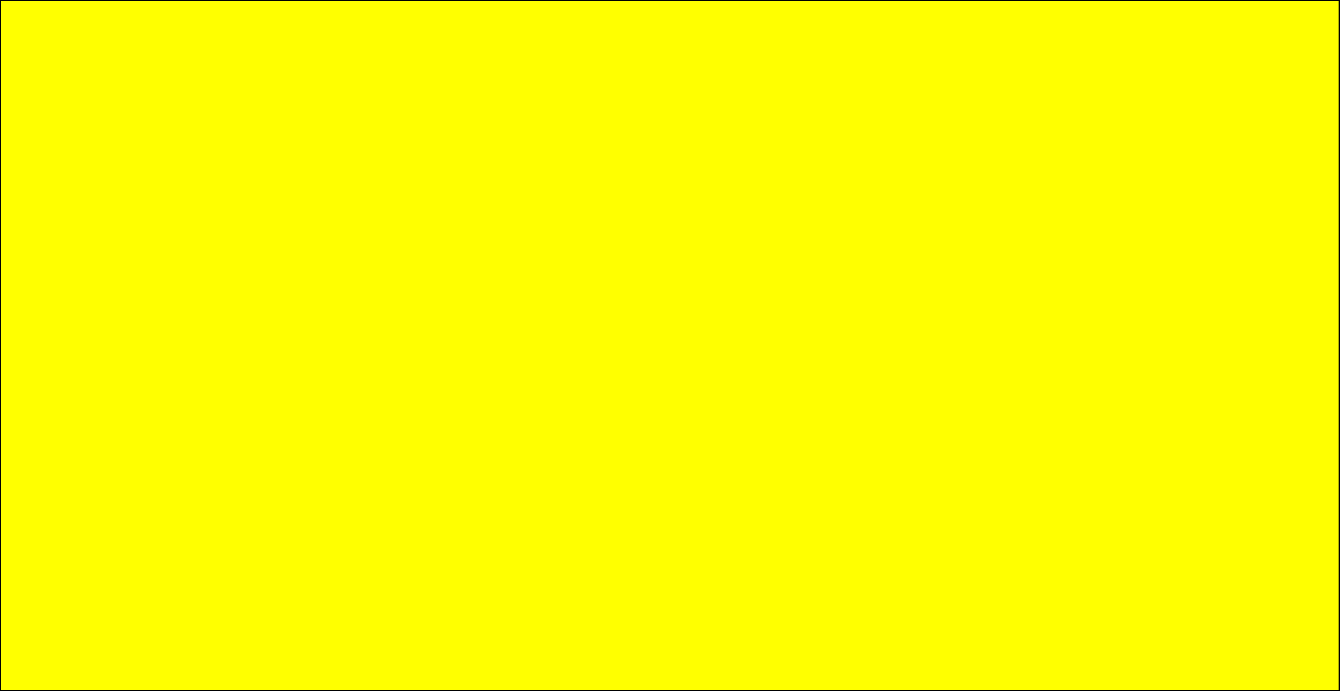
Appropriate Declarations/Confirmations from the Directors/General Partner (where applicable), confirming that the AIF is fully compliant with the requirements of the Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) no 1060/2009 and (EU) No 1095/2010 and Commission Delegated Regulation (EU) supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositories, leverage transparency and supervision, with reference in particular, but not limited to, the provisions on custodial arrangements, risk management, remuneration and conflict of interest policies.

Annex 1
Additional Information

Question 1.8

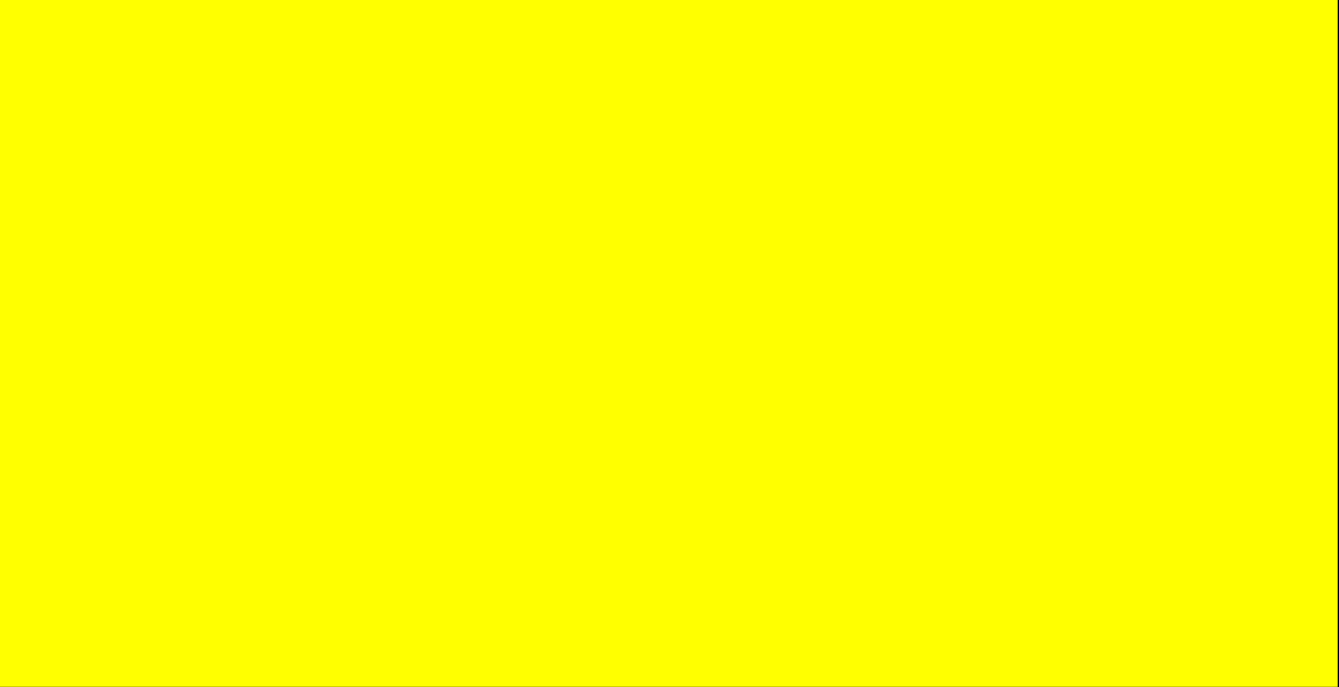


Question 1.9



Annex 1
Additional Information

Question 1.10



Checklist

The following information should be provided with this Application:

Enclosed

Investment Companies

1. Application Form
2. Offering Document/ Marketing Document
3. Memorandum & Articles of Association
4. Board of Directors resolution:
 - *confirming the Directors' intention to apply for a licence in favour of the AIF;*
 - *identifying the person(s) responsible for signing the application documents;*
 - *identifying the person(s) responsible for acting as a point of liason with the MFSA;*

 - *identifying the person(s) responsible on behalf of the Board for the Compliance obligations of the AIF;*
 - *identifying the person(s) responsible on behalf of the Board for the AML obligations of the AIF;*
 - *approving and assuming responsibility for the contents of the Offering Document/ Marketing Document*

5. Application Fee

--

6. Directors of the AIF:

i. where Individuals

- *Personal Questionnaire of the proposed Directors*

--

ii. where Corporate, regulated in a recognised jurisdiction

- *Details of the regulatory status of the proposed Corporate Director(s)*
- *Name of the individual that will represent the Corporate Director on the Board of Directors of the AIF;*

7. Founder Shareholder(s) - that hold more than 10% of the voting shares

i. where Individuals

- *Personal Questionnaire of the proposed Founder Shareholder(s)*

--

ii. where Corporate, regulated in a recognised jurisdiction

- *Details of the regulatory status of the proposed Corporate Founder*

--

iii. where Corporate, not regulated in a recognised jurisdiction

- *Personal Questionnaire of the Directors of the proposed Corporate Founder Shareholder(s)*
- *Personal Questionnaire of the qualifying beneficial owners of the proposed Corporate Founder Shareholder(s); and*
- *Last three years audited financial statements of the proposed Corporate Founder Shareholder(s).*

8. Portfolio Manager, Risk Manager, Compliance/Money Laundering Reporting Officer, and Investment Advisor.

Personal Questionnaire of the persons proposed to carry out these functions excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.

Limited Partnership

1. Application Form
2. Offering Document/ Marketing Document
3. Deed of Partnership
4. Board of Directors resolution:
 - *confirming its/their intention to apply for a licence in favour of the AIF;*
 - *identifying the person(s) responsible for signing the application documents;*
 - *identifying the person(s) responsible for acting as a point of liason with the MFSA;*

Checklist

The following information should be provided with this Application:

Enclosed

- *identifying the person(s) responsible on behalf of the General Partner(s) for the Compliance obligations of the AIF;*
- *identifying the person(s) responsible on behalf of the General Partner(s) for the AML obligations of the AIF;*

Checklist

The following information should be provided with this Application:

	Enclosed
- approving and assuming responsibility for the contents of the Offering Document/ Marketing Document	[Yellow Box]
5. Application Fee	[Yellow Box]
6. General Partner(s) of the AIF:	
<i>i.</i> <u>where Individuals</u>	
- Personal Questionnaire of the proposed General Partner(s)	[Yellow Box]
<i>ii.</i> <u>where Corporate, regulated in a recognised jurisdiction</u>	
- Details of the regulatory status of the proposed Corporate General Partner(s)	[Yellow Box]
- Name of the individual that will represent the Corporate General Partner(s);	[Yellow Box]
<i>iii.</i> <u>where Corporate, not regulated in a recognised jurisdiction</u>	
- Personal Questionnaire of the Directors of the proposed Corporate General Partner(s)	[Yellow Box]
- Personal Questionnaire of the qualifying beneficial owners of the proposed Corporate General Partner(s);	[Yellow Box]
- The name of the individual who will represent the Corporate General Partner(s); and	[Yellow Box]
- Last three years audited financial statements of the proposed Corporate	[Yellow Box]
7. Portfolio Manager, Risk Manager, Compliance/Money Laundering Reporting Officer, and Investment Advisor. Personal Questionnaire of the persons proposed to carry out these functions excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.	[Yellow Box] [Yellow Box] [Yellow Box] [Yellow Box]
Unit Trust/ Common Contractual Fund	
1. Application Form	[Yellow Box]
2. Offering Document/ Marketing Document	[Yellow Box]
3. Trust Deed/ Fund Rules	[Yellow Box]
4. A resolution of the proposed AIFM	[Yellow Box]
- confirming the AIFM's intention to apply for a licence in favour of the AIF;	
- identifying the person(s) responsible for signing the application documents;	
- identifying the person(s) responsible for acting as a point of liason with the MFSA;	
- identifying the person(s) responsible on behalf of the AIFM for the Compliance obligations of the AIF;	
- identifying the person(s) responsible on behalf of the AIFM for the AML obligations of the AIF;	
- approving and assuming responsibility for the contents of the Offering Document	
5. Application Fee	[Yellow Box]
6. Details of the regulatory status of the proposed Trustee	[Yellow Box]
7. Portfolio Manager, Risk Manager, Compliance/Money Laundering Reporting Officer, and Investment Advisor. Personal Questionnaire of the persons proposed to carry out these functions excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.	[Yellow Box] [Yellow Box] [Yellow Box] [Yellow Box] [Yellow Box]
Incorporated Cell Companies (ICCs) - Investment Companies set up in terms of L.N. 559 of 2010	
1. Application Form	[Yellow Box]
<i>Investment Services Rules for Alternative Investment Funds Part A: The Application Process Schedule 1: Application Form</i>	

Checklist

The following information should be provided with this Application:

Enclosed

- *identifying the person(s) responsible for acting as a point of liason with the MFSA;*
 - *identifying the person(s) responsible on behalf of the Board for the Compliance obligations of the AIF;*
 - *identifying the person(s) responsible on behalf of the Board for the AML obligations of the AIF;*
 - *approving and assuming responsibility for the contents of the Offering Document/ Marketing Document;*
- 5.** A copy of the Resolution passed by the Board of Directors of the SICAV ICC (umbrella fund) or the RICC which approves the name of the incorporated cell being established:
- *approves the name of the incorporated cell being established;*
 - *approves the terms of the memorandum and articles of association of the incorporated cell and resolves that the said memorandum and articles of association of the incorporated cell are to be entered into by the incorporated cell company; and*
 - *authorises, if applicable, the subscription by the incorporated cell company of a share or shares in the incorporated cell.*
- 6.** Application Fee
- 7.** Directors of the AIF:
- i.* *where Individuals*
 - *Personal Questionnaire of the proposed Director(s)*
 - ii.* *where Corporate, regulated in a recognised jurisdiction*
 - *Details of the regulatory status of the proposed Corporate Director(s);*
 - *Name of the individual that will represent the Corporate Director on the Board of Directors of the AIF;*
- 8.** Founder Shareholder(s) - that hold more than 10% of the voting shares
- i.* *where Individuals*
 - *Personal Questionnaire of the proposed Founder Shareholder(s);*
 - ii.* *where Corporate, regulated in a recognised jurisdiction*
 - *Details of the regulatory status of the proposed Corporate Founder Shareholder(s);*
 - iii.* *where Corporate, not regulated in a recognised jurisdiction*
 - *Personal Questionnaire of the Directors of the proposed Corporate Founder Shareholder(s);*
 - *Personal Questionnaire of the qualifying beneficial owners of the proposed Corporate Founder Shareholder(s); and*
 - *Last three years audited financial statements of the proposed Corporate Founder Shareholder(s).*
- 9.** Portfolio Manager, Risk Manager, Compliance/Money Laundering Reporting Officer, and Investment Advisor.
 Personal Questionnaire of the persons proposed to carry out these functions excluding the Investment Advisor) and Competency Form in respect of all persons proposed to carry out these functions.

Supplementary Application Documents - Self Managed AIF

- 1.** Personal Questionnaire and detailed CV of the members of the Investment Committee/ Portfolio Manager
- 2.** Terms of reference regulating the procedures of the Investment Committee
- 3.** Confirmation from the Portfolio Manager/s (as applicable) that he/she/they:

Checklist

The following information should be provided with this Application:

Enclosed

- *operate in accordance with the investment objectives and policy described in the AIF's Offering Document in general and the investment guidelines issued by the investment committee in particular;*
 - *report to the Investment Committee on a regular basis any transactions effected on behalf of the AIF; and*
 - *provide to the Investment Committee, any information as the Investment Committee may require from time to time.*
4. Confirmation from the Portfolio Manager(s)/ Investment Committee that they have appropriate resources available to them to ensure on-going access to the market information which they would need to take account of in making investment management decisions.

N.B. The MFSA reserves the right to request such additional information it considers necessary to be able to process this Application

Validation Sheet

Cover Page	<input type="checkbox"/>	check cover page
Important Information	<input type="checkbox" value="OK"/>	
Covering Letter	<input type="checkbox" value="OK"/>	
Declaration by Auditor	<input type="checkbox" value="OK"/>	
Introduction	<input type="checkbox" value="OK"/>	
Section 1(1)	<input type="checkbox" value="OK"/>	
Section 1(2)	<input checked="" type="checkbox" value="OK"/>	
Section 2	<input checked="" type="checkbox" value="OK"/>	
Section 3	<input checked="" type="checkbox" value="OK"/>	
Section 4	<input checked="" type="checkbox" value="OK"/>	
Section 5	<input checked="" type="checkbox" value="OK"/>	
Section 6	<input checked="" type="checkbox" value="OK"/>	
Annex 1	<input checked="" type="checkbox" value="OK"/>	

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Personal Questionnaire

Schedule 2

Name of Individual completing the Personal Questionnaire (“the Applicant”):	
Licence Holder or Entity (incorporated or still in formation) which has applied for an MFSA authorisation or licence, in connection with which application is being made:	

Please return this form to:
The Director General
Malta Financial Services Authority
Notabile Road
Attard BKR 3000, Malta.

PERSONAL QUESTIONNAIRE

IMPORTANT INFORMATION

The Personal Questionnaire (“P.Q.”) should be completed by individuals proposed as qualifying shareholders or proposed to occupy certain positions of trust or to carry out certain activities with a Licence Holder or an Entity which has applied to be authorised or licensed by the MFSA. These individuals have to satisfy the “*fit and proper*” test (as defined in the Glossary at the end of this P.Q.) before being granted approval by the MFSA to become qualifying shareholders or to occupy the proposed post or to carry out the proposed activities with the Licence Holder or Entity in question. The P.Q. assists the MFSA in assessing whether a person is fit and proper.

Please refer to the applicable Directives or Investment Services Rules as defined in the Glossary for details regarding the persons who are required to complete a P.Q.

Completion Instructions

Please read the questions carefully before completing this form.

*Applicants are encouraged to complete the P.Q. on computer. An electronic version of this P.Q. can be downloaded from MFSA’s web-site www.mfsa.com.mt. If the P.Q. is not completed electronically, answers should be written in ink in **BLOCK CAPITALS**.*

All questions should be answered and any questions which are ‘Not Applicable’ should be clearly indicated as ‘Not Applicable’. If there is insufficient space for a detailed answer, please securely attach continuation sheets at the back of this document. Please label continuation sheets, clearly indicating to which question in the P.Q. the additional information refers.

Applicants are expected to be open and provide clear and detailed information to enable the MFSA to carry out the applicable fit and proper test. It should not be assumed that information in the public domain, or which has been previously disclosed to the MFSA or to another regulatory body, is known to the MFSA. If in the case of any doubt about the relevance of information, this should be disclosed to the MFSA.

Please ensure that the names and addresses, contact persons, and where possible fax and telephone numbers, of companies/institutions mentioned in the P.Q. are provided correctly and in full.

The completed P.Q. including the declaration at the end, should be signed at the appropriate place on the last page by the Applicant and by the Licence Holder. Entities which are still in the process of applying for a Licence from the MFSA and in connection with whom the P.Q. is being submitted, are not required to counter-sign the P.Q.

The completed P.Q. should be addressed for the attention of the Director General, as shown on the cover sheet.

*The fit and proper requirement is an on-going requirement and therefore Applicants are subject to ongoing assessment. The areas covered in this P.Q. may not necessarily be exhaustive of the matters that the MFSA will consider in assessing whether an Applicant is fit and proper, and also for the MFSA to remain satisfied that an Applicant who has been approved continues to satisfy the fit and proper test. Consequently, at any time during the application and thereafter, the MFSA may require the Applicant to provide further information. **Furthermore, the MFSA reserves the right to seek information and references from organisations and individuals named in this P.Q. and elsewhere both at the time of submission of this questionnaire and at any time thereafter. To this effect, the Applicant is required to complete the authorisation letters attached to the P.Q.– the Banker’s Authorisation Letter, the General Authorisation Letter and the Authorisation Letter to the Commission for the Administration of Justice . The Banker’s Authorisation Letter authorises the Bank to provide to the MFSA the information outlined in the respective letter and any information as may be required by the MFSA. The General Authorisation Letter authorises any individual or organisation named in this P.Q. to provide information to the MFSA with regards to the Applicant. Sometimes however, organisations and individuals named in this P.Q. may want an authorisation letter addressed specifically to them before providing any information to the MFSA – in which case Applicants may have to send an authorisation letter specifically addressed to the organisations and individuals in particular. Similarly, the Authorisation Letter to the Commission for the Administration of Justice authorises the Commission to provide information to the MFSA with regards to the Applicant.***

In addition, if at any time after the P.Q. is submitted, there is a material change to the information provided in the P.Q. the Applicant is required to notify the MFSA. This is an on-going obligation which the Applicant undertakes in signing the ‘Declaration’ on page 15 of this P.Q.

The P.Q. should be completed by the Applicant personally. The Applicant retains responsibility for the contents thereof. In addition, the Licence Holder (not an Entity or a company in formation which is still in the process of applying for a Licence from the MFSA) in connection with which this P.Q., is being submitted, should verify to the extent and wherever possible, the information included by the Applicant in the P.Q.

An Applicant who furnishes information, or makes a statement which he/she knows to be inaccurate, false or misleading in any material respect, or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect, may be guilty of an offence and may severely prejudice his or her fit and proper status.

If you are in any doubt about how any of the questions should be answered, please contact the Director of the relevant Regulatory Unit at the MFSA on 21441155.

An Applicant should not occupy any post or begin performing any function which requires prior approval by the MFSA, until the MFSA has granted its approval.

Correctly completed P.Q.s accompanied by written requests for approval of the Applicant in terms of the applicable Laws, are to be submitted at least twenty one (21) business days in advance of the date when the Licence Holder or the Entity or the company in formation in question would like the Applicant to take up the post in question or commence the proposed activities.

Please note that if the P.Q. is incomplete or is completed incorrectly, the P.Q. may be returned, with consequent delays in the processing of the requested approval from the MFSA. Moreover, if it comes to light that any material information has not been disclosed, approval may be delayed or rejected.

SECTION 1: INFORMATION regarding the LICENCE HOLDER or ENTITY which has applied to become a LICENCE HOLDER

Note: If the Applicant is seeking approval to be appointed in connection with more than one Licence Holder or Entity which has applied to become a Licence Holder (e.g. in the case of Group companies), Questions 1 to 4 in this Section should be answered with respect to each Licence Holder or Entity. Continuation Sheets may be attached at the back of this P.Q. if the answer boxes provide insufficient space.

1. Name(s) of Licence Holder or Entity in connection with which this questionnaire is being completed.

2. Position to be occupied by Applicant with the Licence Holder or Entity which has applied to become a Licence Holder in connection with which this questionnaire is being completed.

2.1 Position Title. Please mark as appropriate:

Qualifying Shareholder	<input type="checkbox"/>	General Manager	<input type="checkbox"/>
Chairman	<input type="checkbox"/>	Alternate Director	<input type="checkbox"/>
Executive Director	<input type="checkbox"/>	Managing Director	<input type="checkbox"/>
Chief Executive Officer	<input type="checkbox"/>	Company Secretary	<input type="checkbox"/>
Non Executive Director	<input type="checkbox"/>	Senior Manager	<input type="checkbox"/>

Please specify Title, if not in the above list (e.g. Financial Controller)

2.2 Please specify any duties to be carried out, as applicable :

3. Intended Effective Date of Position:

Note: An Applicant cannot assume the proposed post with the Licence Holder or Entity in question unless approved by the MFSA.

4. Contact point within the Licence Holder or Entity in connection with which this questionnaire is being completed, to whom MFSA may address any queries in connection with this application.

4.1 Name: _____

4.2 Fax: _____

4.3 Position: _____

4.4 E-mail: _____

5. Are you involved in any way with a Licence Holder other than the Licence Holder or Entity in connection with which this P.Q. is being submitted?

YES
NO

If YES, please indicate the name of the other Licence Holder and the position held:

SECTION 2: PERSONAL INFORMATION regarding the APPLICANT

6. Personal information	
6.1	Surname _____
6.2	Forename(s) _____
6.3	Any previous name(s) by which you have been known _____

7. Current private address including Post Code - if applicable and Current Contact Details. (Please include the date when you took up residence at this address).	
--	--

7.1	Address: _____
7.2	Date: _____
7.3	Telephone Number: _____
7.4	Fax Number: _____
7.5	Mobile Number: _____
7.6	E-mail address: _____

8. Date and place of birth (including town or city).	
---	--

8.1	Date: _____
8.2	Place: _____

9. Nationality and how it was acquired (birth, naturalisation, marriage). (If your nationality has changed, please advise when it was changed and what it was previously).	
---	--

9.1	Nationality: _____
9.2	How Acquired: _____

SECTION 3: QUALIFICATIONS / MEMBERSHIPS

10. Current associateship, membership or fellowship of professional bodies and year of admission.

	<i>Associate (A), Member (M) or Fellow (F)?</i>	<i>Year of Admission</i>	<i>Associate-ship/ Membership/ Fellowship Number</i>	<i>Professional Body</i>	<i>Full Address of Professional Body</i>	
10.1	_____	_____	_____	_____	_____	
					<i>Phone</i> _____	<i>Fax</i> _____
10.2	_____	_____	_____	_____	_____	
					<i>Phone</i> _____	<i>Fax</i> _____
10.3	_____	_____	_____	_____	_____	
					<i>Phone</i> _____	<i>Fax</i> _____

11. Please list academic degrees and diplomas, stating the name and address of the conferring University/Institution and the year of conferment.

	<i>Degree (DE) or Diploma(DPL)</i>	<i>Designatory Letters</i>	<i>Year Granted</i>	<i>University</i>	<i>Full Address of University/Institution</i>	
11.1	_____	_____	_____	_____	_____	
					<i>Phone</i> _____	<i>Fax</i> _____
11.2	_____	_____	_____	_____	_____	
					<i>Phone</i> _____	<i>Fax</i> _____
11.3	_____	_____	_____	_____	_____	
					<i>Phone</i> _____	<i>Fax</i> _____

Applicants who have obtained qualifications from a University / Institution may be required to provide a certified true copy of the diploma or degree awarded should MFSA not be in a position to verify in a timely manner the attainment of the respective qualifications from the indicated University / Institution.

12. Please list any other qualifications that you have attained together with the appropriate date and the name of the Educational Institute or Training Centre (e.g. MITC or Securities Institute or Institute of Financial Services etc.). Please also supply contact name, address, certificate number etc.

	<i>Date</i>	<i>Qualification</i>	<i>Educational Institute / Training Body</i>
12.1	_____	_____	_____
12.2	_____	_____	_____
12.3	_____	_____	_____

13. Please list any other skills or specific training you have had (*not already mentioned elsewhere*) that is relevant to the business of the licence holder or entity named in No. 1 above.

	<i>Date</i>	<i>Training</i>	<i>Provided by ...</i>
13.1	_____	_____	_____
13.2	_____	_____	_____
13.3	_____	_____	_____

SECTION 4: EMPLOYMENT HISTORY

Note: A full employment history is required. All periods of unemployment should be indicated. Any gaps in employment should be explained. Details regarding any periods of self-employment should also be provided. The reason for leaving each employment should be given. Reasons for termination, dismissal or other issues that arose on leaving the employment which may be relevant for the fit and proper test should be fully explained in a continuation sheet attached at the back of the P.Q.

14. Current occupation or employment and occupations and employment during the last ten years (starting from the most recent), including the name of the employer, the nature of the business, the position held and a brief explanation of duties and relevant dates. Please also include details of any previous employment in the financial services industry.

Present occupation or employment and occupations during the last ten years.

14.1	Name of Employer and Nature of Business _____	
		<i>(e.g. Financial Services; Banking; Insurance; Business Consultancy; Accountancy; Legal Services etc..)</i>
	Dates of employment _____	
	Title of Position Held and Brief Explanation of Duties _____	
	Regulatory Status and if applicable, name of regulatory Body	Regulated: YES <input type="checkbox"/> NO <input type="checkbox"/>
		If YES – Name of Regulatory Body _____
	Full Address _____	
		Phone _____
		Fax _____
	Reasons for Leaving Employment	Resignation <input type="checkbox"/> Dismissal <input type="checkbox"/> Redundancy <input type="checkbox"/> End of Contract <input type="checkbox"/> Retirement <input type="checkbox"/> Termination <input type="checkbox"/>
		Other please specify _____
14.2	Name of Employer and Nature of Business _____	
		<i>(e.g. Financial Services; Banking; Insurance; Business Consultancy; Accountancy; Legal Services etc..)</i>
	Dates of employment _____	
	Title of Position Held and Brief Explanation of Duties _____	
	Regulatory Status and if applicable, name of regulatory Body	Regulated: YES <input type="checkbox"/> NO <input type="checkbox"/>

	If YES – Name of Regulatory Body _____												
	<i>Full Address</i> _____ <i>Phone</i> _____ <i>Fax</i> _____												
	<table style="width: 100%; border: none;"> <tr> <td style="width: 35%;"><i>Reasons for Leaving Employment</i></td> <td style="width: 15%;">Resignation <input type="checkbox"/></td> <td style="width: 30%;">Dismissal <input type="checkbox"/></td> <td style="width: 20%;">End of Contract <input type="checkbox"/></td> </tr> <tr> <td></td> <td>Redundancy <input type="checkbox"/></td> <td></td> <td>Termination <input type="checkbox"/></td> </tr> <tr> <td></td> <td>Retirement <input type="checkbox"/></td> <td></td> <td></td> </tr> </table> Other please specify _____	<i>Reasons for Leaving Employment</i>	Resignation <input type="checkbox"/>	Dismissal <input type="checkbox"/>	End of Contract <input type="checkbox"/>		Redundancy <input type="checkbox"/>		Termination <input type="checkbox"/>		Retirement <input type="checkbox"/>		
<i>Reasons for Leaving Employment</i>	Resignation <input type="checkbox"/>	Dismissal <input type="checkbox"/>	End of Contract <input type="checkbox"/>										
	Redundancy <input type="checkbox"/>		Termination <input type="checkbox"/>										
	Retirement <input type="checkbox"/>												
14.3	<i>Name of Employer and Nature of Business</i> _____ <i>(e.g. Financial Services; Banking; Insurance; Business Consultancy; Accountancy; Legal Services etc..)</i>												
	<i>Dates of employment</i> _____												
	<i>Title of Position Held and Brief Explanation of Duties</i> _____												
	<i>Regulatory Status and if applicable, name of regulatory Body</i> <table style="width: 100%; border: none;"> <tr> <td style="width: 35%;"></td> <td style="width: 15%;">Regulated:</td> <td style="width: 30%;"></td> <td style="width: 20%;"></td> </tr> <tr> <td></td> <td>YES <input type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td>NO <input type="checkbox"/></td> <td></td> <td></td> </tr> </table> If YES – Name of Regulatory Body _____		Regulated:				YES <input type="checkbox"/>				NO <input type="checkbox"/>		
	Regulated:												
	YES <input type="checkbox"/>												
	NO <input type="checkbox"/>												
	<i>Full Address</i> _____ <i>Phone</i> _____ <i>Fax</i> _____												
	<table style="width: 100%; border: none;"> <tr> <td style="width: 35%;"><i>Reasons for Leaving Employment</i></td> <td style="width: 15%;">Resignation <input type="checkbox"/></td> <td style="width: 30%;">Dismissal <input type="checkbox"/></td> <td style="width: 20%;">End of Contract <input type="checkbox"/></td> </tr> <tr> <td></td> <td>Redundancy <input type="checkbox"/></td> <td></td> <td>Termination <input type="checkbox"/></td> </tr> <tr> <td></td> <td>Retirement <input type="checkbox"/></td> <td></td> <td></td> </tr> </table> Other please specify _____	<i>Reasons for Leaving Employment</i>	Resignation <input type="checkbox"/>	Dismissal <input type="checkbox"/>	End of Contract <input type="checkbox"/>		Redundancy <input type="checkbox"/>		Termination <input type="checkbox"/>		Retirement <input type="checkbox"/>		
<i>Reasons for Leaving Employment</i>	Resignation <input type="checkbox"/>	Dismissal <input type="checkbox"/>	End of Contract <input type="checkbox"/>										
	Redundancy <input type="checkbox"/>		Termination <input type="checkbox"/>										
	Retirement <input type="checkbox"/>												

SECTION 5: DIRECTORSHIPS

NOTE: In this Section, the Applicant is required to indicate only those positions in relation to which she or he has been a Director or Company Secretary. If an Applicant's previous job title included the word "Director" but his or her duties did not include those associated with the title director as defined in the Glossary, this should be indicated.

15. Name any bodies corporate and the countries in which they are registered:-

(a) of which you are currently a director or company secretary; and

(b) of which you have been or were previously a director or company secretary at any time during the last ten years.

	<i>Name of Company</i>	<i>Post</i>	<i>Current (C) Previous (P)</i>	<i>Country of Incorporation and Address</i>
15.1	_____	_____	_____	_____
15.2	_____	_____	_____	_____
15.3	_____	_____	_____	_____

16. With reference to Questions 14 and 15, have you been dismissed from any of the positions described or asked to resign or agreed to resign instead of being dismissed, or have you resigned whilst under investigation or have you ever been censured, disciplined or publicly criticised by any employer or Regulatory Authority, whether current or previous?

16.1 YES
NO

If YES, please provide details of the circumstances:

SECTION 6: BANK REFERENCES & OTHER REGULATORY AUTHORISATIONS

17. Please provide the following details regarding your current main bank and any former bank(s) which you have utilised as your main banks (if applicable) during the past 10 years.

In this respect, please complete the specimen authorisation letter in Appendix One to this P.Q., which authorises the bank(s) to disclose relevant information to the MFSA. Please attach the completed specimen authorisation letter, in original duplicate to this P.Q. Form. The MFSA may then send this authorisation letter to the respective bank(s) should it deem necessary.

17.1 Current Main Bank: _____

Name / Address / Contact Person _____
/ Fax Number: _____

Duration of Relationship: _____

17.2 Main former Bank(s) in the previous 10 years: _____

Name / Address / Contact Person _____
/ Fax Number: _____

Duration of Relationship: _____

18. If you, as an individual have been supervised or regulated (during the last ten years) in respect of any financial services or corporate activity, please supply each Regulator’s full name, address and any relevant reference and contact.

18.1	<i>Dates</i>		<i>Regulator</i>	<i>Address</i>		<i>Relevant Reference/Contact</i>
	<i>From</i>	<i>To</i>				
	_____	_____	_____	_____	_____	_____
				<i>Phone</i>	<i>Fax</i>	
				_____	_____	

Please also provide details of the Regulators (if any) of the Companies listed in response to Q.14

18.2	<i>Dates</i>		<i>Regulator</i>	<i>Address</i>		<i>Relevant Reference/Contact</i>
	<i>From</i>	<i>To</i>				
	_____	_____	_____	_____	_____	_____
				<i>Phone</i>	<i>Fax</i>	
				_____	_____	

SECTION 7: GENERAL INFORMATION

19. In carrying out your duties will you be acting on the directions or instructions of any other person? (The object of the question is to discover who - if anyone - controls what you do - e.g. a director reports to the Board).

19.1 YES
NO

If YES, give full particulars:

20. Do you in your private capacity or any corporate body of which you are a director, secretary, controller, manager or shareholder or does any related party, undertake business with the Licence Holder or Entity in connection with which the application is being made?

20.1 YES
NO

If YES, give full particulars:

21. Are any shares in the Licence Holder or Entity, in connection with which the application is being made, registered in your name or in the name of a related party as defined in the Glossary?

21.1 YES
NO

If YES:

- please specify the number of shares held _____

- please give the name(s) in which the shares are held _____

- please specify the class of shares _____

22. Do you hold any shares in the Licence Holder or Entity in connection with which the application is being made, as trustee or nominee?

22.1 YES
NO

If YES, give full particulars:

23. Are any of the shares mentioned in the answer to Questions 21 and 22, pledged to any party?

23.1 YES
NO

If YES, give full particulars:

24. What proportion of the voting power at any general meeting of the Licence Holder or Entity in connection with which the application is being made (or of another body corporate of which it is a subsidiary) are you or any related party entitled to exercise or control the exercise of?

25. Are you aware of any business interests, employment obligations or other situations which may give rise to conflicts of interests in the performance of the activities associated with your proposed post with the Licence Holder or Entity in connection with which this P.Q. is being submitted?

25.1 YES
NO

If YES, give full particulars:

26. Is there any further information of direct relevance for the MFSA to carry out its fit and proper test effectively?

26.1 YES
NO

If YES, please provide details:

SECTION 8: DECLARATIONS & CONFIRMATIONS

27. Are there are contractual impediments or restrictions through any previous occupation or employment, which preclude you in any way from taking up the position in Q.2 for which this P.Q. is being completed?

27.1 YES
NO

If YES, give full particulars:

28 Have you at any time been found in breach of regulations or convicted of any offence, criminal or otherwise, by any Tribunal or court? If so, give full particulars of the forum which determined the breach, offence or conviction and/or full particulars of its decision, the offence and the penalty imposed and the date of conviction/decision. (Breaches of traffic regulations punishable by fines lower than Lm 50 (or its equivalent) need not be reported).

28.1 YES
NO

28.2 Court:

28.3 Offence:

28.4 Penalty:

28.5 Date:

29. Are you the subject of any current criminal investigations and / or proceedings?

29.1 YES
NO

If YES, please give details:

30. Have you been the subject of any civil proceedings or litigation? Are you presently, or do you expect to be engaged in litigation?

30.1 YES
NO

If YES, give full particulars:

31. Have you or any body corporate, partnership or unincorporated entity with which you are, or have been, associated as director, controller or manager:

31.1	ever been censured, disciplined or publicly criticised by any Court of Law, regulatory authority, officially appointed enquiry or by any professional body or trade association?
	YES <input type="checkbox"/> NO <input type="checkbox"/>
31.2.	ever been the subject of a regulatory disciplinary measure or been refused or had revoked or restricted or suspended a licence or authorisation to carry on a business activity for which a specific licence or authorisation or other permission is required?
	YES <input type="checkbox"/> NO <input type="checkbox"/>
31.3	ever been found guilty of conducting or been investigated for possible conduct of any licensable activities without the necessary licence, authorisation or permits?
	YES <input type="checkbox"/> NO <input type="checkbox"/>
31.4	ever been the subject of an investigation (whether current or previous) by a governmental, professional or other regulatory body or have you resigned whilst under investigation?
	YES <input type="checkbox"/> NO <input type="checkbox"/>
31.5	If any of the above questions (Q. 31.1 – 31.4) has been answered YES, please provide full details: _____

32. Have you, or any body corporate, partnership or unincorporated entity with which you are, or have been associated as a director, controller or manager withdrawn an application that had been submitted to a regulatory or licensing authority?	
32.1	YES <input type="checkbox"/> NO <input type="checkbox"/> If YES, give full particulars: _____

33. Have you been dismissed from any office or employment or barred from entry to any profession or occupation?	
33.1	YES <input type="checkbox"/> NO <input type="checkbox"/> If YES, give full particulars: _____

34. Have you been adjudicated bankrupt by a Court or Tribunal?	
34.1	YES <input type="checkbox"/> NO <input type="checkbox"/> If YES, give full particulars: _____

--

35. Have you failed to satisfy any debt adjudged due and payable by you as a judgement debtor under an order of a Court or Tribunal?

35.1 YES
NO

If YES, give full particulars:

36. Have you, in connection with the formation or management of any body corporate, partnership or unincorporated entity been adjudged by a court liable for any fraud, forgery or other misconduct by you towards such a body or company or towards any members thereof?

36.1 YES
NO

If YES, give full particulars:

37. Has any body corporate, partnership or unincorporated entity with which you were associated as a director, controller or manager been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading?

37.1 YES
NO

If YES, give full particulars:

If YES, please also confirm whether any of the above mentioned proceedings occurred in circumstances where creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within five years after you ceased to be associated with it:

38. Have you (in your individual capacity) or any body corporate, partnership or unincorporated entity with which you were associated ever been asked to close a bank account or had a bank account closed by the bank?

38.1 YES
NO

If YES, please provide details:

SECTION 9: DECLARATION

THE APPLICANT

I certify that I have read and understood the Important Information on pages i-iii. I also certify that the above information is complete and correct to the best of my knowledge and belief, and that I have personally re-checked this information. I undertake to advise the Malta Financial Services Authority of any material change to the contents of this P.Q. By signing the declaration below, I authorise MFSA to contact any or all of the above named or any other person and to make such enquiries and seek further information as considered by the MFSA to be relevant and as it thinks appropriate in the course of verifying the information given in this P.Q. This authorisation is valid at the date of signature and at any time in the future. I also understand that the results of any verification carried out by the MFSA in connection with the applicable fit and proper test may be disclosed to the Licence Holder or the promoters of the Entity, in connection with which this P.Q. is being submitted.

I understand that the personal information provided in this P.Q. will be used by the MFSA to discharge its regulatory and statutory functions under the laws under which it has been appointed Competent Authority and other relevant legislation, and will not be disclosed for any other purpose.

Knowingly or recklessly giving the MFSA information which is false or misleading may be a criminal offence.

Name of Applicant (in block capitals) _____

Passport Number _____
or alternatively
I. D. Number *:

Place and date of _____
Issue of Passport:

Date: _____

Signed: _____

THE LICENCE HOLDER

I confirm, on behalf of the Licence Holder that I have read and understood the Important Information on pages i-iii. I also certify that the above information is complete and correct to the best of our knowledge and belief. After verifying to the extent possible, the information included in this P.Q., and following our own due diligence enquiries, the Licence Holder believes that the Applicant is fit and proper to take up the position as proposed in Q.1 of this P.Q..

Name of Licence Holder (in block capitals): _____

Name of person _____
signing on behalf of
the Licence Holder:

Position Title _____

Date: _____

Signed: _____

Signatories on behalf of the Licence Holder in connection with which this P.Q. is being submitted:

This Declaration should be signed on behalf of the Licence Holder, by an individual who has been authorised to sign on behalf of the Licence Holder. The individual should be of sufficient standing within the Licence Holder in question. The Licence Holder should keep adequate record of the delegated authority evidencing that the individual in question has been authorised to sign on its behalf.

Where the Applicant will occupy positions with different Licence Holders (e.g. Group of Companies), this Declaration shall be signed by an official representing each Licence Holder, unless agreed otherwise with the MFSA.

N.B. Entities which are still in the process of applying for a Licence from the MFSA and in connection with which an Applicant submits a P.Q., need not counter-sign the declaration ordinarily signed by existing Licence Holders.

Please ensure that the following documentation is attached to this Personal Questionnaire Form:

- a. * An authenticated copy of an identification document (I.D. card or passport)
- b. A recent copy of the Applicant's conduct certificate (which should not be more than 3 months old) from the police authorities or an equivalent certification from the country of residence of the individual completing the PQ;
- c. The Banker's Authorisation Letter (Appendix One)
- d. The General Authorisation Letter (Appendix Two)
- e. In the case of advocates only, the Authorisation Letter to Commission for the Administration of Justice (Appendix Three)

N.B. Please note that the submission of a detailed Curriculum Vitae is not required.

GLOSSARY

Associate – in relation to a person entitled to exercise or control the exercise of voting power in relation to an unincorporated entity such as a partnership, or holding shares in a body corporate, that is neither a subsidiary nor an interest in a joint venture, means –

- (a) the wife or husband or son (including step-son) or daughter (including step-daughter) of that person;
- (b) any company of which that person is a director;
- (c) any person who is an employee or partner of that person;
- (d) if that person is a company –
 - (i) any director of that company;
 - (ii) any subsidiary of that company;
 - (iii) any director or employee of any such subsidiary;
- (e) if that person has with any other person an agreement or arrangement with respect to the acquisition, holding or disposing of shares or other interests in that body corporate or under which they undertake to act together in exercising their voting power in relation to it, that other person.

Chief Executive – a person who is employed by the licence holder/entity and who either alone or jointly with others is or will be responsible under the immediate authority of the directors for the conduct of the business of the licence holder/entity.

Controller - in relation to a body corporate, is a person who, alone or together with others, exercises control of the body corporate.

Director - in relation to a company, is a person occupying the position of a director of the company, by whatever name she or he may be called, empowered to carry out substantially the same functions in relation to the direction of the company as those carried out by a director.

Fit and Proper Test – qualifying shareholders, board members, senior managers and other key functionaries are required to meet the fit and proper test. In general terms, the fit and proper test includes the following criteria: integrity, competence, experience, qualifications and the requirement to be financially sound. All criteria must be met in satisfaction of the fit and proper test.

Laws – in the context of this P.Q., refer to the legislation under which the MFSA issues regulatory Licences or Registrations or Authorisations, and include, the Banking Act (Chapter 371), the Financial Institutions Act (Chapter 376), the Investment Services Act (Chapter 370), the Insurance Business Act (chapter 403), the Insurance Brokers and Other Intermediaries Act (Chapter 404), the Special Funds (Regulations) Act (Chapter 450), and the Trusts and Trustees Act (Chapter 331).

Licence Holder – any individual or entity licensed or authorised and supervised by the MFSA under any one or more of the legislative frameworks indicated under ‘Laws’.

Officer – in relation to a company, includes a director, partner, manager or company secretary or any person effectively acting in such capacity whether formally appointed or not.

Related Party or Parties – a party is related to an entity if:

- (a) directly, or indirectly through one or more intermediaries, the party:
 - (i) controls, is controlled by, or is under common control with, the entity (this includes parents, subsidiaries and fellow subsidiaries);
 - (ii) has an interest in the entity that gives it significant influence over the entity; or
 - (iii) has joint control over the entity;
- (b) the party is an associate (as defined) of the entity;
- (c) the party is a joint venture in which the entity is a venturer (i.e. a party to a joint venture and has joint control over that joint venture);
- (d) the party is a member of the key management personnel of the entity or its parent;
- (e) the party is a close member of the family of any individual referred to in (a) or (d);

- (f) the party is an entity that is controlled, jointly controlled or significantly influenced by, or for which significant voting power in such entity resides with, directly or indirectly, any individual referred to in (d) or (e); or
- (g) the party is a post-employment benefit plan for the benefit of employees of the entity, or of any entity that is a related party of the entity.

Senior Manager - a person employed by the licence holder/entity who, under the immediate authority of a director or the Chief Executive of the licence holder/entity, exercises managerial functions or is responsible for maintaining accounts or other records of the licence holder/entity.

Trustee – in relation to property, means the person or persons holding or in whom the property is vested on terms of trust in accordance with the provisions of the Trusts and Trustees Act or is otherwise deemed to be a trustee under the Trusts and Trustees Act.

APPENDIX ONE

STANDARD LETTER

***AUTHORISATION LETTER FOR BANKS TO REPLY
TO MFSA DUE DILIGENCE ENQUIRIES***

PLEASE COMPLETE AND SEND IN ORIGINAL DUPLICATE TO THE MFSA TOGETHER WITH THIS P.Q. FORM. THE MFSA MAY THEN SEND THIS AUTHORISATION LETTER TO THE RESPECTIVE BANK(S) SHOULD IT DEEM NECESSARY.

(TO BE SENT IN A SEALED ENVELOPE MARKED "PERSONAL & CONFIDENTIAL")

The Manager

Date _____

Personal & Confidential

Dear _____

Re: _____ (Name, Address, ID No. - if known)

In the near future the Malta Financial Services Authority ("MFSA") may write to you and may request information in my regard.

The MFSA is responsible - inter alia - for the regulation and supervision of the business of insurance and insurance intermediaries activities, investment services, collective investment schemes, trustees and persons providing fiduciary services, banking and financial institutions' activities carried out in or from Malta. In pursuance of its regulatory duties, the MFSA may make enquiries, including those set out below as part of its standard fit and proper verifications.

This letter is to specifically and directly authorise you to provide any information to the MFSA as it may require from time to time, including information regarding my bank accounts, and in particular to confirm that I maintain with your Bank, the account(s) described below, and to confirm whether:

1. the account (No. _____) is a personal account in my sole name;
2. the account has been maintained for some time and if so for how long;
3. there are any other accounts to which I am a party whether sole, joint, personal, corporate or any other, either presently or previously;
4. all the accounts referred to (in 1 and 3) have been maintained satisfactorily;
5. the Bank has ever required me to close an account to which I was a party.

The MFSA may also request you to provide it with any additional explanatory information which it considers necessary and with any information that you consider appropriate and relevant to provide.

You are authorised to respond to the MFSA directly at your earliest convenience should the MFSA enquire on my behalf. I shall be responsible for charges, if any, applicable for this service. I understand that I will not be informed by the Bank of any information furnished by the Bank to the MFSA, upon the latter's written request.

This authorisation to the Bank regarding the provision of relevant information on my behalf to the MFSA is valid from the date of signature of this letter.

Yours sincerely

c.c. The Director General
Malta Financial Services Authority

APPENDIX TWO

FIT AND PROPER ENQUIRY - GENERAL AUTHORISATION FORM

PLEASE COMPLETE AND SEND IN ORIGINAL DUPLICATE TO THE MFSA TOGETHER WITH THIS P.Q. FORM. THE MFSA MAY THEN SEND THIS AUTHORISATION LETTER TO THE PARTY WITH WHOM IT IS CONDUCTING THE DUE DILIGENCE ENQUIRY, SHOULD IT DEEM NECESSARY

(TO BE SENT IN A SEALED ENVELOPE MARKED "PERSONAL & CONFIDENTIAL")

TO WHOM IT MAY CONCERN

Date _____

Re: _____ (Name, Address, ID No.)

This letter is to authorise you to provide any information and respond in the most detailed manner to any questions and requests made by the Malta Financial Services Authority ("MFSA") in my regard. The MFSA is responsible - inter alia - for the regulation and supervision of financial services activities carried out in or from Malta. In pursuance of its regulatory duties, the MFSA may make enquiries as part of its standard fit and proper checks, regarding my previous employments, my qualifications, my current or past membership or associateships of educational institutes, professional associations, previous or current directorships.

The MFSA may also request you to provide it with any additional explanatory information which it considers necessary and any information that you consider appropriate and relevant to provide.

This authorisation letter regarding the provision of relevant information on my behalf to the MFSA is valid from the date of signature of this letter.

You are authorised to respond to the MFSA directly at your earliest convenience should the MFSA enquiry on my behalf. I shall be responsible for charges, if any, applicable for this service.

Yours sincerely

c.c. The Director General
Malta Financial Services Authority

APPENDIX THREE

STANDARD LETTER

***AUTHORISATION LETTER TO COMMISSION FOR THE ADMINISTRATION OF
JUSTICE TO REPLY TO MFSA DUE DILIGENCE ENQUIRIES***

The Secretary
The Commission for the Administration of Justice
The President's Palace
Republic Street
Valletta

Date _____

Personal & Confidential

Dear Madam,

Re: _____ (Name, Address, ID No.)

In the near future the Malta Financial Services Authority ("MFSA") may write to you and may request information in my regard.

The MFSA is responsible - inter alia - for the regulation and supervision of financial services activities carried on, in or from Malta, including the regulation of trustees, business of insurance, investment services and banking. In pursuance of its regulatory duties, the MFSA may make enquiries, including those set out below as part of its standard "fit and proper" verifications.

This letter is to specifically and directly authorise you to provide any information to the MFSA as it may require from time to time, and in particular to confirm whether:

1. the undersigned is held in good standing by the Commission for the Administration of Justice;
2. the undersigned has ever been subject to proceedings by the Commission for the Administration of Justice and in respect of which there has been no exoneration;
3. the Commission for the Administration of Justice is in the process of investigating or has taken or is in the process of taking disciplinary action against the undersigned;
4. the Commission for the Administration of Justice is aware of any information that might have an adverse effect on the MFSA's determination of the "fitness and properness" of the undersigned to serve as an officer of a regulated entity.

The MFSA may also request you to provide it with any additional explanatory information which it considers necessary and with any information that you consider appropriate and relevant to provide.

This authorisation to the Commission for the Administration of Justice regarding the provision of relevant information on my behalf to the MFSA is valid from the date of signature of this letter.

You are authorised to respond to the MFSA directly at your earliest convenience should the MFSA enquire on my behalf.

Yours sincerely

THE ENVELOPE SHOULD BE MARKED “PERSONAL & CONFIDENTIAL”

c.c. The Director General
Malta Financial Services Authority

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Schedule 3

**Request for authorisation
to engage in Portfolio Management
or Investment Advice
or act as Compliance Officer (“CO”)
or Money Laundering Reporting Officer
(“MLRO”) or Risk Manager**

Name of Individual completing this form ('the Applicant'):	
Name of existing Licence Holder:	

Please return this form to:
**The Director
Authorisation Unit
Malta Financial Services Authority
Notabile Road
Attard BKR 3000, Malta.**

Important Information

CO / MLRO / Risk Manager

Individuals proposed to act as Compliance Officer or Money Laundering Reporting Officer are required to satisfy the MFSA that they have the necessary experience or training to carry out the proposed role within the Licence Holder, taking into account the activities carried out by the Licence Holders.

Portfolio Managers / Investment Advisors

Individuals proposed to undertake portfolio management or investment advisory services need to satisfy the competence requirements applied by the MFSA. The onus of proof of satisfaction of the competency criteria lies with the Applicant and hence it is important that the basis on which the Applicant considers that s/he satisfies the applicable competency criteria is clearly and comprehensively demonstrated to the MFSA.

By way of background, a person is deemed to satisfy the MFSA's competency requirements if s/he demonstrates that s/he has the appropriate qualifications, training and experience relevant to the specific activities of the licence holder. In particular competency in dealing with respect to the instruments in respect of which such services are to be provided if required. The person who is to undertake investment management or advice should generally have both the necessary qualifications and experience but the MFSA can authorise a person either on the basis of relevant qualifications or experience also taking into consideration any relevant training obtained by such person. The criteria which are applied in this regard are further described below.

With reference to experience, the MFSA expects the Applicant to possess hands-on investment management or advisory experience (as applicable), ordinarily with a regulated financial services entity. Hence, the Applicant would need to demonstrate that s/he has been undertaking the proposed activity being applied for with such an entity for an adequate period of time. Dealings on own account are ordinarily not taken into consideration in assessing whether an Applicant satisfies the competency criteria, nor are other general appointments which do not specifically involve the activity in question (for example, general directorship or compliance services). Each case will be assessed in its own merits and the MFSA may ask for any additional information or clarifications following consideration of the information provided, including the submission of any references confirming the competency of the person involved. In the case of experience with unregulated entities, the MFSA would ordinarily require at least 3 professional references. The references that will be taken into consideration in this regard are those issued by independent professional persons (who are authorised senior portfolio managers/ advisors themselves and who ideally work within a regulated environment). Such references should also: clearly confirm the competency of the Applicant in the proposed activity and their familiarity with the instruments in respect of which such activities are to be provided; describe the basis on which such reference is being issued; and be provided to the MFSA in original, and on appropriate letterheads or otherwise with adequate authentication of the person issuing the reference.

With respect to qualifications, reference should be made to the non-exhaustive list of qualifications currently recognised by the MFSA as relevant for the provision of investment management or advisory services. The list of Recognised Qualifications is available from the MFSA's website under 'About Us' / 'Careers and Training'. The Applicant is encouraged to approach the MFSA in case of any other relevant qualification which s/he possesses which does not feature on the list of Recognised Qualifications. Relevant details would need to be provided in this regard to enable the MFSA to undertake an assessment relating to the adequacy of such qualification.

In the case where an Applicant requests to be authorised to provide investment advice on the basis of a recognised qualification/s whilst having no direct experience in undertaking the proposed activity, the MFSA would ordinarily require such Applicant to provide advice under the supervision of an experienced authorised advisor for a specified period to be determined by the MFSA. Following such period of supervision by an experienced authorised advisor, the Applicant would ordinarily be authorised to provide advice upon receipt of confirmation from the experienced authorised advisor that the Applicant is competent to provide investment advisory services to clients.

The monitoring and operational arrangements of the respective Licence Holder will also be taken into consideration in addition to the criteria mentioned above in reaching a decision whether to approve the Applicant to provide the indicated activity.

Other Information

An individual proposed to act as CO, MLRO, Risk Manager or Portfolio Manager proposed to undertake investment management services should also complete the Personal Questionnaire Form which is available from the MFSA's website in addition to this Form. Relevant cross-references could be included as directed in this Form in order to avoid duplication of information.

Individuals proposed to provide investment advice are required to complete the Declarations and Confirmations requested in Section 5. If at any time after this Form is submitted, there is a material change to the information provided in this section, the Applicant is required to notify the MFSA accordingly. This is an on-going obligation which the Applicant undertakes in signing the 'Declaration' in Section 5 of this Form.

The Form should be completed by the Applicant personally. The Applicant retains responsibility for the contents thereof. In addition, the Licence Holder in connection with which this Form, is being submitted, should verify to the extent and wherever possible, the information included by the Applicant in this Form.

An Applicant who furnishes information, or makes a statement which s/he knows to be inaccurate, false or misleading in any material respect or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect, may be guilty of an offence and may severely prejudice his or her fit and proper status.

If you are in any doubt about how any of the questions should be answered, please contact an official of the Authorisation Unit at the MFSA on 21441155.

An Applicant should not occupy any post or begin performing any function which requires prior approval by the MFSA, until the MFSA has granted its approval in writing.

Section 1: Proposed Activities

1. Select activity to be undertaken:

- 1.1 Portfolio Management
- Investment Advice
- Compliance Officer
- Money Laundering Reporting Officer
- Risk Manager

2. Please answer this question only if you are proposed to provide Portfolio Management or Investment Advice within the Licence Holder.

Please indicate in relation to which instruments the selected activity will be provided:

- 2.1
- a) Transferable Securities
- b) Money Market Instruments
- c) Units in collective investment schemes
- d) 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.
- e) 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).
- f) 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 Schedule 1 to the Act.
- g) 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 para. (f) above, 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.

- h) Derivative instruments for the transfer of credit risk.
- i) Rights under a 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.
- j) 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 this Schedule, 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 Schedule 1 to the Act, are cleared and settled through recognized clearing houses or are subject to regular margin calls.
- k) Certificates or other instruments which confer property rights in respect of any instrument falling within Schedule 2 to the Act.
- l) Foreign exchange acquired or held for investment purposes
- m) Other (please specify):

Section 2: Employment History

3. Have you ever provided the selected activity indicated in Q.1 of Section 1 with a regulated entity?

--

- 3.1 If yes, specify with which entity, the jurisdiction and the period in question:

Entity:	
Jurisdiction:	
Period:	

Entity:	
Jurisdiction:	
Period:	

Entity:	
Jurisdiction:	
Period:	

4. Have you ever been authorised by any regulatory authority to provide the service indicated in Q.1 of Section 1?

--

- 4.1 If yes, specify by which authority and the period in question, including any restrictions/ limitations on such authorisation.

Authority:	
Period:	
Limitations:	

Authority:	
Period:	
Limitations:	

Authority:	
Period:	
Limitations:	

5. In case where Q.3 and Q.4 above do not apply, please indicate in the table below any other experience which is directly relevant to the proposed activity.

5.1 Name of Employer:

Title of Position Held:

Dates of Employment:

Full Address:

Telephone Number:

Fax Number:

Email address:

Country:

Nature of Activities of Employer:

Description of the functions undertaken by the applicant which are directly relevant to the proposed activities:

5.2 *Name of Employer:*

Title of Position Held:

Dates of Employment:

Full Address:

Telephone Number:

Fax Number:

Email address:

Country:

Nature of Activities of Employer:

Description of the functions undertaken by the applicant which are directly relevant to the proposed activities:

5.3 *Name of Employer:*

Title of Position Held:

Dates of Employment:

Full Address:

Telephone Number:

Fax Number:

Email address:

Country:

Nature of Activities of Employer:

Description of the functions undertaken by the applicant which are directly relevant to the proposed activities:

5.4 *Name of Employer:*

Title of Position Held:

Dates of Employment:

Full Address:

Telephone Number:

Fax Number:

Email address:

Country:

Nature of Activities of Employer:

Description of the functions undertaken by the applicant which are directly relevant to the proposed activities:

5.5 *Name of Employer:*

Title of Position Held:

Dates of Employment:

Full Address:

Telephone Number:

Fax Number:

Email address:

Country:

Nature of Activities of Employer:

Description of the functions undertaken by the applicant which are directly relevant to the proposed activities:

Section 3: Qualifications

6. Please proceed to Q.7, if you are proposed to act as Compliance Officer or MLRO. If you are proposed as Risk Manager or to provide Portfolio Management or Investment Advisory services, please provide details of any Recognised Qualification/s held by the Applicant.

Note: The list of Recognised Qualifications is available from the MFSA's website under 'About Us' / 'Careers and Training'. Where the Applicant has submitted a Personal Questionnaire Form, only column 1 need to be completed.

6.1 *Name of Qualification:*

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: *Email address:*

6.2 *Name of Qualification:*

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: *Email address:*

6.3 *Name of Qualification:*

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: *Email address:*

6.4 *Name of Qualification:*

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: *Email address:*

6.5 *Name of Qualification:*

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: *Email address:*

7. **Kindly provide details of any Qualification/s (other than those listed in Q.6 as applicable)**

held by the Applicant which are considered to be directly relevant to the proposed activity.
(The Applicant may be requested to provide further details in this regard including details of the duration, method of assessment and modules covered).

7.1 Name of Qualification:

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: Email address:

Reasons for being relevant (including details of any modules specifically relevant to proposed activity)

7.2 Name of Qualification:

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: Email address:

Reasons for being relevant (including details of any modules specifically relevant to proposed activity)

7.3 Name of Qualification:

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: *Email address:*

Reasons for being relevant (including details of any modules specifically relevant to proposed activity)

7.4 *Name of Qualification:*

Institute:

Date Obtained:

Designatory Letters:

Full Address:

Telephone Number:

Fax No: *Email address:*

Reasons for being relevant (including details of any modules specifically relevant to proposed activity)

Section 4: Training / Other

8. Kindly provide details of any Training received by the Applicant directly relevant to the proposed activities.

8.1 *Type of Training:*

Offered by:

Date Received:

Full Address:

Telephone Number:

Fax No: *Email address:*

Relevance:

8.2 *Type of Training:*

Offered by:

Date Received:

Full Address:

Telephone Number:

Fax No: *Email address:*

Relevance:

8.3 *Type of Training:*

Offered by:

Date Received:

Full Address:

Telephone Number:

Fax No: Email address:

Relevance:

9. Kindly provide details of associate ship, membership or fellowship of professional bodies directly relevant to the proposed activities.

Type:

Professional body:

Year of Admission:

Membership No:

Full Address:

Telephone Number:

Fax No: Email address:

Type:

Professional body:

Year of Admission:

Membership No:

Full Address:

Telephone Number:

Fax No: Email address:

Type:

Professional body:

Year of Admission:

Membership No:

Full Address:

Telephone Number:

Fax No: Email address:

10. Any other information supporting the Applicant's Competency in relation to the proposed activity.

11. Provide details of any monitoring or supervisory arrangements of the licence holder relevant to the proposed activities.

Section 5: Declarations & Confirmations

Note: This Section should only be completed by an Applicant who has applied for authorisation to undertake investment advice and who has therefore not submitted a Personal Questionnaire Form to the MFSA.

12. Are there contractual impediments or restrictions arising from any previous occupation or employment, which preclude you in any way from taking up the position in Q.1 for which this Form is being completed?

12.1

If YES, give full particulars:

13. Have you at any time been found in breach of regulations or convicted of any offence, criminal or otherwise, by any Tribunal or Court? If so, give full particulars of the forum which determined the breach, offence or conviction and/or full particulars of its decision, the offence and the penalty imposed and the date of conviction/decision. (Breaches of traffic regulations punishable by fines lower than €____ (or its equivalent) need not be reported).

13.1

13.2 Court:

Offence:

Penalty:

Date:

14. Are you the subject of any current criminal investigations and / or proceedings?

14.1

If YES, please give details:

15. Have you been the subject of any civil proceedings or litigation? Are you presently, or do you expect to be engaged in litigation which would prevent you in any way from taking up the position in Q.1 for which this Form is being completed?

15.1

If YES, give full particulars:

16. Have you or any body corporate, partnership or unincorporated entity with which you are, or have been, associated as director, controller or manager:

16.1 *ever been censured, disciplined or publicly criticised by any Court of Law, Regulatory Authority, officially appointed enquiry or by any professional body or trade association?*

16.2 *ever been the subject of a regulatory disciplinary measure or been refused or had revoked or restricted or suspended a licence or authorisation to carry on a business activity for which a specific licence or authorisation or other permission is required?*

16.3 *ever been investigated for conducting any licensable activities without the necessary licence, authorisation or permits? If yes, did the investigation result in a conviction? Provide details.*

[Redacted]

16.4 *ever been the subject of an investigation (whether current or previous) by a governmental, professional or other Regulatory Body or have you resigned whilst under investigation?*

[Redacted]

16.5 *If any of the above questions (Q. 16.1 – 16.4) has been answered YES, please provide full details:*

[Redacted]

17. Have you, or any body corporate, partnership or unincorporated entity with which you are, or have been associated as a director, controller or manager withdrawn an application that had been submitted to a regulatory or licensing authority?

17.1 [Redacted]

If YES, give full particulars:

[Redacted]

18. Have you been dismissed from any office or employment or barred from entry to any profession or occupation?

18.1 [Redacted]

If YES, give full particulars:

[Redacted]

19. Have you been adjudicated bankrupt by a Court or Tribunal?

19.1

If YES, give full particulars:

20. Have you failed to satisfy any debt adjudged due and payable by you as a judgement debtor under an order of a Court or Tribunal?

20.1

If YES, give full particulars:

21. Have you, in connection with the formation or management of any body corporate, partnership or unincorporated entity been adjudged liable by a court for any fraud, forgery or other misconduct towards such a body corporate, partnership or entity towards any members thereof?

21.1

If YES, give full particulars:

22. Has any body corporate, partnership or unincorporated entity with which you were associated as a director, controller or manager been compulsorily wound up or made any arrangement with its creditors or ceased to trade?

22.1

If YES, give full particulars:

23. Have you or any body corporate, partnership or unincorporated entity with which you were associated ever been asked to close a bank account or had a bank account closed by the bank?

23.1

If YES, please provide details:

Section 6: Declaration

THE APPLICANT

I certify that I have read and understood the Important Information on pages ii-iii. I also certify that the above information provided by me in this document is complete and correct to the best of my knowledge and belief, and that I have personally re-checked this information.

Name of Applicant (in block capitals):

Passport Number or alternatively D. Number *:

Place and date of Issue of Passport:

Date:

Signed:

THE LICENCE HOLDER

I confirm, on behalf of the Licence Holder that I have read and understood the Important Information on pages ii-iii. I also certify that the information provided in the document is complete and correct to the best of our knowledge and belief. After verifying to the extent possible, the information included in this Form, and following our own due diligence enquiries, the Licence Holder believes that the Applicant is fit and proper to take up the position as proposed in Q.1 of this form.

Name of Licence Holder (in block capitals):

Name of person signing on behalf of the Licence Holder:

Position Title:

Date:

Signed:

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTMENT FUNDS

PART B: STANDARD LICENCE CONDITIONS APPLICABLE TO ALTERNATIVE INVESTMENT FUNDS

APPLICABILITY OF PART B OF THE INVESTMENT SERVICES RULES

Part B of the Investment Services Rules for Alternative Investment Funds shall apply as follows:

- [I] Sections 1 to 7 shall apply to all AIFs whether these have appointed an external AIFM or are self-managed AIFs;
- [II] Section 8 shall apply **exclusively** to self-managed AIFs. Therefore, self-managed AIFs are expected to comply with **all** the sections prescribed in Part B of the Rules.

1. GENERAL REQUIREMENTS

- 1.01 Every AIF shall comply with the provisions of the Investment Services Act, the Regulations and the Investment Services Rules issued thereunder. An AIF may be managed in one of two ways :
- a) By an external manager, which is the legal person appointed by the AIF or on behalf of the AIF and which through this appointment is responsible for managing the AIF also referred to as “external AIFM”; or
 - b) Where the legal form of the AIF permits an internal management, and where the AIF’s governing body chooses not to appoint an external AIFM, by the AIF itself, which shall be licenced as a self-managed AIF.
- 1.02 Apart from the conditions listed in this Part of the Rules, where the AIF adopts different structures and strategies it shall also be subject to the supplementary conditions applicable to specific types of AIFs as prescribed in Appendix I. In the case of umbrella AIFs, reference to the AIF shall be construed, where applicable, as reference to the sub-funds of the AIF.
- 1.03 The AIF shall commence its activities within 12 months of the date of issue of the Collective Investment Scheme Licence. If, for any reason the AIF is not in a position to comply with this condition, it shall notify the MFSA in writing setting out the reason(s) for such a delay together with an updated business plan indicating the

proposed date of commencement of business. On the basis of the information provided and the circumstances of the case, the MFSA may decide to suspend or cancel the Licence in accordance with the relevant provisions of the Act.

- 1.04 The AIF shall co-operate in an open and honest manner with the MFSA and inform it promptly of any relevant information. The AIF shall supply the MFSA with such information and returns as the MFSA requires to monitor compliance with the conditions referred to in the Act and any rules and regulations issued thereunder.
- 1.05 Where a Standard Licence Condition demands that the AIF notifies the MFSA of an event, such notification shall be made to the MFSA formally, in a durable medium. The request to notify the MFSA of an event shall not be satisfied merely by the fact that the information which ought to be notified to the MFSA is included in a standard regulatory return.
- 1.06 The AIF shall be effectively directed or managed by at least two individuals in satisfaction of the “dual control” principle. Such persons shall be of sufficiently good repute and sufficiently experienced so as to ensure the sound and prudent management of the AIF.

Moreover, the AIF shall take reasonable steps to ensure continuity and regularity in the performance of its functions. To this end, the AIF shall employ appropriate and proportionate systems, resources and procedures.

- 1.07 The AIF shall notify the MFSA in writing of:
- a) a change in the AIF’s name or business name (if different) at least one month in advance of the change being made;
 - b) a change of address: at least one month in advance;
 - c) any material changes to the conditions for initial authorisation, in particular material changes to the information provided during the application process at least one month in advance of the change being made;
 - d) a change in the appointment of the External Valuer;
 - e) the departure of a Director or Senior Manager, Portfolio Manager, Compliance Officer, Money Laundering Reporting Officer and Risk Manager within 14 days of the departure. The AIF shall also request the Director or Senior Manager to confirm to MFSA that their departure had no regulatory implications or to provide relevant details as appropriate. A copy of such request shall be provided to MFSA together with the AIF’s notification of departure;

- f) any proposed material change to its business (whether that business constitutes licensable activity under the Act or not) – at least one month before the change is to take effect (where a new or amended Investment Services Licence is required, the new business shall not begin until the new Investment Services Licence has been granted or the amendment has been approved);
- g) any evidence of fraud or dishonesty by a member of the AIF's staff immediately upon becoming aware of the matter;
- h) a decision to make a material claim on any insurance policy held in relation to the AIF's business. Notification should be provided as soon as the decision is taken;
- i) any actual or intended legal proceedings of a material nature by or against the AIF immediately after the decision has been taken or on becoming aware of the matter;
- j) the fact, where applicable, that it has not provided any Investment Service or carried out any investment activity for the preceding six months, setting out the reasons for such inactivity and providing a business plan for future activity; and
- k) any other material information concerning the AIF, its business or its officials in Malta or abroad – immediately upon becoming aware of the matter.

1.08 The AIF shall obtain the written consent of the MFSA before:

- a) making any change to its share capital or the rights of its shareholders;
- b) redeeming its voting shares or issuing additional voting shares;
- c) establishing a branch in Malta or abroad;
- d) taking any steps to cease its investment services business;
- e) agreeing to sell or merge the whole or any part of its undertaking;
- f) making an application to a Regulator abroad to undertake any form of licensable activity outside Malta;
- g) the appointment of a Director or Senior Manager, Compliance Officer, Money Laundering Reporting Officer and of any persons engaged in portfolio management, risk management or investment advice at least twenty one business days in advance. The request for consent shall be accompanied by a Personal Questionnaire in the form set out in Schedule 2 to Part A of these

Rules – duly completed by the person proposed. The person proposed as investment advisor need not complete the Personal Questionnaire.

In the case of a proposed Portfolio Manager, Investment Advisor, Compliance Officer and/ or Money Laundering Reporting Officer and Risk Manager, the request shall also be accompanied by the Competency Form set out in Schedule 3 to Part A of these Rules duly completed by the person proposed. Where the person proposed had within the previous three years submitted a PQ to the MFSA in connection with some other role with the same AIF, the request for consent need not be accompanied by a new PQ. In such instances, it shall be accompanied by a confirmation by the proposed person as to whether the information included in the PQ previously submitted is still current, and indicating any changes or up-dates thereto;

For the purposes of the above and (h) below, ‘Senior Manager’ should be interpreted as the person occupying the most senior role following that of Director, so that in the case where there are various management grades, it is the most senior manager who will require the MFSA’s authorisation.

- h) the change in the responsibilities of a Director or Senior Manager at least twenty one business days in advance. The request for consent of the change in responsibilities of a Director or Senior Manager shall be accompanied by a PQ unless the individual concerned had within the previous three years submitted a PQ to the MFSA in connection with another role occupied by such individual with the same AIF, in which case it shall be accompanied by a confirmation by the Director or Senior Manager as to whether the information included in the PQ previously submitted is still current, and indicating any changes or updates thereto:

Provided that a change in the responsibilities of a Director or Senior Manager should only be notified to the MFSA when such a change is material, which shall include a change in the status or seniority of the person concerned (upwards or downwards).

- 1.09 The AIF shall maintain sufficient records to be able to demonstrate compliance with the conditions of its Licence.
- 1.10 The AIF shall co-operate fully with any inspection or other enquiry carried out by, or on behalf of the MFSA and inform it promptly of any relevant information. The AIF shall provide the MFSA with such information as the MFSA may require.
- 1.11 The AIF shall pay promptly all amounts due to the MFSA. The Licence Fee shall be payable by the AIF on the day the Licence is first issued and, thereafter annually within one week from the anniversary of that date.

- 1.12 The MFSA shall be notified of any breach of the Licence Conditions or of any of the provisions of the Offering Document or Constitutional Documents of the AIF as soon as the AIF or its Manager or Administrator becomes aware of the breach.
- 1.13 The AIF – or the AIFM or Administrator on its behalf – shall submit copies of the AIF’s annual audited financial statements.
- 1.14 The AIF shall disclose the identity of the regulated entity and its regulator or regulators in all correspondence, advertisements and other documents. Wording similar to the following shall be used: “Licenced by the MFSA as an Alternative Investment Fund available to Professional Investors.”
- 1.15 The AIF shall organise and control its affairs in a responsible manner and shall have adequate operational, administrative and financial procedures and controls to ensure compliance with all regulatory requirements.
- 1.16 The MFSA shall not be liable in damages for anything done or omitted to be done unless the act or omission is shown to have been done or omitted to be done in bad faith.
- 1.17 The MFSA has the right from time to time, and following advance notification to the AIF, to vary or revoke any Licence Condition or impose new conditions.
- 1.18 The AIF shall not be required to make public the issue and redemption prices of its Units or Shares. However, these must be made available to unit-holders upon request.
- 1.19 If the dealings in the Units or Shares are suspended, the AIF – or the AIFM or the Administrator on its behalf – shall inform the MFSA forthwith stating the reason for this suspension.
- 1.20 The AIF, its AIFM or Administrator on its behalf shall keep such accounting and other records as are necessary to enable it to comply with these conditions and to demonstrate that compliance has been achieved. Accounting records shall be retained for a minimum period of ten years. During the first two years, they shall be kept in a place from which they can be produced within two working days of their being requested. After the first two years, they shall be kept in a place from which they can be produced within five working days of their being requested.
- 1.21 In the event of a winding up, the AIF must give the MFSA at least two weeks’ notice of this intention. The prior approval of the MFSA shall be obtained for the approach to be adopted. If requested to do so by the MFSA, the AIF shall do all in its power to delay the winding-up or to proceed with the winding up in accordance with the conditions imposed by the MFSA.

- 1.22 Any changes to the financial year-end of the AIF shall be notified to the MFSA and disclosed in the Offering Document.

2. GOVERNING BODY OF THE AIF

- 2.01 The Governing Body of the AIF (which includes the Board of Directors, Trustee, or General Partners where applicable) shall be responsible for ensuring that the AIF complies with its obligations under these Rules.
- 2.02 The Governing Body of the AIF shall be composed of one or more directors independent of the AIFM and the Custodian.
- 2.03 The MFSA shall be satisfied on a continuing basis of the fitness and properness of the members of the Governing Body.
- 2.04 The members of the Governing Body shall act honestly and in good faith in what they consider to be the best interests of the AIF and its potential investors.
- 2.05 The members of the Governing Body shall exercise reasonable care, skill and diligence.
- 2.06 The members of the Governing Body have, both collectively as a Board and individually, an obligation to acquire and maintain sufficient knowledge and understanding of the AIF's business to enable them to discharge their functions as directors.
- 2.07 The Governing Body must not merely carry out a vetting function with regards to all the documents which are submitted for its attention. It is the duty of the Governing Body of an AIF to inform itself of its investment activities and have a proper understanding of its financial condition.
- 2.08 The Members of the Governing Body shall exercise the powers they have for the purposes for which such powers were conferred and they shall not misuse such powers.
- 2.09 The Governing Body shall exercise its powers independently without subordinating such powers to the will of others.
- 2.10 Whilst the Governing Body of an AIF may be entitled under the Constitutional Documents to delegate particular functions, the delegation of such functions shall not absolve the Governing Body from the duty to supervise the discharge of such delegated functions.
- 2.11 The members of the Governing Body shall carry out all the necessary checks to satisfy themselves that the overall structure of the AIF is consistent with the standards prescribed in the Act and in these Rules and that the terms agreed to in the contracts with the service providers are reasonable and consistent with the standards adopted by the industry. Furthermore, the Governing Body must ensure that all the

service providers appointed in relation to the AIF create an overall structure which will ensure an adequate division of responsibilities in relation to the fund.

- 2.12 The Governing Body shall continuously monitor the execution of the functions delegated to the service providers and shall be satisfied that they are performing their functions in accordance with their contractual obligations.
- 2.13 The members of the Governing Body shall hold regular board meetings and shall ensure that detailed minutes are taken to record accurately the matters discussed and considered. The agenda should be well structured and prepared, giving sufficient time to allow for the input of all the notice parties and service providers before the meeting.
- 2.14 Minutes of the meetings of the Governing Body must be held in Malta at the registered office of the AIF or at any other place as may be agreed with the MFSA.

3. SERVICE PROVIDERS

- 3.01 An AIF may appoint service providers it deems necessary. The AIF is obliged to appoint a Custodian, an Auditor, a Compliance Officer and a Money Laundering Reporting Officer.
- 3.02 The MFSA shall be satisfied on a continuing basis of the fitness and properness of any party appointed by the AIF.
- 3.03 The AIF and its service providers shall comply with the applicable laws whether Maltese or EU Related to which they may be subject.

The AIFM

- 3.04 The AIF may appoint a single external AIFM with responsibility for portfolio management and risk management of the AIF and other permitted services.
- 3.05 The AIFM may either have an established place of business in Malta or be a European AIFM. If established in Malta, it shall be in possession of a Category 2 Investment Services Licence issued in terms of Article 6 of the Act and authorised by the MFSA to provide management services to an AIF and will be expected to comply with the Standard Licence Conditions prescribed in Part BIII of the Investment Services Rules for Investment Services Providers.
- 3.06 Where an AIF does not appoint an external AIFM, it shall be subject to all the Standard Licence Conditions prescribed in this Part to the Rules, including the supplementary conditions applicable to Self-Managed AIFs prescribed in Section 8 of these Rules.
- 3.07 The AIFM shall have sufficient financial resources and liquidity at its disposal to enable it to conduct its business, and such organisation, systems, experience and expertise deemed necessary by the MFSA for it to act as AIFM. The AIF shall be required to satisfy the MFSA that the proposed AIFM meets the above requirements on a continuing basis.
- 3.08 An AIF may appoint a European AIFM in accordance with the Investment Services Act (Alternative Investment Fund Manager Passport) Regulations, 2013. A European AIFM may seek to establish a branch in Malta or provide services pursuant to Regulations 6 and 7 of the said Regulations.
- 3.09 The MFSA must be satisfied on a continuing basis that the AIFM has the appropriate expertise and experience to carry out its functions.
- 3.10 The appointment and/ or replacement of any party who is to be the AIFM of the AIF, the terms of that appointment and the contents of the agreement to which the

appointment is subject, shall be agreed in advance with the MFSA. The MFSA shall have the right to require the replacement of the AIFM.

- 3.11 The AIF shall ensure that where the AIFM wishes to delegate to third parties the carrying out on its behalf of one or more functions, the relevant provisions of Part BIII of the Investment Services Rules for Investment Services Providers dealing with delegation and outsourcing shall apply.
- 3.12 The AIF shall be subject to investment objectives, policies and restrictions outlined in its Offering Document. The AIFM shall take all reasonable steps to comply with the investment policies and restrictions of the AIF. The Custodian shall supervise the operation of the AIF to ensure that the AIFM complies with the investment policies and restrictions of the AIF.

Fund Administrator

- 3.13 The AIF may appoint a Fund Administrator. Where a Fund Administrator is not appointed, the AIFM shall be responsible for the administration function.
- 3.14 Where the proposed Fund Administrator is established in Malta, it should be in possession of a Fund Administration Recognition Certificate issued in terms of Article 9A of the Act.
- 3.15 The Fund Administrator shall have the business organisations, systems, experience and expertise deemed necessary by the MFSA for it to act as a Fund Administrator. The AIF shall satisfy the MFSA that the proposed Fund Administrator meets the above requirements.
- 3.16 The AIF shall obtain the written consent of the MFSA before the appointment or replacement of any party to act in the capacity of Fund Administrator to the AIF. The MFSA reserves the right to object to the proposed replacement or appointment and to require such additional information it considers appropriate.

Custodian

- 3.17 A single Custodian shall be appointed for each AIF in accordance with the following SLCs.
- 3.18 The Custodian shall be the holder of a Category 4 Investment Services Licence issued by the Authority or a Credit Institution having its registered office in the EU and authorised in accordance with Directive 2006/48/EC.
- 3.19 AIFs which have no redemption rights exercisable during the period of 5 years from the date of the initial investments and which in accordance with their core investment policy, generally do not invest in assets that must be held in custody in accordance with their core investment policy, or generally invest in issuers or non-

listed companies in order to potentially acquire control over such companies, may appoint an entity which carries out depository functions as part of its professional or business activities in respect of which such entity is subject to mandatory professional registration or to legal or regulatory rules of professional conduct and which can provide sufficient financial and professional guarantees to meet the commitments inherent in carrying out its depository functions.

- 3.20 The appointment of the Custodian shall be evidenced by a written contract. This contract shall *inter alia* regulate the flow of information deemed necessary to allow the Custodian to perform its functions for the AIF for which it has been appointed as Custodian.
- 3.21 Where the Custodian is a Category 4 Investment Services Licence Holder, it shall comply with the Standard Licence Conditions prescribed in Part BIV of the Investment Services Rules for Investment Services Providers.
- 3.22 The Custodian shall be separate and independent from the AIFM and shall act independently and solely in the interests of the Unit or Shareholders. Any facts, relationships, arrangements or circumstances which may at any stage bring that independence into question shall be declared to the MFSA as soon as the AIF becomes aware of such a matter.
- 3.23 The Custodian appointed for an AIF shall not be appointed as an External Valuer of that AIF, unless it has functionally and hierarchically separated the performance of its custodial functions from its tasks as External Valuer and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the AIF.
- 3.24 The written consent of the MFSA shall be obtained before the appointment or replacement of any party to act in the capacity of Custodian to the AIF. The MFSA reserves the right to object to the proposed replacement or appointment and to require such additional information it considers appropriate.

Prime Broker and Counterparties

- 3.25 The AIF may appoint a prime broker or counter party.
- 3.26 When selecting and appointing counterparties and prime brokers, the AIF shall exercise due skill, care and diligence before entering into an agreement and on an on-going basis thereafter taking into account the full range and quality of their services.
- 3.27 When selecting prime brokers or counterparties of an AIFM or an AIF in an OTC derivatives transaction, in a securities lending or in a repurchase agreement, the AIF shall ensure that those prime brokers and counterparties fulfil all of the following conditions:

- a) they are subject to on-going supervision by a public authority;
 - b) they are financially sound;
 - c) they have the necessary organisational structure and resources for performing the services which are to be provided by them to the AIF or AIFM.
- 3.28 When appraising the financial soundness referred to in SLC 3.27(b), the AIF shall take into account whether or not the prime broker or counterparty is subject to prudential supervision, including sufficient capital requirements and effective supervision.
- 3.29 The list of selected prime brokers shall be approved by the AIF's senior management. In exceptional cases, prime brokers not included in the list may be appointed, provided they fulfil the requirements prescribed in SLC 3.27 and subject to approval by the AIFM. The AIF shall be able to demonstrate the reasons for such choice and the due diligence that it exercised in selecting and monitoring the prime brokers which had not been listed.
- 3.30 The terms of the prime brokerage agreement shall be set out in a written contract. This shall set out in particular, the terms governing the transfer and reuse of AIF assets (if applicable) and shall comply with the AIF's Constitutional Documents and Offering Document. The contract shall also provide that notification thereof should be made to the Custodian.
- 3.31 A prime broker acting as counterparty to an AIF shall not act as Custodian for that AIF unless it has functionally and hierarchically separated the performance of its custodial functions from its tasks as prime broker and potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the AIF.

Compliance Officer

- 3.32 Responsibility for the AIF's compliance with its licence conditions rests with the Board of Directors in the case of an AIF set up as an investment company; with the General Partner(s) in the case of an AIF set up as a limited partnership; or with the AIFM in the case of an AIF set up as a unit trust or a common contractual fund.
- 3.33 In order to enable the compliance functions to be properly carried out, the AIF shall establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the AIF to comply with its obligations under the Act, the Regulations issued thereunder and these Rules, as well as with its obligations under other applicable legislation, in particular the Prevention of Money Laundering Act, 1994, the Prevention of Financial Markets Abuse Act, 2005, and Regulations issued thereunder, as well as to detect the associated risks, and shall put in place adequate

measures and procedures designed to minimize such risk and to enable the MFSA to exercise its powers effectively.

- 3.34 In order to enable the compliance function to discharge its responsibilities properly, the AIF shall ensure that a Compliance Officer is appointed to assume responsibility for the compliance function and for any reporting as to compliance required by these Rules.
- 3.35 The AIF shall obtain the written consent of the MFSA before the appointment or replacement of a Compliance Officer at least twenty-one business days in advance. The request for consent of the appointment or replacement of a Compliance Officer shall be accompanied by a Personal Questionnaire (“PQ”), in the form set out in Schedule 2 to Part A of these Rules and by a Competency Form as set out in Schedule 3 to Part A of these Rules – duly completed by the person proposed. The MFSA reserves the right to object to the proposed appointment or replacement and to require such additional information it considers appropriate.
- 3.36 The AIF shall notify the MFSA of the resignation or removal of its Compliance Officer upon becoming aware of the proposed resignation or removal. The AIF shall also request the Compliance Officer to confirm to the MFSA that his departure had no regulatory implications or to provide relevant details, as appropriate. A copy of such request shall be provided to the MFSA together with the AIF’s notification of departure.
- 3.37 The AIF shall request its Compliance Officer to prepare a Compliance Report at least on a six monthly basis, which in the case of an AIF taking the form of:
- a) an investment company, should be presented to the Board of Directors; or
 - b) a limited partnership, should be presented to the General Partner; or
 - c) a unit trust or a common contractual fund should be presented to the AIFM and the Trustee.
- 3.38 The Compliance Report should indicate any:
- a) breaches to the Investment and Borrowing Restrictions;
 - b) complaints from Unit or Shareholders in the AIF and the manner in which these have been handled;
 - c) material valuation errors (higher than 0.5% of NAV) and the manner in which these have been handled; and
 - d) material compliance issues during the period covered by the Compliance Report.
- 3.39 The Compliance Report should also include a confirmation that all the local Prevention of Money Laundering requirements have been satisfied. This confirmation should be obtained from the AIF’s Money Laundering Reporting Officer.

- 3.40 A copy of the Compliance Report should be held in Malta at the registered office of the AIF and made available to the MFSA during compliance visits.

Money Laundering Reporting Officer

- 3.41 Responsibility for the AIF's compliance with its Prevention of Money Laundering obligations rests with the Board of Directors in the case of an AIF set up as an investment company; with the General Partner(s) in the case of an AIF set up as a limited partnership; or with the AIFM in the case of an AIF set up as a unit trust or a common contractual fund.
- 3.42 The AIF shall at all times have a Money Laundering Reporting Officer.
- 3.43 The AIF shall obtain the written consent of the MFSA before the appointment or replacement of a Money Laundering Reporting Officer at least-twenty one business days in advance. The request for consent of the appointment or replacement of a Money Laundering Reporting Officer shall be accompanied by a Personal Questionnaire ("PQ"), in the form set out in Schedule 2 to Part A of these Rules and by a Competency Form as set out in Schedule 3 to Part A of these Rules – duly completed by the person proposed. The MFSA reserves the right to object to the proposed appointment or replacement and to require such additional information it considers appropriate.
- 3.44 The AIF shall notify the MFSA of the resignation or removal of its Money Laundering Reporting Officer upon becoming aware of the proposed resignation or removal. The AIF shall also request the Money Laundering Reporting Officer to confirm to the MFSA that his departure had no regulatory implications or to provide relevant details, as appropriate. A copy of such request shall be provided to the MFSA together with the AIF's notification of departure.

Auditor

- 3.45 The AIF shall appoint an auditor approved by the MFSA. The Auditor shall be a person empowered to audit accounts in terms of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts.
- 3.46 The AIF shall replace its auditor if requested to do so by the MFSA. The MFSA's consent shall be sought prior to the appointment or replacement of an auditor.
- 3.47 The AIF shall make available to its auditor the information and explanations he/she needs to discharge his/her responsibilities as an auditor and in order to meet the MFSA's requirements.

- 3.48 The AIF shall not appoint an individual as an auditor, nor appoint an audit firm where the individual directly responsible for the audit, or his/her firm is:
- a) a director, partner, qualifying shareholder, officer, representative or employee of the AIF;
 - b) a partner of, or in the employment of, any person in (a) above;
 - c) a spouse, parent, step-parent, child, step-child or other close relative of any person in (a) above;
 - d) a person who is not otherwise independent of the AIF;
 - e) a person disqualified by the MFSA from acting as an auditor of an AIF.

For this purpose, an auditor shall not be regarded as an officer or an employee of the AIF solely by reason of being an auditor of that AIF.

- 3.49 The AIF shall obtain from its auditor a signed letter of engagement defining clearly the extent of the auditor's responsibilities and the terms of his appointment. The AIF shall confirm in writing to its auditor its agreement to the terms in the letter of engagement.

- 3.50 The letter of engagement shall include terms requiring the auditor:

- a) to provide such information or verification to the MFSA as the MFSA may request;
- b) to afford another auditor all such assistance as he/she may require;
- c) to vacate his/her office if he becomes disqualified to act as auditor for any reason;
- d) if he/ she resigns, or is removed or not reappointed, to advise the MFSA of that fact and of the reasons for his ceasing to hold office. The auditor shall also be required to advise the MFSA if there are matters he/ she considers should be brought to the attention of the MFSA;
- e) in accordance with article 18 of the Act, to report immediately to the MFSA any fact or decision of which he becomes aware in his capacity as auditor of the AIF which:
 - i. is likely to lead to a serious qualification or refusal of his/ her audit report on the accounts of the AIF; or
 - ii. constitutes or is likely to constitute a material breach of the legal and regulatory requirements applicable to the AIF in or under the Act; or
 - iii. gravely impairs the ability of the AIF to continue as a going concern; or
 - iv. relates to any other matter which has been prescribed.

- 3.51 If at any time the AIF fails to have an auditor in office for a period exceeding four weeks, the MFSA shall be entitled to appoint a person to fill the vacancy; the fees and charges so incurred being payable by the AIF.

3.52 In respect of each annual accounting period, the AIF shall require its auditor to prepare its management letter in accordance with International Standards on Auditing.

External Valuer

3.53 The valuation function shall be performed by:

- a) An External Valuer, being a legal or natural person independent from the AIF, the AIFM and any other persons with close links to the AIF or the AIFM;
- b) The AIFM, provided that the valuation task is functionally independent from the portfolio management and the remuneration policy and other measures ensure that conflicts of interest are mitigated and that undue influence upon employees is prevented.

3.54 The External Valuer shall be subject to mandatory professional registration recognised by law or to legal or regulatory provisions or rules of professional conduct.

3.55 The External Valuer shall provide sufficient professional guarantees to be able to perform effectively the relevant valuation function.

3.56 The appointed External Valuer shall not delegate the valuation function to a third party.

3.57 The External Valuer shall perform the valuation impartially and with all due skill, care and diligence.

3.58 The AIF or the AIFM on its behalf shall notify the appointment of the External Valuer to the MFSA, which may require that another External Valuer be appointed instead where the conditions prescribed in SLCs 3.55 and 3.56 are not met.

3.59 In the case where the valuation function is not performed by an independent External Valuer, the MFSA may require the AIF to have its valuation procedures and/or valuations verified by an External Valuer, or, where appropriate by an auditor.

4. DISTRIBUTIONS OF INCOME AND SIDE LETTERS

- 4.01 The AIF shall effect any distributions of income in accordance with the provisions of its Constitutional Documents and/ or Offering Document.
- 4.02 The AIF shall further comply with the SLCs prescribed in Appendix 2 on Distributions of Income which in the event of conflict with the provisions of the Constitutional Documents and or Offering Document shall take precedence.

Side Letters

- 4.03 Side letters to be entered into by the AIF must be circulated and approved by the Board of Directors (where the AIF is set up as an investment company)/ General Partner(s) (where the AIF is set up as a limited partnership)/ AIFM of the AIF (where the AIF is set up as a unit trust or a common contractual fund) prior to issue.
- 4.04 Side letters detailing preferential treatment of certain investors shall be disclosed in the Constitutional Documents and/or Offering Document.
- 4.05 Side letters issued by the AIF should be retained in Malta at the registered office of the AIF and should be available for inspection by the MFSA during compliance visits.

5. TRANSPARENCY REQUIREMENTS

Constitutional Documents

- 5.01 Any changes to the Constitutional Document of the AIF must be approved by the MFSA in advance of implementation.
- 5.02 The Constitutional Documents shall contain at least the information prescribed in Appendix 3.

Offering Document

- 5.03 The AIF shall publish an Offering Document, which shall be dated and which shall be kept up to date. The Offering Document shall be offered to investors free of charge before they become committed to investing.
- 5.04 The Offering Document shall contain sufficient information for investors to make an informed judgement about the investment proposed to them and shall contain at least the information prescribed in Appendix 4.
- 5.05 The AIF shall approve the Offering Document including any amendments thereto, and confirm its approval to the MFSA.
- 5.06 The Offering Document and any amendments thereto shall be sent to and agreed with the MFSA before publication. The AIFM must submit a copy of its approval of the Offering Document, when this is submitted for the MFSA's approval.

Annual Report

- 5.07 The AIF or the AIFM or Administrator on its behalf shall submit copies of the AIF's annual audited financial statements to the MFSA and such other information, as the MFSA may from time to time request. The annual reports shall be published and provided to investors in the AIF, and submitted to the MFSA within six months respectively of the end of the period concerned.
- 5.08 The accounting information given in the annual report shall be prepared in accordance with the IFRS and with the accounting rules laid down in the Constitutional Documents.
- 5.09 The accounting information given in the annual report shall be audited by a certified auditor in accordance with SLC 3.45. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.
- 5.10 The AIF shall also submit to the MFSA, on the following e-mail address: fundreporting@mfsa.com.mt, any statistical returns which may be required by the Central Bank of Malta to fulfil European and other relevant reporting obligations.

6. DEALINGS BY OFFICIALS OF AN AIF

6.01 Where the AIF allows its officials to deal for their own account, it is responsible for ensuring that such a practice does not lead to abuse. The standards and procedures to be adopted should include the following:

- a) The AIF must take appropriate steps to ensure that officials act in conformity with the statutory requirements concerning insider dealing and market abuse.
- b) The AIF must take reasonable steps to ensure that its officials do not initiate personal transactions which might impair their ability to manage the AIF's assets objectively and effectively or which might create a conflict between their own interest and that of the AIF.
- c) Internal mechanisms should be established to prompt the Compliance Officer's intervention if and when in respect of any staff member, abnormal behaviour or patterns concerning investment transactions are observed.

6.02 All transactions undertaken by officials on their own account should be at "arm's length" – but this does not preclude discounts being allowed to officials.

7. MARKETING OF AN AIF

- 7.01 The AIFM and/ or any appointed intermediary may only market the AIF to Professional Investors. Investment advertisements should clearly indicate that the AIF is not available for investment by the general public but is only available for Professional Investors satisfying the applicable criteria set out in the AIF's Offering Document.
- 7.02 The AIF, its AIFM or Administrator may in turn only accept subscriptions from Professional Investors.
- 7.03 The marketing of the AIF is subject to the provisions of Section 11 of the Act.
- 7.04 The AIF may only be marketed in jurisdictions outside Malta if it satisfies the relevant rules prescribed in the Investment Services Act (Alternative Investment Fund Manager Passport) Regulations, 2013 and the Investment Services Act (Marketing of AIFs) Regulations, 2013.
- 7.05 All publicity comprising marketing of the AIF shall be approved by the Compliance Officer. All marketing material issued by the AIF shall indicate that an Offering Document exists and the places where it, and any documents updating it, may be obtained.

8. SUPPLEMENTARY LICENCE CONDITIONS APPLICABLE TO SELF-MANAGED AIFs

For the purposes of this section, the term ‘the AIF’ shall be understood as referring to a ‘Self-Managed AIF’.

Permissible Activities

8.01 A self-managed AIF may only be authorised to provide the licensable activities which consist in the internal management of the AIF as provided hereunder:

(a) Investment management functions which the AIF shall at least perform:

- [i] Portfolio management;
- [ii] Risk management.

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

[i] Administration

- legal and fund management accounting services;
- customer inquiries;
- valuation and pricing, including tax returns;
- regulatory compliance monitoring;
- maintenance of Unit or 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 the AIF, namely services necessary to meet the fiduciary duties of the AIF, 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 the AIF and the companies and other assets in which it has invested.

8.02 The MFSA may restrict the scope of the authorisation in particular as regards the investment strategies which the AIF is allowed to adopt.

8.03 Without prejudice to the generality of Article 6(6) of the Act, in the case of an application for a licence as a self-managed AIF, the MFSA shall inform the applicant in writing within three months of the submission of a complete application, whether or not the licence 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.

Provided that for the purpose of this SLC, 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 1 to Part A of these Rules to the satisfaction of the Authority.

8.04 The AIF shall commence its activities as soon as the licence has been granted.

Provided that a self-managed AIF may start providing an investment service 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 SLCs 8.59 to 8.67 of this Part of the Rules;
- (b) The memorandum and articles of association of the AIF;
- (c) Information on the arrangements made for the appointment of the custodian in accordance with Part BIV of the Investment Services Rules for Investment Services Providers;
- (d) Any additional information referred to in SLC 8.68 of this Part of the Rules.

8.05 The MFSA may restrict the scope of the authorisation in particular as regards the investment strategies an AIF is allowed to adopt.

Financial Resources Requirements

8.06 The AIF shall be operated in or from Malta, as agreed with the MFSA. It shall have sufficient financial resources at its disposal to enable it to conduct its business effectively, to meet its liabilities and to be prepared to cope with the risks to which it is exposed.

8.07 Without prejudice to the generality of SLC 8.06 the AIF must have own funds which are equivalent to an initial capital of at least EUR 300,000.

8.08 The financial resources of the AIF shall at all times exceed the level prescribed. The AIF shall maintain own funds equal to or in excess of its capital resources requirement and these shall constitute the AIF's financial resources requirement.

8.09 Where the value of the portfolio of the AIF exceeds EUR 250 million, the AIF will be required to provide an additional amount of own funds which is equal to 0.02% of the amount by which the value of the portfolio of the AIF exceeds EUR 250 million:

Provided that the required total of the initial capital and the additional amount of own funds shall not exceed EUR 10 million.

8.10 Without prejudice to the amounts prescribed in SLC 8.09 above, the own funds of the AIF shall never be less than the amount required under Article 21 of Directive 2006/49/EC.

8.11 The MFSA may authorise an AIF not to provide up to 50% of the additional amount of own funds referred to in SLC 8.09 above, if it benefits from a guarantee of the same amount given by a credit institution or an insurance undertaking which has its registered office in Malta, in another Member State or EEA State or in a third country where it is subject to prudential rules considered by the MFSA as equivalent to those prescribed by Union Law.

8.12 The AIF shall comply with any further financial resources requirements set by the MFSA. If the MFSA so determines, the AIF will be given due notice in writing of the additional financial resources requirements which shall be applied.

8.13 The AIF shall immediately advise the MFSA if at any time it is in breach of its Financial Resources Requirement. In this case, the MFSA may, if the circumstances justify it, allow the AIF a limited period within which to restore its financial resources to the required level.

Professional Liability Cover

8.14 To cover professional liability risks resulting from activities which the AIF may carry out pursuant to these Rules, the AIF shall either:

(a) have additional own funds which are appropriate to cover potential liability risks arising from professional negligence; or

(b) hold professional indemnity insurance against liability arising from professional negligence which is appropriate to the risks covered.

8.15 The AIF shall purchase the Professional Indemnity Insurance from an EU or non-EU undertaking authorised to provide professional indemnity insurance in accordance with Union law or Maltese law. The Professional Indemnity Insurance can also be provided by a third party entity.

8.16 For the purposes of demonstrating to the satisfaction of the MFSA that the above requirement is being complied with on an ongoing basis, the AIF shall upon request

by the MFSA submit a copy of the renewal cover note or such other written evidence as the MFSA may require to establish compliance with these Rules.

- 8.17 The AIF shall, within two days from the date it becomes aware of any circumstances specified in (a) to (g) below, inform the MFSA in writing where:
- a. during the term of the policy, the AIF has notified insurers of an incident which may give rise to a claim under the policy;
 - b. during the term of a policy, the insurer has cancelled the policy or has notified its intention of doing so;
 - c. the policy has not been renewed or has been cancelled and another policy satisfying the requirements prescribed in this section has not been taken out from the day on which the previous policy lapsed or was cancelled;
 - d. during the term of a policy, the terms or conditions are altered in any manner so that the policy no longer satisfies the requirements prescribed in this section;
 - e. the insurer has intimated that it intends to decline to indemnify the insured in respect of a claim under the policy;
 - f. the insurer has given notice that the policy will not be renewed or will not be renewed in a form which will enable the policy to satisfy the requirements prescribed in this section;
 - g. during the term of a policy, the risks covered by the policy or the conditions or terms relating thereto are altered in any manner.
- 8.18 Own funds including any additional own funds as referred to in SLC 8.14(a), shall be invested in liquid assets or assets readily convertible to cash in the short term and shall not include speculative positions.
- 8.19 In complying with SLC 8.14 above, the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

Operational arrangements

- 8.20 The AIF shall at all times use adequate and appropriate human and technical resources that are necessary for its proper management.

- 8.21 The AIF shall be required to have sound administrative and accounting procedures, control and safeguard arrangements for electronic data processing and adequate internal control mechanisms, in particular, having regard also to the nature of the AIF itself.
- 8.22 In particular these will include rules for personal transactions by its employees or for the holding or management of investments in order to invest on its own account and ensuring at least, that each transaction involving the AIF may be reconstructed according to its origin, the parties to it, its nature, and the time and place at which it was effected and that the assets of the AIF are invested according to the Constitutional Documents, the Offering Document and any other legal provisions in force.
- 8.23 In adhering with the requirements prescribed in SLCs 8.20 to 8.22 above, the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

Permanent Risk Management Function

- 8.24 The AIF shall functionally and hierarchically separate the functions of risk management from the operating units including from the functions of portfolio management.
- 8.25 The MFSA shall review the functional and hierarchical separation of the functions of risk management in accordance with SLC 8.24 above in accordance with the principle of proportionality, on the understanding that the AIF shall, in any event, be able to demonstrate that specific safeguards against conflicts of interest allow for the independent performance of risk management activities and that the risk management process satisfies the requirements of SLCs 8.24 to 8.30 and is consistently effective.
- 8.26 The AIF shall implement adequate risk management systems in order to identify, measure, manage and monitor appropriately all risks relevant to its investment strategy and to which it is or may be exposed.
- 8.27 The AIF shall review the risk management systems with appropriate frequency at least once a year and adapt them whenever necessary.

Provided that the frequency of the periodic review shall be decided by the senior management in accordance with the principle of proportionality given the nature, scale and complexity of the business of the AIF.

- 8.28 The AIF shall at least:
- a. Implement an appropriate, documented and regularly updated due diligence process, according to the AIF's investment strategy, objectives and risk profile;

- b. Ensure that the risks associated with each investment position of the AIF and their overall effect on the AIF's portfolio can be properly identified, measured, managed and monitored on an ongoing basis, including through the use of appropriate stress testing procedures;
- c. Ensure that the risk profile of the AIF shall correspond to the size, portfolio structure and investment strategies and objectives of the AIF as provided for in its Constitutional Documents and/or Offering Document.

Provided that in complying with SLC 8.28 above, the AIF shall submit to the MFSA the information prescribed in Appendix 5 to these Rules dealing with results of stress tests and shall further comply with the applicable provisions of the Commission Delegated Regulation 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.

8.29 The AIF shall set a maximum level of leverage which it may employ as well as the extent of the right to reuse collateral or guarantee that could be granted under the leveraging arrangement, taking into account, *inter alia*:

- a. The type of the AIF;
- b. The investment strategy of the AIF;
- c. The sources of leverage of the AIF;
- d. Any other interlinkage or relevant relationships with other financial services institutions, which could pose systemic risk;
- e. The need to limit the exposure to any single counterparty;
- f. The extent to which the leverage is collateralised;
- g. The asset-liability ratio;
- h. The scale, nature and extent of the activity of the AIF on the markets concerned.

8.30 In complying with SLCs 8.24 to 8.29 above, the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

Liquidity Management Policy

8.31 An AIF which is not an unleveraged closed-ended AIF shall employ an appropriate liquidity management system and adopt procedures which enable it to monitor the AIF's liquidity risk and to ensure that the liquidity profile of the investment of the AIF complies with its underlying obligations.

- 8.32 The AIF shall regularly conduct stress tests, under normal and exceptional liquidity conditions, which enable it to assess the AIF's liquidity risk and monitor it accordingly.

Provided that in complying with SLC 8.32 above, the AIF shall submit to the MFSA the information prescribed in Appendix 6 to these Rules dealing with results of stress tests and shall further comply with the applicable provisions of the Commission Delegated Regulation 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.

- 8.33 The AIF shall ensure that the investment strategy, the liquidity profile and the redemption policy are consistent.
- 8.34 In complying with SLC 8.32 to SLC 8.34, the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

Investment in securitisation positions

- 8.35 The AIF shall comply with the requirements on securitisation as prescribed in the applicable provisions of Commission Delegated Regulation 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.

Valuation

- 8.36 In addition to the requirements prescribed in SLCs 3.53 to 3.59 on the appointment of the External Valuer, the self-managed AIF shall further comply with the requirements prescribed in SLCs 8.37 to 8.47 hereunder on the valuation function.
- 8.37 The AIF shall ensure that appropriate and consistent procedures are established so that a proper and independent valuation of the assets of the AIF can be performed in accordance with SLCs 3.53 to 3.59 and SLCs 8.38 to 8.47, the Constitutional Documents and/or Offering Documents.
- 8.38 The rules applicable to the valuation of assets and the calculation of the net asset value per Unit or Share of the AIF shall be those prescribed in the Investment Services Rules, the Constitutional Documents and/or Offering Documents.
- 8.39 The AIF shall also ensure that the net asset value per Unit or Share thereof is calculated and disclosed to investors in accordance with SLCs 3.53 to 3.59 and SLCs 8.38 to 8.45, the Constitutional Documents and/or Offering Documents.

- 8.40 The valuation procedures used shall ensure that the assets are valued and the net asset value per Unit or Share is calculated at least once a year.
- 8.41 If the AIF is an open-ended AIF, such valuations and calculations shall also be carried out at a frequency which is both appropriate to the assets held by the AIF and its issuance and redemption frequency.
- 8.42 If the AIF is a closed-ended AIF, such valuations and calculations shall also be carried out in case of an increase or decrease of the capital by the AIF.
- 8.43 The AIF shall inform the investors of the valuations and calculations as prescribed in the Constitutional Documents and/or Offering Documents.
- 8.44 The AIF shall be responsible for the proper valuation of its assets, the calculation of the net asset value and the publication of that net asset value. The AIF's liability towards the AIF and its investors shall, therefore not be affected by the fact that the AIF has appointed an External Valuer.
- 8.45 Notwithstanding SLC 8.44 and irrespective of any contractual arrangements providing otherwise, the External Valuer shall be liable to the AIF for any losses suffered by the AIF as a result of the External Valuer's negligence or intentional failure to perform its tasks.
- 8.46 In complying with the provisions prescribed in SLCs 3.53 to 3.59 and SLCs 8.37 to 8.45, the AIF shall comply with the applicable provisions of Commission Delegated Regulation 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.

Conduct of Business

- 8.47 The AIF shall comply with the conduct of business rules prescribed hereunder. In particular the AIF shall:
- a. act honestly, with due skill, care and diligence and fairly in conducting its activities;
 - b. act in the best interests of the AIF, the investors and the integrity of the market;
 - c. have and employ effectively the resources and procedures that are necessary for the proper performance of its business activities;
 - d. take all reasonable steps to avoid conflicts of interest and, when they cannot be avoided, to identify, manage and monitor and, where applicable, disclose, those

conflicts of interest in order to prevent them from adversely affecting the interests of the AIF and the investors and to ensure that the AIF is fairly treated;

- e. comply with all regulatory requirements applicable to the conduct of its business activities so as to promote the best interests of the investors and the integrity of the market;
- f. treat all investors fairly.

8.48 No investor in the AIF shall obtain preferential treatment unless such preferential treatment is disclosed in the relevant AIF's Constitutional Documents and/or Offering Documents.

8.49 In complying with SLCs 8.47 and 8.48 the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

Remuneration

8.50 The AIF shall have remuneration policies and practices for those categories of staff, including senior management, risk takers, control functions, and any employees receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on the risk profile of the AIF, that are consistent with and promote sound and effective risk management and do not encourage risk taking which is inconsistent with the risk profiles, the Constitutional Documents and/or Offering Documents of the AIF.

8.51 The AIF shall determine the remuneration policy and practice in accordance with the principles outlined in Appendix 7.

8.52 The AIF shall further comply with any guidelines on sound remuneration policies which shall be issued by ESMA.

Conflicts of Interest

8.53 The AIF shall act honestly, fairly and with integrity – in the best interests of its investors/ shareholders and of the market. Such action shall include:

- i. avoiding conflicts of interest where this is possible and, where it is not, ensuring - by way of disclosure, internal procedures or otherwise – that investors are treated fairly.

- ii. the following procedures should be followed during meetings (including but not limited to Investment Committee Meetings), where a member considers that s(he) has or may have a conflict of interest:
 - a. that person should declare that interest to the other members either at the Meeting at which the issue in relation to which s(he) has an interest first arises, or if the member was not at the date of the Meeting interested in the issue, at the next Meeting held after s(he) became so interested;
 - b. unless otherwise agreed to by the other members, a member shall avoid entering into discussions in respect of any contract or arrangement in which s(he) is interested and should withdraw from the meeting while the matter in which s(he) has an interest is being discussed;
 - c. the interested member should not vote at a Meeting in respect of any contract or arrangement in which s(he) is interested, and if s(he) shall do so, his/ her vote shall not be counted in the quorum present at the Meeting;
 - d. the minutes of the meeting should accurately record the sequence of such events.
 - iii. abiding by all relevant laws and regulations, including in respect of Prevention of Money Laundering;
 - iv. not making any claim of independence or impartiality which is untrue or misleading; and
 - v. not making misleading or deceptive representations to investors.
- 8.54 The AIF shall maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to identify, prevent, manage and monitor conflicts of interest in order to prevent them from adversely affecting the interests of the investors.
- 8.55 The AIF shall segregate within its operating environment, tasks and responsibilities which may be regarded as incompatible with each other or which may potentially generate systematic conflicts of interest.
- 8.56 The AIF shall assess whether its operating conditions may involve any other material conflicts of interest and disclose them to the investors.
- 8.57 Where organisational arrangements made by the AIF to identify, prevent, manage and monitor conflicts of interest are not sufficient to ensure with reasonable confidence, that risks of damage to investors' interests will be prevented, the AIF shall clearly disclose the general nature or sources of conflicts of interest to the investors before undertaking business on their behalf, and develop appropriate policies and procedures.

8.58 In complying with SLCs 8.53 to 8.57, the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

Delegation and sub-delegation

8.59 An AIF which intends delegating to third parties the task of carrying out functions on its behalf shall notify the MFSA before the delegation arrangements become effective. The AIF shall comply with the following requirements:

- a. the AIF must be able to justify its entire delegation structure on objective reasons;
- b. the delegate must possess sufficient resources to perform the respective tasks and the persons who effectively conduct the business of the delegate must be of sufficiently good repute and sufficiently experienced;
- c. where the delegation concerns portfolio management or risk management, it must be conferred only on undertakings which are authorised or registered for the purpose of asset management and subject to supervision, or where that condition cannot be met, only subject to prior approval by the MFSA;
- d. where the delegation concerns portfolio management or risk management and is conferred on a Third Country undertaking, in addition to the requirements outlined in point (c) above, there must be a cooperation agreement in place between the MFSA and the supervisory authority of the Third Country;
- e. the delegation must not prevent the effectiveness of supervision of the AIF, and in particular, must not prevent the AIF from being managed, in the best interests of its investors;
- f. the AIF must be able to demonstrate that the delegate is qualified and capable of undertaking the functions in question, that it was selected with all due care and that the AIF is in a position to monitor effectively at any time the delegated activity, to give at any time further instructions to the delegate and to withdraw the delegation with immediate effect when this is in the interest of investors.

8.60 The AIF shall review the services provided by each delegate on an ongoing basis:

- a. To ensure satisfactory performance by the delegate of the functions delegated to it in accordance with the delegation agreement, the AIF Rules or Constitutional Documents and the applicable law.

- b. Consequent on these reviews the AIF may take such action as it deems necessary to improve, correct or change the delegation arrangement, which action may include the withdrawal of the delegation agreement.
- 8.61 No delegation of portfolio management or risk management shall be conferred on:
- a. The Custodian or a delegate of the Custodian; or
 - b. Any other entity whose interests may conflict with those of the AIF or the investors of the AIF, unless such entity has functionally and hierarchically separated the performance of its portfolio management or risk management tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the AIF.
- 8.62 The liability of the AIF towards the investors shall not be affected by the fact that the AIF has delegated functions to a third party, or by any further sub-delegation, nor shall the AIF delegate its functions to the extent that in essence, it can no longer be considered to be the manager of the AIF and to the extent that it becomes a letter-box entity.
- 8.63 The delegate may sub-delegate any of the functions delegated to it provided that the following conditions are met:
- a. The AIF consented prior to the sub-delegation;
 - b. The AIF notified the MFSA before the sub-delegation arrangements became effective;
 - c. The conditions prescribed in SLCs 8.59 to 8.60 are fulfilled on the understanding that all references to the ‘delegate’ are read and construed as referring to the ‘sub-delegate’.
- 8.64 No sub-delegation of portfolio management or risk management shall be conferred on:
- a. The custodian or a delegate of the custodian; or
 - b. Any other entity whose interests may conflict with those of the AIF or the investors of the AIF, unless such entity has functionally and hierarchically separated the performance of its portfolio management or risk management tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the investors of the AIF.

- 8.65 The relevant delegate shall review the services provided by each sub-delegate on an ongoing basis.
- 8.66 Where the sub-delegate further delegates any of the functions delegated to it, the conditions prescribed in SLC 8.63 shall apply *mutatis mutandis*.
- 8.67 In complying with SLCs 8.60 to 8.66 above, the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

Additional transparency Requirements applicable to self-managed AIFs

Disclosure to investors

- 8.68 The AIF shall make available to investors, in accordance with the Constitutional Documents and/or Offering Documents, the information prescribed in Appendix 8 (Disclosure to Investors) before they invest in the AIF as well as any material changes thereto.
- 8.69 The AIF shall also make available an annual report as outlined in Appendix 8 (Annual Report). The annual report shall be provided to investors upon request.

Disclosure to the MFSA

- 8.70 The AIF shall regularly report to the MFSA on the principal markets and instruments in which it trades as outlined in Appendix 8 (Disclosure to the Competent Authority).
- 8.71 In exceptional circumstances and where required in order to ensure the stability and integrity of the financial system or to promote long-term sustainable growth, the MFSA may impose additional reporting requirements following a specific request by ESMA to do so.

Additional reporting obligations for leveraged AIFs - Use of information by the MFSA, supervisory cooperation and limits to leverage

- 8.72 The AIF shall demonstrate that the leverage limit set by it is reasonable and that it complies with that limit at all times. The MFSA shall assess the risks that the use of leverage by an AIF could entail, and, where deemed necessary in order to ensure the stability and integrity of the financial system, the MFSA, after having notified ESMA and the ESRB, shall impose limits to the level of leverage that the AIF is entitled to employ or other restrictions on the management of the AIF, to limit the extent to which the use of leverage contributes to the build-up of systemic risk in the financial system or risks of disorderly markets. The MFSA shall duly inform ESMA and the ESRB of actions taken in this respect, through the procedure stipulated in the MFSA Act and the Investment Services Act.

- 8.73 The notification referred to in SLC 8.72 shall be made not less than 10 working days before the proposed measure is intended to take effect or to be renewed.
- 8.74 The notification referred to in SLC 8.72 shall include details of the proposed measure, the reasons for the measure and when the measure is intended to take effect.
- 8.75 In exceptional circumstances, the MFSA may decide that the proposed measure takes effect within the period of 10 working days referred to in SLC 8.72.
- 8.76 In complying with SLCs 8.72 to 8.75 above, the AIF shall also refer and comply with the applicable provisions of Commission Delegated Regulation 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.

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTMENT FUNDS

PART B: STANDARD LICENCE CONDITIONS

Appendix 1

Supplementary Licence Conditions applicable to Alternative Investment Funds adopting different structures

1. INTRODUCTION

1.01 The supplementary licence conditions prescribed in this Appendix are applicable to Maltese AIFs whether these are third-party managed or self-managed AIFs in terms of Part B of these Rules.

2. SUPPLEMENTARY CONDITIONS FOR AIFs ESTABLISHED AS LIMITED PARTNERSHIPS

2.01 The AIF shall obtain the written consent of the MFSA before admitting a General Partner. The request for consent shall be accompanied by a Personal Questionnaire (“PQ”) in the form set out in Schedule B to Part A of these Rules duly completed by the person proposed (in the case of an individual) or by the Directors and Qualifying Shareholders of the proposed General Partner (in the case of a body corporate).

Provided that where the proposed corporate General Partner is regulated in a recognized jurisdiction, the request for consent need not be accompanied by the PQ of the Directors and Qualifying Shareholders of the proposed corporate General Partner, but shall include details of the regulatory status of the General Partner.

2.02 General Partners shall be persons falling within any one of the following categories:

- i. a company licensed under the Investment Services Act, 1994, for the provision of fund management services; or
- ii. a company falling within the exemptions applicable to overseas fund managers; or
- iii. any other entity of sufficient standing and repute as approved by the MFSA;
- iv. any other individual who satisfies the fit and proper test.

Where the General Partner falls under (iii) and (iv) above, and in the absence of a Manager (as per (i) or (ii)) acting as an additional General Partner, the AIF shall appoint a Manager acceptable to the MFSA.

- 2.03 The AIF shall notify the MFSA in writing of the departure of a General Partner within 14 days of the departure. The AIF shall also request the General Partner to confirm to MFSA that his departure had no regulatory implications or to provide relevant details, as appropriate. A copy of such request shall be provided to MFSA together with the AIF's notification of departure.
- 2.04 The AIF shall organise and control its affairs in a responsible manner and shall have adequate operational, administrative and financial procedures and controls to ensure compliance with all regulatory requirements.
- 2.05 The MFSA shall be entitled to be satisfied, on a continuing basis, of the fitness and properness of the General Partner(s) and of any party appointed by the AIF.
- 2.06 Where applicable, the AIF, or the AIFM or Administrator on behalf of the AIF, is required to disclose to potential investors, the identity of the beneficial owners of the General Partner(s) upon request.

3. SUPPLEMENTARY CONDITIONS FOR AIFs ESTABLISHED AS INVESTMENT COMPANIES

- 3.01 The AIF shall at all times have one or more Directors independent from the AIFM and the Custodian.
- 3.02 The AIF shall obtain the written consent of the MFSA before the appointment or replacement of a Director provided that the AIF shall not appoint a Corporate Director unless such Corporate Director is regulated in a recognized jurisdiction.
- 3.03 The request for consent of the appointment or replacement of an individual as Director shall be accompanied by a PQ in the form set out in Schedule B to Part A of these Rules duly completed by the person proposed. In the case of a Corporate Director, the request for consent shall include details of its regulatory status.
- 3.04 Where the AIF has issued "Voting Shares" to the promoters and "non-Voting Shares" to Professional Investors, any changes in the beneficial ownership of the "Voting Shares" of the AIF shall be subject to the prior approval of the MFSA. The AIF, or the AIFM or Administrator on behalf of the AIF, is required to disclose to potential investors, the identity of the beneficial owners of the "Voting Shares" upon request.
- 3.05 The AIF shall act honestly, fairly and with integrity – in the best interests of its investors/shareholders and of the market. Such action shall include:

- i. avoiding conflicts of interest where this is possible and, where it is not, ensuring – by way of disclosure, internal procedures or otherwise – that investors are treated fairly. The following procedures should be followed during meetings (including but not limited to Board meetings), where a member considers that s(he) has or may have a conflict of interest:
 - a. that person should declare that interest to the other members either at the Meeting at which the issue in relation to which s(he) has an interest first arises, or if the member was not at the date of the Meeting interested in the issue, at the next Meeting held after s(he) became so interested;
 - b. unless otherwise agreed to by the other members, a member shall avoid entering into discussions in respect of any contract or arrangement in which s(he) is interested and should withdraw from the meeting while the matter in which s(he) has an interest is being discussed;
 - c. the interested member should not vote at a Meeting in respect of any contract or arrangement in which s(he) is interested, and if s(he) shall do so, his/her vote shall not be counted in the quorum present at the Meeting;
 - d. the minutes of the meeting should accurately record the sequence of such events.
- ii. abiding by all relevant laws and regulations, including in respect of Prevention of Money Laundering;
- iii. not making any claim of independence or impartiality which is untrue or misleading; and
- iv. not making misleading or deceptive representations to investors.

4. SUPPLEMENTARY CONDITIONS REGARDING THE USE OF TRADING COMPANIES/SPECIAL PURPOSE VEHICLES (“SPVs”) FOR INVESTMENT PURPOSES

- 4.01 The SPVs must be established in Malta or in a jurisdiction which is not an FATF Blacklisted country.
- 4.02 The AIF shall – through its Directors or General Partner(s) – at all times maintain the majority directorship of any SPV.

4.03 The AIF shall ensure that the investments effected through any SPV are in accordance with the investment objectives, policies and restrictions of the AIF.

5. SUPPLEMENTARY CONDITIONS FOR AIFs EFFECTING DRAWDOWNS ON INVESTORS' COMMITTED FUNDS

5.01 AIFs established as SICAVs and which wish to effect draw-downs on investors' committed funds are required to comply with the relevant provision of Legal Notice 361 of 2008 relating to the "Issue of shares at a discount" in addition to the following SLCs.

5.02 The AIF shall retain at its Registered Office, a copy of its written agreements with investors who have committed to invest in the AIF. Such agreements shall be available for inspection by MFSA officials during compliance visits.

5.03 Any request on committed funds shall be effected pro-rata amongst all relevant investors of the AIF.

5.04 The AIF shall only make a fresh call for further commitments once all the outstanding commitments from existing investors have been requested.

5.05 In addition to the disclosure requirements applicable to the Offering Document of the AIF set out in Regulation 15(3) of LN 361 of 2008, the Offering Document shall comply with the applicable disclosure requirements set out in Appendix 4 of these Rules under the heading "Risk Warnings".

6. SUPPLEMENTARY CONDITIONS FOR AIFs SET UP AS INCORPORATED CELL COMPANIES WITH INCORPORATED CELLS (ICC)

6.01 Both the Incorporated Cell Company and the individual incorporated cells shall be licenced by the MFSA.

6.02 The Incorporated Cell Company and the individual incorporated cells shall have at least one common director between them.

6.03 The Incorporated Cell Company and the individual incorporated cells shall have a common registered office.

7. SUPPLEMENTARY CONDITIONS FOR AIFs ESTABLISHED AS INCORPORATED CELLS ('IC') UNDER A RECOGNISED INCORPORATED CELL COMPANY ('RICC')

7.01 Incorporated Cells ('IC') set up under a Recognised Incorporated Cell Company ('RICC') in terms of the Companies Act (Recognised Incorporated Cell Companies) Regulations, 2012 may be set up as:

- i. an investment company with variable share capital (SICAV) in terms of the Companies Act (Chapter 386 of the Laws of Malta); or
 - ii. an investment company with fixed share capital in terms of the Companies Act (Chapter 386 of the Laws of Malta).
- 7.02 Each IC can be either third party managed or self-managed. In the case where an IC is third-party managed, it will be required to appoint an investment manager, which should be approved by the RICC.
- 7.03 An IC which is third-party managed shall appoint its own investment manager which may be the same or different from the investment manager appointed by any other incorporated cells set up under the same RICC. However, in any case, the investment manager appointed has to be approved by both the RICC and the MFSA.
- 7.04 An IC shall, unless otherwise authorised in writing by the MFSA, appoint the service providers selected for it by its RICC, under the same terms and conditions as shall have been approved by the Authority for this purpose.
- 7.05 An IC shall have the same registered office as its RICC at all times.
- 7.06 Each IC is regulated by its own Memorandum and Articles of Association. Each of the constitutional documents or any changes thereto must be endorsed by the RICC. No changes to the constitutional documents of the IC shall be effected except as approved by Resolution of the Board of Directors of the IC and the RICC and in accordance with the Standard Licence Conditions applicable to such AIFs.
- 7.07 Each IC must issue its own Offering Document which may either be based on the standard form used by incorporated cells that belong to the same RICC or specific to the particular incorporated cell. Provided that no Offering Document or changes thereto shall be issued by the IC unless it has first been approved by the RICC and the MFSA.
- 7.08 An IC that has been granted or has applied to be licenced as an AIF may apply for admissibility to listing with the Listing Authority (the MFSA is the Listing Authority in terms of the Financial Market Act, 1990).
- 7.09 The directors of an IC are not required to be the same as those of the RICC. However the RICC and the IC must have at least one common director. The MFSA may require that directors with different competencies sit on the different boards of directors of the incorporated cells. The common director shall report to

the Board of the RICC on a regular basis and must provide the RICC with any information that may be relevant to the fulfilment of the RICC's compliance obligations in relation to its incorporated cells.

- 7.10 In addition to the obligations arising under the Companies Act, the IC shall notify the RICC and the MFSA within 14 days of a director of the IC being appointed or ceasing to be a director of the cell.
- 7.11 An IC may create sub-funds. In this regard, an IC is required to comply with Section 6.3 of Part A of the Investment Services Rules for Alternative Investment Funds, as applicable.
- 7.12 Unless expressly prohibited by any rules, laws or regulations or by its articles of association, an IC shall be permitted to own shares in any other IC of its RICC subject to any conditions that may apply in terms of its licence.
- 7.13 In addition to the requirements of article 6 of the Companies Act, an IC of an RICC shall also indicate in a suitable manner in all of its business letters and forms that it is an IC of a RICC and the name of the RICC.
- 7.14 No IC of a RICC shall transfer, relocate or convert itself in any other manner except as authorised by the competent authority and subject to any conditions which the latter deems fit to impose.
- 7.15 An IC shall be set up as an AIF and shall be licenced as such as if it were an independent fund, provided that it shall also be required to provide the relevant endorsements, resolutions and other approvals from its RICC as required by the applicable Rules and Regulations and will be required to comply with Part A of the Investment Services Rules for Alternative Investment Funds, as applicable.
- 7.16 On application, the IC must provide information on any departure from the standard model agreements endorsed by the RICC.
- 7.17 An IC must provide a draft copy of its agreement with the RICC referred to in section 3 of Part BIII of the Investment Services Rules for Recognised Persons.
- 7.18 The IC must inform its RICC of any departure from any standard model agreement and must submit the relevant changes to the MFSA for approval.
- 7.19 The MFSA may only licence an IC as an AIF if it is satisfied that the AIF will comply in all respects with the provisions of the Investment Services Act, the relevant Regulations and MFSA Rules and Standard Conditions.

7.20 An IC of a RICC shall pay the licencing and supervision fees applicable to an AIF as stipulated the Investment Services Act (Licence and Other Fees) Regulations. Sub-funds of the IC shall pay the licensing and supervision fees applicable to sub-funds of an AIF in terms of the same Regulations.

8. SUPPLEMENTARY CONDITIONS FOR AIFs WHICH ACQUIRE CONTROL OF NON-LISTED COMPANIES AND ISSUERS

8.01 The SLCs included in this Section shall apply to the following:

- a. One or more AIFs which are managed by an AIFM and which either individually or jointly on the basis of an agreement aimed at acquiring control, acquire control of a non-listed company in accordance with SLC 8.02;
- b. AIFs managed by different AIFMs cooperating with each other on the basis of an agreement pursuant to which such AIFs jointly, acquire control of a non-listed company in accordance with SLC 8.02.

8.02 For the purpose of this section, with regards to non-listed companies¹, the term ‘control’ shall mean more than 50% of the voting rights of the companies.

When calculating the percentage of voting rights held by the relevant AIF, in addition to the voting rights held directly by the relevant AIF, the voting rights of the following entities shall be taken into account, subject to the control as referred to above being established:

- a. An undertaking controlled by the AIF; and
- b. A natural or legal person acting in its own name but on behalf of the AIF or on behalf of an undertaking controlled by the AIF.

The percentage of voting rights shall be calculated on the basis of all the shares to which voting rights are attached even if the exercise thereof is suspended.

Notwithstanding the definition of ‘control²’ as provided in the Glossary to these Rules, for the purpose of SLCs 8.12 to 8.14 and SLCs 8.18 to 8.20 in regard to issuers, control shall be determined in accordance with Article 5(3) of Directive

¹ “Non-listed company” means a company which has its registered office in the Union and the shares of which are not admitted to trading on a regulated market within the meaning of point (14) of article 4(1) of Directive 2004/39/EC.

² ‘Control’ means control as defined in Article 1 of Directive 83/349/EEC, or a similar relationship between a natural or legal person and an undertaking; for this purpose a subsidiary undertaking of a subsidiary undertaking shall also be considered to be a subsidiary of the parent undertaking of those subsidiaries.

2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids.

- 8.03 The SLCs included within this section shall apply subject to the conditions and restrictions set out in Article 6 of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community as transposed and implemented in Malta through the prescribed in the Employee (Information and Consultation) Regulations.
- 8.04 This section shall not apply where the non-listed companies concerned are:
- (a) Small and medium-sized enterprises within the meaning of Article 2(1) of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises; or
 - (b) Special purpose vehicles with the purpose of purchasing holding or administrating real estate.
- 8.05 Without prejudice to SLCs 8.01 and 8.04, SLC 8.07 shall also apply to AIFs that acquire a non-controlling participation in a non-listed company.
- 8.06 SLCs 8.12 to 8.14 and SLCs 8.18 to 8.20 shall also apply to AIFs that acquire control over issuers. For the purposes of those SLCs, SLCs 8.01 and 8.04 shall apply *mutatis mutandis*.

Notification of the acquisition of major holdings and control of non-listed companies

- 8.07 When an AIF acquires, disposes of or holds shares of a non-listed company, such AIF shall notify the MFSA of the proportion of voting rights of the non-listed company held by the AIF any time when that proportion reaches, exceeds or falls below the thresholds of 10%, 20%, 30%, 50% and 75%.
- 8.08 When an AIF acquires, individually or jointly, control over a non-listed company pursuant to SLC 8.01, in conjunction with SLC 8.02, such an AIF shall notify the following of the acquisition of control by the AIF:
- a. the non-listed company;
 - b. the shareholders of which the identities and addresses are available to the AIF or the AIFM on its behalf or can be made available by the non-listed company or through a register to which the AIFM has or can obtain access; and

- c. the MFSA.
- 8.09 The notification required under SLC 8.08 shall contain the following additional information:
- a. the resulting situation in terms of voting rights;
 - b. the conditions subject to which control was acquired, including information about the identity of the different shareholders involved, any natural person or legal entity entitled to exercise voting rights on their behalf and, if applicable, the chain of undertakings through which voting rights are effectively held;
 - c. the date on which control was acquired.
- 8.10 In its notification to the non-listed company, the AIF shall request the board of directors of the company to inform the employees' representatives or, where there are none, the employees themselves, without undue delay of the acquisition of control by the AIF and of the information referred to in SLC 8.09. The AIF shall use its best efforts to ensure that the employees' representatives or, where there are none, the employees themselves, are duly informed by the Board of Directors in accordance with SLCs 8.07 to 8.11.
- 8.11 The notifications referred to in SLCs 8.07 to 8.09 shall be made as soon as possible, but no later than 10 working days after the date on which the AIF has reached, exceeded or fallen below the relevant threshold or has acquired control over the non-listed company.

Disclosure in the case of acquisition of control

- 8.12 When an AIF acquires, individually or jointly, control over a non-listed company or an issuer pursuant to SLC 8.01, in conjunction with SLC 8.02, such an AIF shall make the information referred to in SLC 8.13 available to:
- a. the company concerned;
 - b. the shareholders of the company of which the identities and addresses are available to the AIF or can be made available by the company or through a register to which the AIF has or can obtain access; and
 - c. the MFSA.

The MFSA may require that the information referred to in SLC 8.13 is also made available to the competent authorities of the non-listed company which the MFSA may designate to that effect.

- 8.13 The AIF shall make available:
- a. the identity of the AIFMs which either individually or in agreement with other AIFMs manage the AIFs that have acquired control;
 - b. the policy for preventing and managing conflicts of interest, in particular between the AIF and the company, including information about the specific safeguards established to ensure that any agreement between the AIF and the company is concluded at arm's length; and
 - c. the policy for external and internal communication relating to the company in particular as regards employees.
- 8.14 In its notification to the company pursuant to SLC 8.12(a), the AIF shall request the board of directors of the company to inform the employees' representatives or, where there are none, the employees themselves, without undue delay of the information referred to in SLC 8.12. The AIF shall use its best efforts to ensure that the employees' representatives or, where there are none, the employees themselves, are duly informed by the Board of Directors in accordance with SLCs 8.12 to 8.17.
- 8.15 When an AIF acquires, individually or jointly, control of a non-listed company pursuant to SLC 8.01, in conjunction with SLC 8.02, such AIF shall ensure that it discloses its intentions with regard to the future business of the non-listed company and the likely repercussions on employment, including any material change in the conditions of employment to:
- (a) the non-listed company;
 - (b) the shareholders of the non-listed company of which the identities and addresses are available to the AIF or can be made available by the non-listed company or through a register to which the AIF has or can obtain access.
- 8.16 In addition, the AIF shall request and use its best efforts to ensure that the board of directors of the non-listed company makes available the information set out in SLC 8.15 to the employees' representatives or, where there are none, the employees themselves, of the non-listed company.

- 8.17 When an AIF acquires control of a non-listed company pursuant to SLC 8.01, in conjunction with SLC 8.02, such AIF shall provide the MFSA and the investors with information on the financing of the acquisition.

Asset Stripping

- 8.18 When an AIF, individually or jointly, acquires control of a non-listed company or an issuer pursuant to SLC 8.01, in conjunction with SLC 8.02, such an AIF shall for a period of 24 months following the acquisition of control of the company by the AIF:

- (a) not be allowed to facilitate, support or instruct any distribution, capital reduction, share redemption and/or acquisition of own shares by the company as described in SLC 8.19;
- (b) in so far as the AIF is authorised to vote at the meetings of the governing bodies of the company, not vote in favour of a distribution, capital reduction, share redemption and/or acquisition of own shares by the company as described in SLC 8.19;
- (c) in any event use its best efforts to prevent distributions, capital reductions, share redemptions and/or the acquisition of own shares by the company as described in SLC 8.19.

- 8.19 The obligations imposed on AIFs pursuant to SLC 8.18 shall relate to the following:

- a. any distribution to shareholders made when on the closing date of the last financial year the net assets as set out in the company's annual accounts are, or following such a distribution would become, lower than the amount of the subscribed capital plus those reserves which may not be distributed under the law or the statutes, on the understanding that where the uncalled part of the subscribed capital is not included in the assets shown in the balance sheet, this amount shall be deducted from the amount of subscribed capital;
- b. any distribution to shareholders the amount of which would exceed the amount of the profits at the end of the last financial year plus any profits brought forward and sums drawn from reserves available for this purpose, less any losses brought forward and sums placed to reserve in accordance with the law or the statutes;
- c. to the extent that acquisitions of own shares are permitted, the acquisitions by the company, including shares previously acquired by the company and

held by it, and shares acquired by a person acting in his own name but on the company's behalf, that would have the effect of reducing the net assets below the amount mentioned in point (a).

- 8.20 For the purposes of SLC 8.19:
- a. the term 'distribution' referred to in SLC 8.19(a) and (b) shall include, in particular, the payment of dividends and of interest relating to shares;
 - b. the provisions on capital reductions shall not apply on a reduction in the subscribed capital, the purpose of which is to offset losses incurred or to include sums of money in a non-distributable reserve provided that, following that operation, the amount of such reserve is not more than 10 % of the reduced subscribed capital; and
 - c. the restriction set out in SLC 8.19(c) shall be subject to points (b) to (h) of Article 20(1) of the Second Council Directive 77/91/EEC of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent.

Supplementary Conditions concerning the additional information which needs to be included in the annual report of Alternative Investment Funds exercising control of non-listed companies

- 8.21 When an AIF acquires, individually or jointly, control of a non-listed company pursuant to SLC 8.01 in conjunction with SLC 8.02, such AIF shall include the additional information prescribed hereunder in the annual report.
- 8.22 When an AIF acquires individually or jointly, control of a non-listed company pursuant to SLC 8.01, in conjunction with SLC 8.02 of this Section, the AIF or the AIFM on its behalf shall either:
- i. Request and use its best efforts to ensure that the annual report of the non-listed company drawn up in accordance with SLC 8.23 hereunder, is made available by the board of directors of the company to the employees' representatives, or, where there are none, to the employees themselves with the period such annual report has to be drawn up in accordance with the Investment Services Rules.

- ii. For each such AIF include in the annual report the information referred to in SLC 8.23 hereunder relating to the relevant non-listed company.
- 8.23 The additional information to be included in the annual report of the company or the AIF in accordance with SLC 8.22 above shall include at least a fair review of the development of the company's business representing the situation at the end of the period covered by the annual report. The report shall also give an indication of:
- i. Any important events that have occurred since the end of the financial year;
 - ii. The company's likely future development;
 - iii. The information concerning acquisitions of own shares prescribed in Article 22(2) of Council Directive 77/91/EEC.
- 8.24 The AIF or the AIFM on behalf of the AIF shall either:
- i. Request and use its best efforts to ensure that the board of directors of the non-listed company makes available the information referred to in SLC 8.22(ii) relating to the company concerned to the employees' representative of the company concerned, or, where there are none, to the employees themselves by no later than 6 months following the end of the financial year; or
 - ii. Make available the information referred to in SLC 8.22(i) to the investors of the AIF, in so far as already available, by no later than 6 months following the end of the financial year and, in any event, no later than the date on which the annual report of the non-listed company is drawn up in accordance with the applicable legal requirements.

9. Supplementary Conditions for AIFs operating as Money Market Funds

- 9.01 An AIF operating as a Money Market Fund shall comply with the provisions of the Act, the applicable conditions prescribed in Parts A and B of these Rules as well as the Supplementary Licence Conditions prescribed in this section.
- 9.02 An AIF shall provide appropriate information to investors on the risk and reward profile of the AIF so as to enable them to identify any specific risks linked to the investment strategy of the AIF.
- 9.03 An AIF shall indicate, in its prospectus drawn up in accordance with the Investment Services Act (Prospectus of Collective Investment Schemes) Regulations, 2005, whether it is a Short-Term Money Market Fund or a Money Market Fund.

- 9.04 An AIF shall invest in money market financial instruments which comply with the criteria prescribed hereunder in SLC 9.05 or in deposits with credit institutions.
- 9.05 An AIF shall only invest in the following types of money market financial instruments:
- a. Money market financial instruments admitted to or dealt in on a Maltese regulated market which has been granted authorisation in terms of the Financial Markets Act (Cap. 345) and which appears on the list of regulated markets prepared and published by the European Commission;
 - b. Money market financial instruments dealt in on another regulated market in another Member State or EEA State, which operates regularly and is recognised and open to the public and which appears on the list of regulated markets prepared and published by the European Commission;
 - c. Money market financial instruments admitted to official listing on a stock exchange in a third country or dealt in on another regulated market in a third country which operates regularly and is recognised and open to the public provided that the choice of stock exchange or market has been approved by the competent authorities or is provided for in law or the fund rules or the instruments of incorporation of the investment company;
 - d. Money market financial instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Community or the European Investment Bank, a third country or by a public international body to which one or more Member States belong;
 - e. Money market financial instruments issued by an undertaking any securities of which are dealt in on regulated markets referred to in points (a), (b) or (c);
 - f. Money market financial instruments issued or guaranteed by an establishment subject to prudential supervision, in accordance with criteria defined by Community law, or by an establishment which is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down by Community law;
 - g. Money market financial instruments issued by other bodies belonging to the categories approved by the competent authority of the home Member State provided that investments in such instruments are subject to investor protection equivalent to that laid down in points (d), (e) or (f) and

provided that the issuer is a company whose capital and reserves amount to at least € 10,000,000 and which presents and publishes its annual accounts in accordance with Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies, and is an entity which, within a group of companies which includes one or several listed companies, is dedicated to the financing of the group or is an entity which is dedicated to the financing of securitisation vehicles which benefit from a banking liquidity line.

- 9.06 The money market financial instruments in which an AIF invests shall be of high quality, as determined on the basis of, inter alia, the following factors by the management company:
- a. The credit worthiness of the financial instrument shall be that of a money market financial instrument of high quality;
 - b. The nature of the asset class represented by the money market financial instrument;
 - c. For structured financial instruments, the operational and counterparty risk inherent within the structured financial transaction; and
 - d. The liquidity profile of the money market financial instrument.
- 9.07 For the purposes of paragraph (a) of SLC 9.06 above, a money market instrument shall not be deemed to be of high quality unless it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency that has rated the instrument or, if the instrument is not rated, it is of an equivalent quality as determined by the management company's internal rating process.
- 9.08 An AIF shall have no direct or indirect exposure to equity or commodities, including by virtue of derivatives, and shall only use derivatives in line with the AIF's money market investment strategy.
- 9.09 Where derivatives which give exposure to foreign exchange are used in accordance with SLC 9.08, such derivatives shall only be used for hedging purposes.
- 9.10 An AIF may invest in non-base currency financial instruments, but shall ensure that the currency exposure is fully hedged.

- 9.11 An AIF shall carry out and issue daily net asset value and price calculations, and provide for daily subscription and redemption of units.
- 9.12 Where an AIF is marketed solely as an employee savings scheme to a specific category of investors and is subject to divestment restrictions, it may provide weekly subscription and redemption of units.
- 9.13 When calculating the weighted average life for securities, including structured financial instruments, an AIF shall base the maturity calculation on the legal residual maturity of the financial instruments until the legal redemption of the instruments.
- 9.14 Where a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity of the financial instrument, subject to the following conditions:
- a. The put option may be freely exercised by the management company at its exercise date;
 - b. The strike price of the put option shall remain close to the expected value of the financial instrument at the next exercise date; and
 - c. The investment strategy of the AIF gives an indication that there is a high probability of the option being exercised at the next exercise date.
- 9.15 When calculating its weighted average life, an AIF shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques.
- 9.16 An AIF shall only invest in securities with a residual maturity until the legal redemption date of less than or equal to two years:
- Provided that, the time remaining until the next interest rate reset date shall be less than or equal to three hundred and ninety-seven days.
- 9.17 Floating rate securities shall reset to a money market rate or index.
- 9.18 An AIF shall have a portfolio of investments which has a weighted average maturity of not more than six months and a weighted average life of not more than twelve months and shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques for both its weighted average maturity and weighted average life calculations.

- 9.19 An AIF shall only invest in other AIFs which are labelled or marketed as Short-Term Money Market Funds or Money Market Funds.
- 9.20 Without prejudice to SLC 9.06(a), an AIF may invest in money market financial instruments issued or guaranteed by a central regional or local authority or central bank of a Member State, the European Central Bank, the European Union or the European Investment Bank and which are at least of investment grade quality.
- 9.21 An AIF shall have a fluctuating net asset value.

Supplementary Conditions for AIFs set up as Short Term Money Market Funds

- 9.22 In addition to the general requirements prescribed in SLCs 9.01 to 9.15 above, an AIF set up as a Short-Term Money Market Fund shall also comply with the following requirements.
- 9.23 An AIF shall only invest in securities with a residual maturity until the legal redemption date which is less than or equal to three hundred and ninety-seven days.
- 9.24 An AIF shall have a portfolio of investments with a weighted average maturity of not more than sixty days and a weighted average life of not more than one hundred and twenty days, and shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques for both its weighted average maturity and weighted average life calculations.
- 9.25 An AIF shall only invest in other AIFs which are labelled or marketed as Short-Term Money Market Funds.
- 9.26 An AIF shall have either a constant or a fluctuating net asset value.

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTOR FUNDS

PART B: STANDARD LICENCE CONDITIONS

Appendix 2 **Distributions of Income**

Introduction

The supplementary licence conditions on distributions of income are applicable to Maltese AIFs whether these are third-party managed or self-managed AIFs in terms of Part B of these Rules.

1.0 Accounting periods

- a. This SLC determines what are the annual and half-yearly accounting periods of an AIF but this is subject to the right of the AIFM to choose that any particular annual or half-yearly accounting period shall end on a day which is not more than seven days after and not more than seven days before the day on which that accounting period would otherwise end.
- b. Subject to paragraphs (c), (d) and (e), annual accounting periods are successive periods of twelve months and the first six months of an annual accounting period is a half-yearly accounting period.

The first half-yearly accounting period shall be determined by the AIFM, or the investment company, with the approval of the Custodian.

- c. The first annual accounting period shall begin:-
 - i. where the AIF is the subject of an initial offer, on the first day of the period of the initial offer, or
 - ii. in any other case, when the AIF is authorised.
- d. The first annual accounting period shall end:-
 - i. on the next day in the calendar year which is the day specified in the most recently published AIF particulars as the day on which the annual accounting period ends; or
 - ii. if that next day is less than six months after the beginning of the first annual accounting period and the AIFM, or the investment company,

after consulting the auditor, and with the consent of the MFSA, so determines, on the first anniversary of that next day.

- e. The first annual accounting period after the making of a change in the dates of the annual accounting period shall begin on the next day following the end of the annual accounting period immediately preceding the making of that change and shall end:-
 - i. on the next day in the calendar year which is the new day on which the annual accounting period ends; or
 - ii. if that next day is less than six months after the beginning of the first annual accounting period to be completed after the making of the change and the AIFM, or the investment company, after consulting the auditor, and with the consent of the MFSA, so determines, on the first anniversary of that next day.

2.0 Annual income allocation date

- a. Each of the sub-funds of an AIF set up as an umbrella fund shall for the purposes of this SLC and of SLCs 3 to 9 of this Appendix be regarded as separate AIFs.
- b. An AIF shall have an annual income allocation date, which is the date in any year stated in the most recently published AIF particulars as the date on or before which, in respect of each annual accounting period, an allocation of income is to be made.
- c. The annual income allocation date must be a date within the two months following the relevant financial year end.

3.0 Annual allocation of income

- a. On or before each annual income allocation date the AIFM, or the investment company, shall calculate under paragraph (b) of this SLC the amount available for income allocation in respect of the immediately preceding annual accounting period, and shall inform the Custodian of that amount.
- b. Allocation to the “*income account*”: -
 - i. take the aggregate of the income property received or receivable by the AIF in respect of the period;

- ii. include in (i) any income equalisation amount received by the Custodian on Units created during the period, including any resulting from the final valuation;
- iii. add the AIFM's, or the investment company's, best estimate of any relief from tax on expenses properly payable out of income in respect of the period;
- iv. deduct the aggregate of all the AIFM's, and the Custodian's remuneration properly paid or payable in respect of the period;
- v. deduct the aggregate of the payments out of income property paid or payable in respect of the period;
- vi. deduct such provision for taxation as the AIFM, or the investment company, after consulting the auditor considers appropriate;
- vii. deduct the aggregate of those parts of the cancellation prices of Units cancelled during that period (including any cancelled by relation to the final valuation) as were attributable to the addition of income property to the calculation of the cancellation price including any income equalisation amount paid by the Custodian on cancellation;
- viii. deduct (or disregard) and carry forward any potential income, if the Custodian and the AIFM, or the investment company, agree that, because adequate information is normally not available about how that income accrues, it ought generally not to be accounted for on an accrued basis;
- ix. deduct (or disregard) and carry forward any potential income, if the Custodian and the AIFM, or the investment company, agree that that income is not likely to be received by the Custodian until 12 months after the income allocation date, provided the auditor is satisfied that the Custodian has made and intends to continue to make all proper efforts to obtain its receipt; and
- x. adjust for the re-allocation of the expenses from the "income account" to the "capital account". The Custodian, in consultation with the AIFM, or the investment company, shall exercise reasonableness in effecting these re-allocations.

Provided that AIFs that are not "*distributor funds*" but which have the power in terms of their prospectus to make distributions of income, may transfer any realised capital gains net of realised and/

or unrealised capital losses from the “capital account” to the “income account”.

- c. At the end of each annual accounting period, the Custodian shall transfer the positive balance, if any, in the “*income account*” to an account to be known as the “*distribution account*”.
- d. The AIF may decide to distribute all or part of the balance in the “*distribution account*” and shall either directly or through the AIFM instruct the Custodian accordingly. In that case the Custodian shall carry the remaining balance in the “*distribution account*” forward to the next annual accounting period.
- e. The Custodian is not obliged to comply with paragraph (c) of this SLC if it appears to the Custodian, having consulted the AIFM, or the investment company, that the average payment to the holders of Units (disregarding holders of bearer certificates, holders of accumulation units, and holders of Units who are the AIFM or the Custodian or associates of either of them) by way of income would be less than €2.33 (or the equivalent amount in the base currency).
- f. Where the Custodian decides under paragraph (e) of this SLC not to distribute income, the Custodian must so inform the AIFM, or the investment company, which must then immediately instruct the Custodian either: -
 - i. to carry the balance in the “*income account*” forward to the next annual accounting period (and to regard it as received at the start of that period), or
 - ii. to credit the income to the “*capital account*”.
- g. On or before the annual income allocation date, the Custodian shall allocate the available income to the Units in existence in accordance with SLCs 5.0 or 6.0 or both.

4.0 Annual allocation of capital gains/ losses

- a. Allocation to the “*capital account*”: -
 - i. take the aggregate of the capital property realised and/ or unrealised by the AIF in respect of the period; and
 - ii. adjust for the re-allocation of the expenses from the “*income account*” to the “*capital account*”.

5.0 Annual allocation to accumulation Units

- a. Where an AIF has in existence both accumulation Units and income Units, the Custodian shall allocate the amount available for allocation of income between accumulation Units and income Units according to the respective shares in the property of the AIF represented by the accumulation Units and income Units in existence at the end of the relevant annual accounting period.
- b. The amount allocated to accumulation Units (whether under paragraph (a) of this SLC or because all the Units are accumulation Units) shall, with effect from the end of the annual accounting period, become part of the capital property and be reflected by an increase, as at the end of the period either:
 - i. in the value of the property of the AIF which an accumulation Unit represents or,
 - ii. where undivided shares are allocated to Unit holders, in the number of undivided shares in the property of the AIF which an accumulation Unit represents.
- c. The increase in undivided shares under paragraph (b)(ii) of this SLC shall be of such number (which may be a fraction but must be calculated to at least three decimal places) as will ensure that the creation price of an accumulation Unit remains unchanged notwithstanding the transfer of the income to the capital property or the relevant part of it.

6.0 Annual distribution to holders of income Units

- a. Subject to paragraph (b) of this SLC, where the Units in existence in an AIF are or include income Units, on or before each annual income allocation date the Custodian shall distribute the income allocated to those Units among the holders and the AIFM rateably in accordance with the number of such Units held or deemed to be held by them respectively at the end of the relevant annual accounting period.
- b. Before distributing income under paragraph (a) of this SLC, the Custodian shall: -
 - i. deduct any amounts previously allocated by way of interim allocation of income in respect of that annual accounting period, and
 - ii. deduct and carry forward in the “*income account*” such amount as shall be necessary to adjust that allocation of income to the nearest

one-hundredth of a cent (or the equivalent amount in the base currency) per income Unit or such lesser fraction as the AIFM may from time to time determine.

- c. Nothing in this Appendix shall require the Custodian to distribute income allocated to any Units in any case where the AIFM, or the investment company, or the Custodian considers it necessary or appropriate to carry out or complete identification procedures in relation to the holder or another person pursuant to a statutory or regulatory obligation.

7.0 *Interim allocations of income*

- a. This SLC applies if at any time the most recently published AIF particulars:
 - i. state that an allocation of income will be made before the annual income allocation date in any year in respect of a period (“an interim accounting period”) within the annual accounting period, and
 - ii. specify a date as the interim income allocation date in relation to that interim accounting period.
- b. In such a case, SLCs 3.0 to 6.0 shall apply so as to secure the making of an interim allocation of income as if: -
 - i. the interim accounting period in question and all previous interim accounting periods in the same annual accounting period taken together, were the annual accounting period;
 - ii. the interim income allocation date were the annual income allocation date, and
 - iii. the AIFM, or the investment company, were to treat as the available amount of income for the interim allocation a sum in its opinion not exceeding the amount which would be available for allocation of income if the interim accounting period and all previous interim accounting periods in the same annual accounting period taken together were an annual accounting period.

8.0 *Income equalisation*

- a. An allocation of income (whether annual or interim) to be made in respect of each Unit created or issued or sold during the accounting period in respect of which that income allocation is made shall include a capital sum (“income equalisation”) representing the AIFM’s, or the investment company’s, best estimate of the amount of income included in the creation

price or in the creation price by reference to which the issue or selling price of that Unit was determined.

- b. The amount of income equalisation may be the actual amount of income in question or, if the Constitutional Documents permit it, it may be an amount arrived at by taking the aggregate of the amounts of income included in the creation price in respect of Units of the type in question issued or re-issued in the accounting period in question (or such lesser period as is specified for this purpose in the Constitutional Documents) and dividing that aggregate by the number of those Units and applying the resultant average to each of the Units in question.
- c. Income equalisation in the case of a Unit re-issued by the AIFM, or the investment company, in the accounting period in question is financed out of the income equalisation amounts paid by the AIFM, or the investment company, to the Custodian; and, accordingly, the AIFM, or the investment company, shall be paid by the Custodian out of the “*distribution account*” (in the case of income Units) and out of the capital property (in the case of accumulation Units) a sum equal to the income equalisation applicable to that Unit when allocations of income are next made for an interim or for an annual accounting period.

9.0 *How distributions may be made*

- a. Any monies payable by the Custodian to a holder in respect of any Unit, the title to which is for the time being represented by a bearer certificate, may be paid by crossed cheque or warrant made payable to the order of the person who, in such manner as is prescribed in the Constitutional Documents, has identified himself to the Custodian as the person entitled to that distribution and may be sent by post to such address as that person shall have disclosed to the Custodian for that purpose.
- b. Any monies payable by the Custodian to the AIFM or to a registered holder in respect of any Unit may be paid by crossed cheque or warrant made payable to the order of and sent through the post to the usual business address of the AIFM or the registered address of such holder, as the case may be, or, in the case of joint holders, made payable to and sent to the registered address of that one of the joint holders who is first named on the register.
- c. The payment of any cheque or warrant to the first named of joint holders shall be as effective a discharge to the Custodian and the AIFM or the investment company, as if such first named joint holder had been a sole holder.

- d. Every such cheque or warrant which is so sent shall be a satisfaction of the monies payable and shall be a good discharge to the Custodian and the AIFM, or the investment company.
- e. Where an authority in writing given by the holder (or in the case of joint holders by all of them) in such form as the Custodian shall consider sufficient, is held by the Custodian, he shall pay the amount payable in accordance with that authority.
- f. Any distribution payment which shall remain unclaimed after a period of twelve years from the date of payment shall then be transferred to and become part of the capital property and henceforth neither the payee nor the holder nor any successor in title of his shall have any right thereto or therein except as part of the capital property.

10.0 Distribution statements and tax details

- a. On or before any income allocation date (whether annual or interim) the Custodian shall send to each holder (or to the first named of joint holders) entitled to be entered in the register as at the end of the accounting period in question and shall on request give or send to every holder of Units the title to which is represented by a bearer certificate: -
 - i. a statement prepared by the AIFM, or the investment company, showing the calculation of the amount of income allocated in respect of the period to which he is entitled, whether or not the income is distributed to him or allocated to accumulation Units and, where applicable, a statement of how much of the amount to which he is entitled represents income equalisation, and
 - ii. details of any tax deducted in respect of that income.
- b. In the case of any distribution on liquidation of an AIF, details shall be given as to the proportion of the distribution which represents capital and the proportion which represents income.
- c. If in any year an interim allocation of income is made in respect of a period of less than six months it shall, subject to paragraph (d) hereunder, be a sufficient compliance with this SLC in relation to that interim allocation period if: -
 - i. instead of sending or giving a distribution statement for that period in accordance with paragraph (a)(i), the information which would have been given in such a statement is included in the next distribution statement for a half-year or for a full year to be sent or given, and

- ii. tax details are sent or given in accordance with the requirements for the time being of the Department of Inland Revenue.

- d. Paragraph (c) of this SLC does not absolve the Custodian from complying with paragraph (a) of this SLC in respect of any person who was entitled to any part of the interim allocation but who ceased to be a holder of any or all of his Units before the end of the period to be covered in the next distribution statement; but in such a case the Custodian shall comply with paragraph (a) of this SLC on or before the next ensuing annual (or half-yearly) income allocation date.

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTMENT FUNDS

PART B: STANDARD LICENCE CONDITIONS

Appendix 3 Contents of the Constitutional Documents

1 INTRODUCTION

1.01 The requirements prescribed in this Appendix are applicable to Maltese AIFs whether these are third-party managed or self-managed AIFs in terms of Part B of these Rules.

2 CONTENTS OF THE CONSTITUTIONAL DOCUMENTS

2.01 The Constitutional Documents shall:

- i. provide that the assets of the AIF shall be entrusted to a Custodian for safekeeping;
- ii. specify the conditions under which there may be effected, and the procedure to be followed with respect to, the replacement of the AIFM or the Custodian including the right of the MFSA to require such replacement. There shall be provisions to ensure the protection of unit holders in such circumstances;
- iii. specify the procedures for the creation and cancellation of Units;
- iv. define clearly the method of valuation of the assets of the AIF, which method shall have been approved by the MFSA;
- v. provide that the Units of the AIF shall be issued or sold at a price arrived at by dividing the net asset value of the AIF calculated on the approved basis by the number of Units outstanding. Such price may be increased by duties and charges;
- vi. provide that Units shall not be issued unless the equivalent of the net issue price is paid into the assets of the AIF within the time limits prescribed in the Constitutional Documents. This provision shall not preclude the issue of bonus units;
- vii. provide that Units shall be redeemed or repurchased at a price arrived at by dividing the net asset value of the AIF calculated on the approved basis by the

number of Units outstanding. Such price may be decreased by duties and charges;

- viii. determine the frequency of the calculation of the issue and repurchase prices. This shall be preferably, on each business day and definitely at least twice each month. The prices shall be made available with similar frequency. The AIF shall repurchase its Units on such terms as may be provided in its Constitutional Documents;
- ix. provide that the AIF, or the AIFM, or the Custodian shall issue registered certificates representing one or more portions of the AIF, or alternatively written confirmation of entry in the register of Units or fractions of Units;
- x. provide that rights attaching to fractions of Units shall be exercisable in proportion to the fractions of a Unit held except for voting rights which shall only be exercisable in whole Units;
- xi. prescribe the basis upon which the AIFM, Administrator, Investment Adviser and the Custodian may charge remuneration and expenditure to the AIF;
- xii. lay down provisions relating to the allocation and distribution of income.

2.02 Where the AIF is set up as a **Unit Trust**, the Constitutional Document of the AIF shall:

- i. provide that the Trustee shall ensure that the sale, issue, repurchase, redemption and cancellation of Units effected by or on behalf of the AIF are carried out in accordance with MFSA's requirements, the Constitutional Documents and the most recent Prospectus;
- ii. provide that the Trustee shall ensure that the value of Units is calculated in accordance with the provisions of the Constitutional Documents;
- iii. provide that the Trustee shall carry out the instructions of the AIFM unless these conflict with the Licence Conditions or the Constitutional Documents;
- iv. provide that the Trustee shall ensure that in transactions involving the AIF's assets, consideration is remitted to it within time limits which are acceptable market practice in the context of a particular transaction;
- v. provide that the Trustee shall ensure that the AIF's income is applied in accordance with the Constitutional Documents;
- vi. provide that the Trustee shall enquire into the conduct of the AIFM in each annual accounting period and report thereon to the holders of Units. The

Trustee's report shall be delivered to the AIFM in good time to enable the AIFM to include a copy of the report in its Annual Report. The Trustee's report shall state whether in the Trustee's opinion the AIF has been managed during that period:

- a. in accordance with the limitations imposed on the investment and borrowing powers of the AIF by the Constitutional Documents and by the MFSA; and
- b. otherwise in accordance with the provisions of the Constitutional Documents and the Licence Conditions.

If the AIFM has not complied with these requirements, the Trustee shall state why this is the case and outline the steps which the Trustee has taken to rectify the situation;

- vii. provide that the Trustee will be liable to the AIFM, the AIF and the holders of Units for any loss suffered by them as a result of its failure to perform its obligations or its improper performance of them. It shall be provided that holders of Units shall be able to enforce this liability either directly or indirectly through the AIFM;
- viii. provide that the liability of the Trustee shall not be diminished if it has entrusted to a third party some or all of the assets in its safe-keeping;
- ix. provide that the Trustee shall not enter into a contract for the sale of assets unless such assets belong to the AIF;
- x. provide that the Trustee shall notify the MFSA of any breach of the Licence Conditions or of any breach of the provisions of the Constitutional Documents as soon as it becomes aware of the breach;
- xi. prescribe the remuneration and the expenditure which the AIFM is empowered to charge to the unit trust and the method of calculation of such remuneration;
- xii. provide that a General Meeting of the holders of Units shall be held at least once each year.

2.03 Where the AIF is set up as a **Common Contractual Fund**, the Deed of Constitution of the AIF shall include:

- i. the name of the AIF and the duration if any;
- ii. the name of the AIFM and of the custodian;

- iii. the investment policy;
 - iv. the distribution policy, if any, of the income of the AIF;
 - v. the remuneration and expenditure which the AIFM is empowered to charge the AIF and the method of calculation of such remuneration;
 - vi. the date of the closing of the accounts of the AIF;
 - vii. the dissolution of the AIF, without prejudice to the requirements prescribed in Regulation 21 of the Investment Services Act (Contractual Funds) Regulations, 2010;
 - viii. the procedure for the amendment to the deed of constitution;
 - ix. the procedure for the removal and replacement of the AIFM and the custodian of the AIF;
 - x. the procedure for the issue of units to participants or fractional units up to such a number of decimal places not being less than three as specified in the deed of constitution;
 - xi. that a minimum percentage of holding is required for unit holders in a contractual fund to request, in writing, the AIFM to convene a meeting for unit holders to vote on certain issues as may be determined by the deed of constitution of the AIF;
 - xii. the procedure for the redemption of units and the conditions under which redemptions may be carried out or suspended;
 - xiii. The method of valuation of the AIF's assets;
 - xiv. The law governing the AIF;
 - xv. Any other matter which may be prescribed by the competent authority.
- 2.04 Where the AIF is set up as a common contractual fund and the use of a Special Investment Vehicle is envisaged, the Deed of Constitution and the Offering Memorandum of the AIF shall clearly indicate the intention to establish such a vehicle, and any reports prepared by the AIF shall include such information on the Special Investment Vehicle.
- 2.05 Furthermore, the Constitutional Document of an AIF set up as a common contractual fund shall:

- i. provide that the AIFM shall ensure that the sale, issue, repurchase, redemption and cancellation of Units effected by or on behalf of the AIF are carried out in accordance with MFSA's requirements, the Deed of Constitution and the most recent Prospectus;
- ii. provide that the AIFM shall ensure that the AIF's income is applied in accordance with the Deed of Constitution;
- iii. provide that the AIFM shall notify the MFSA of any breach of the Licence Conditions or of any breach of the provisions of the Deed of Constitution as soon as it becomes aware of the breach;
- iv. prescribe the remuneration and the expenditure which the AIFM is empowered to charge to the AIF and the method of calculation of such remuneration;
- v. prescribed that decisions affecting the rights of unit holders shall be taken by the AIFM of the AIF in agreement with the custodian of such AIF;
- vi. provide that a General Meeting of the holders of Units shall be held at least once each year.

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTOR FUNDS

PART B: STANDARD LICENCE CONDITIONS

Appendix 4

Contents of the Offering Document

1 GENERAL REQUIREMENTS

- 1.01 The requirements prescribed in this Appendix are applicable to Maltese AIFs whether these are third-party managed or self-managed AIFs in terms of Part B of these Rules.
- 1.02 Unless otherwise agreed with the MFSA, an AIF shall issue or cause to be issued an Offering Document for which the AIF shall be responsible. The purpose of the Document is to provide sufficient information to enable potential Professional Investors to make an informed investment decision.
- 1.03 The Document must contain all material information which at the date of the Offering Document is within the knowledge of the AIF's Board of Directors (in the case of an AIF set up as an investment company), General Partner(s) (in the case of an AIF set up as a limited partnership) or AIFM (in the case of an AIF set up as a unit trust or a common contractual fund) to be relevant for the purpose of making an informed judgement about the merits of participating in the AIF and the extent of the risks accepted by so participating. The Offering Document shall include the information listed hereunder.

2 INFORMATION CONCERNING THE AIF

- 2.01 The following statements must be in a prominent position printed in font whose pitch is at least 12:
- *“[name of the FUND] is licensed by the Malta Financial Services Authority (“MFSA”) as an Alternative Investment Fund which is available to Professional Investors.*
 - *Alternative Investor Funds are Non-Retail Schemes. Therefore, the protection normally arising as a result of the imposition of the MFSA's investment and borrowing restrictions and other requirements for retail schemes do not apply.*
 - *The MFSA has made no assessment or value judgment on the soundness of the fund or for the accuracy or completeness of statements made or opinions expressed with regard to it.”.*

- 2.02 A statement that the AIF’s Board of Directors (in the case of an AIF set up as an investment company), General Partner(s) (in the case of an AIF set up as a limited partnership) or AIFM (in the case of an AIF set up as a unit trust or a common contractual fund) confirm their approval of the content of the Offering Document.
- 2.03 In addition to the above, the following information about the AIF must be included in the Offering Document:
- i. Name of the AIF;
 - ii. Date of establishment of the AIF and a statement as to its duration, if limited;
 - iii. Name or style, form in law and registered office.
 - iv. In the case of an umbrella AIF, an indication of the Sub-Funds;
 - v. The investment objectives, policies and restrictions of the AIF, together with the extent of use of leverage. In the case of an umbrella AIF, this information must be provided for each Sub-Fund.
 - vi. A statement indicating that:
 - a. changes to the investment policies and restrictions of the AIF, or in the case of an umbrella AIF, its Sub-Funds, shall be notified to investors in advance of the change;
 - b. changes to the investment objectives of the AIF, or in the case of an umbrella AIF its Sub-Funds, shall be notified to investors in advance of the change. The change in the investment objectives will only become effective after all redemption requests received during such notice period, have been satisfied.
 - vii. Accounting and distribution dates.
 - viii. Name of auditor.
 - ix. Details of the types and main characteristics of the Units and in particular:
 - a. the nature of the right represented by the Unit;
 - b. indication of the voting rights, if any of the holders of Units.
 - x. Where the AIF has issued “Voting Shares” to the promoters and “non-Voting Shares” to prospective Investors, a Statement identifying the holders of the “Voting Shares” of the AIF. In the event that the “Voting Shares” are held by

a Corporate Entity or a Trustee, the Offering Document may include the name of the said Corporate Entity/ Trustee without disclosing the names of the individual beneficial owners/ beneficiaries. The Offering Document would also need to state that the identity of the ultimate beneficial owners of the holders of “Voting Shares” will be disclosed upon request.

- xi. Procedures and conditions for the creation, issue and sale of Units.
- xii. Procedures and conditions for the repurchase, redemption and cancellation of Units, and details of the circumstances in which repurchase or redemption may be suspended.
- xiii. Rules for the valuation of assets.
- xiv. Method to be used for the determination of the creation, sale and issue prices and the repurchase, redemption and cancellation prices of Units, in particular:
 - a. the method and frequency of the calculation of the net asset value;
 - b. information concerning the charges relating to the sale or issue and the repurchase or redemption of Units; and
 - c. arrangements whereby holders of Units and prospective holders of Units may deal.
- xv. In the case of an umbrella AIF, the charges applicable to the switching of investments from one Sub-Fund to another.
- xvi. Information concerning the nature, amount and the basis of calculation in respect of remuneration payable by the AIF to the AIFM (or in the case of a Self Managed AIF, the Investment Committee), Administrator, Custodian, Adviser, and to third parties, and in respect of the reimbursement of costs by the AIF to the AIFM, to the Custodian and to third parties.
- xvii. In the case of an AIF set up as an investment company, the amounts of authorised and paid-up share capital.
- xviii. In the case of an AIF set up as an investment company, brief details of the members of the Board of Directors of the AIF. Where the AIF has appointed one or more Corporate Directors, this section should include brief details on the Corporate Director and its directors, including a brief description of the nature/ objects of the company. In the case of a Corporate Director with nominee shareholders and directors, this section should either disclose the ultimate beneficial owners of the Corporate Director or include a statement that such information will be available upon request.

- xix. In the case of an AIF set up as a limited partnership, brief details of the General Partner/s. Where the AIF has appointed one or more Corporate General Partner/s, this section should include brief details on the Corporate General Partner/s and its directors, including a brief description of the nature/ objects of the company. In the case of Corporate General Partner/s with nominee shareholders and directors, this section should either disclose the ultimate beneficial owners of the Corporate General Partner/s or include a statement that such information will be available upon request.

3 Information concerning the AIFM, Investment Adviser, Administrator, Custodian/ Prime Broker (where applicable) (“the Service Provider”)

3.01 The following information about the Service Providers must be included in the Offering Document:

- i. Name or style, registered office and head office.
- ii. If the Service Provider is part of a group, the name of that group.
- iii. Regulatory Status of the Service Provider.
- iv. In the case of the Investment Adviser or the Administrator a statement whether the Investment Adviser/ the Administrator is appointed by the AIF or the AIFM.
- v. Where one or more Service Provider has not been appointed, a description should be provided concerning how the functions normally undertaken by each functionary will be carried out e.g. if a Custodian/ Prime Broker is not appointed, the Offering Document should include a description of the safekeeping arrangements that will be put in place with respect to the assets of the AIF.
- vi. In the case of a Self-Managed AIF, details of the members of the Investment Committee, including an overview of their experience and expertise together with an outline of the person(s) responsible for the day to day management of the assets of the AIF.

4 Information concerning the Local Representative

4.01 The following information about the Local Representative must be included in the Offering Document:

- i. Name, registered office and head office, if different from registered office.
- ii. Main activities.

5 Risk Warnings

- 5.01 The section on risk warnings should provide a detailed and clear indication of the principal risks associated with investing in the AIF.
- 5.02 Where it is possible for the AIF to enter into agreements with investors for the purpose of committing funds for the subscription at a future date to units at a specific price, a risk warning should be made to the effect that should the AIF issue units at a discount with respect to its current NAV, in terms of the such agreements, there will be a risk of dilution to the Net Asset Value of the AIF.
- 5.03 There should also be a clear risk warning that while investors entering into an agreement with the AIF for the purpose of committing funds for the subscription at a future date to units at a specific price, would in effect be subscribing for such units at a discount if the NAV per unit prevailing at the time the draw-down request is made, exceeds the price at which the investor had agreed to subscribe for units in terms of such agreement, on the other hand, if the NAV per unit at the time a draw-down request is made is lower than the price at which the investor had agreed to subscribe for units in terms of such agreement, the investor would, in effect, be paying a premium for such units.

6 General Information

- 6.01 A description of the potential conflicts of interest which could arise between the AIFM, or the Investment Adviser, or the Custodian/ Prime Broker, and the AIF.
- 6.02 The name of any entity which has been contracted by the AIFM or the AIF to carry out its work.
- 6.03 Information concerning the arrangements for making payments to Unit-Holders, purchasing or redeeming Units and making available information concerning the AIF.
- 6.04 Where applicable, an indication that the AIF will use Trading Companies or Special Purpose Vehicles as part of its investment strategy.
- 6.05 Where the Offering Document is made available by publication in electronic form, a paper copy must nevertheless be delivered to the investor, upon his request and free of charge, by the AIF or the financial intermediaries placing or selling the AIF's Units. The Offering Document of the AIF must be made available in a printed form at the registered office of the AIF or its AIFM or other financial intermediaries placing or selling the Units in the AIF.

- 6.06 The Directors of the AIF, or its administrative management or supervisory body – whose names and functions or in the case of legal persons their names and registered offices appear on the Offering Document – must include a declaration in the Offering Document to the effect that to the best of their knowledge the information contained therein is in accordance with facts and that the Offering Document makes no omission likely to affect its import.
- 6.07 The text and the format of the Offering Document, and/ or the supplements to the Offering Document, published or made available to the public, shall at all times be identical to the latest version approved by the MFSA.
- 6.08 Every significant new factor, material mistake or inaccuracy relating to the information included in an Offering Document of the AIF which is capable of affecting the investors' assessment of the Units on offer and which arises or is noted between the time when the Offering Document is approved and the final closing of the offer to the public or, as the case may be, the time when trading on a Regulated Market begins, shall be mentioned in a supplement to the Offering Document. Such a supplement shall be approved in the same way within a maximum of seven working days and published in accordance with at least the same arrangements as were applied when the original Offering Document was published. The summary, and any translations thereof, shall also be supplemented, if necessary to take into account the new information included in the supplement. Investors who have already agreed to purchase or subscribe for the Units before the supplement is published shall have the right, exercisable within a time limit which shall not be shorter than two working days after the publication of the supplement, to withdraw their acceptances.
- 6.09 If there are significant new factors, material mistakes or inaccuracies, arising since the approval of the Offering Document, the AIF shall publish a supplement which must be approved by the MFSA.
- 6.10 The AIF shall comply with the requirements laid out in Regulations 3 to 8 of the Investment Services Act (Prospectus of Collective Investment Schemes) Regulations, 2005.

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES RULES FOR
ALTERNATIVE INVESTMENT FUNDS**

APPENDIX 5

Results of Stress Tests - Risk Management Function

IMPORTANT INFORMATION

Important Information concerning Appendix 5

a)	Appendix 5 is applicable to self-managed AIFs.
b)	Part B of the Investment Services Rules for Alternative Investment Funds should be read carefully before the form prescribed in this Appendix is completed.
c)	The information to be reported in the Form prescribed in this Appendix is required in terms of 15(3) AIFMD as transposed in SLC 8.28 of Part B of the Investment Services Rules for Alternative Investment Funds
d)	In complying with the reporting obligations prescribed in this Appendix, the self-managed AIF shall comply with Section 3 [dealing with risk management] of the Commission Delegated Regulation 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.
e)	Responsibility for the timely submission of the form prescribed in this Appendix rests with the AIF. Undue and unjustifiably lengthy delays in the submission of responses from AIFs may result in the application of penalties and may require the re-submission of the form.
f)	The provision of false, misleading or inaccurate information or omission of provision of material information may prejudice the status of the application and may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Investment Services Act, 1994.
g)	Hard copies of the Form prescribed in Appendix 5 are to be submitted.
h)	Reference should be made to the Glossary of the Investment Services Rules for Alternative Investment Funds for the definition of certain terms referred to in this form.
i)	Monetary values should be reported in the base currency of the AIF.



MALTA FINANCIAL SERVICES AUTHORITY

Appendix 5

Results of Stress Tests - Risk Management Function

Please provide **the results of the stress tests** performed in accordance with **Article 15(3) of Directive 2011/61/EU** [*risks associated with each investment position of the AIF and their overall effect on the AIF's portfolio can be properly identified, measured, managed and monitored on an on-going basis, including through the use of appropriate stress testing procedures;*]

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES RULES FOR
ALTERNATIVE INVESTMENT FUNDS**

APPENDIX 6

Results of Stress Tests - Liquidity Management Function

IMPORTANT INFORMATION

Important Information concerning Appendix 6

a)	Appendix 6 is applicable to self-managed AIFs.
b)	Part B of the Investment Services Rules for Alternative Investment Funds should be read carefully before the form prescribed in this Appendix is completed.
c)	The information to be reported in the Form prescribed in this Appendix is required in terms of article 16(1) AIFMD as transposed in SLC 8.32 of Part B of the Investment Services Rules for Alternative Investment Funds
d)	In complying with the reporting obligations prescribed in this Appendix, the self-managed AIF shall comply with Section 4 [dealing with liquidity management] of the Commission Delegated Regulation 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.
e)	Responsibility for the timely submission of the form prescribed in this Appendix rests with the AIF. Undue and unjustifiably lengthy delays in the submission of responses from AIFs may result in the application of penalties and may require the re-submission of the form.
f)	The provision of false, misleading or inaccurate information or omission of provision of material information may prejudice the status of the application and may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Investment Services Act, 1994.
g)	Hard copies of the Form prescribed in Appendix 6 are to be submitted.
h)	Reference should be made to the Glossary of the Investment Services Rules for Alternative Investment Funds for the definition of certain terms referred to in this form.
i)	Monetary values should be reported in the base currency of the AIF.



MALTA FINANCIAL SERVICES AUTHORITY

Appendix 6

Results of Stress Tests - Liquidity Management Function

Please provide **the results of the stress tests** performed in accordance with the second subparagraph of Article 16(1) of **of Directive 2011/61/EU**.
[AIFMs shall regularly conduct stress tests under normal and exceptional liquidity conditions, which enable them to assess the liquidity risk of the AIFs and monitor the liquidity risk of the AIFs accordingly.]

INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTMENT FUNDS

PART B: STANDARD LICENCE CONDITIONS

Appendix 7 Remuneration Policy

1 Introduction

- 1.01 The SLCs prescribed in this Appendix are applicable to Alternative Investment Funds which are self-managed in terms of Part B of these Investment Services Rules.
- 1.02 For the purposes of this Appendix, the term “AIF” shall be understood as referring to a “self-managed AIF”.

2 Remuneration Policy

- 2.01 In terms of SLC 8.51 of Part B of these Investment Services Rules, an AIF shall have remuneration policies and practices for those categories of staff, including senior management, risk takers, control functions, and any employees receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on the risk profile of the AIF, that are consistent with and promote sound and effective risk management and do not encourage risk taking which is inconsistent with the risk profiles, fund rules, prospectus or offering documents of the AIF.
- 2.02 When establishing and applying the total remuneration policies, inclusive of salaries and discretionary pension benefits, for those categories of staff, including senior management, risk takers, control functions and any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on the risk profile of the AIF, the AIF shall comply with the following principles in a way and to the extent that is appropriate to its size, internal organisation and the nature, scope and complexity of its activities:
- (a) The remuneration policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking which is inconsistent with the risk profiles, Constitutional Documents and/or Offering Document of the AIFs it manages;

- (b) The remuneration policy is in line with the business strategy, the objectives, values and interests of the AIF or the investors of such AIF, and includes measures to avoid conflicts of interest;
- (c) The management body of the AIF, in its supervisory function, adopts and periodically reviews the general principles of the remuneration policy and is responsible for its implementation;
- (d) The implementation of the remuneration policy is, at least annually, subject to central and independent internal review for compliance with policies and procedures for remuneration adopted by the management body in its supervisory function;
- (e) Staff engaged in control functions are compensated in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control;
- (f) The remuneration of the senior officers in the risk management and compliance functions is directly overseen by the remuneration committee;
- (g) Where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the performance of the individual and of the business unit or AIF concerned and of the overall results thereof, and when assessing individual performance, financial as well as non-financial criteria are taken into account;
- (h) The assessment of performance is set in a multi-year framework appropriate to the life-cycle of the AIF in order to ensure that the assessment process is based on longer term performance and that the actual payment of performance-based components of remuneration is spread over a period which takes account of the redemption policy of the AIF and its investment risks;
- (i) Guaranteed variable remuneration is exceptional, occurs only in the context of hiring new staff and is limited to the first year;
- (j) Fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy, on variable remuneration components, including the possibility to pay no variable remuneration component;
- (k) Payments related to the early termination of a contract reflect performance achieved over time and are designed in a way that does not reward failure;

- (l) The measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks;
- (m) Subject to the legal structure of the AIF, and Constitutional Documents and/or Offering Document, a substantial portion, and in any event at least 50% of any variable remuneration consists of units or shares of the AIF concerned, or equivalent ownership interests, or share-linked instruments or equivalent non-cash instruments.

The instruments referred to in this point shall be subject to an appropriate retention policy designed to align incentives with the interests of the AIF and the investors thereof. The MFSA may restrict the types and designs of those instruments or ban certain instruments as appropriate. This point shall be applied to both the portion of the variable remuneration component deferred in line with point [n] and the portion of the variable remuneration component not deferred;

- (n) A substantial portion, and in any event at least 40% of the variable remuneration component, is deferred over a period which is appropriate in view of the life cycle and redemption policy of the AIF concerned and is correctly aligned with the nature of the risks of the AIF in question.

The period referred to in this point shall be at least three to five years unless the life cycle of the AIF concerned is shorter; remuneration payable under deferral arrangements vests no faster than on a pro-rata basis; in the case of a variable remuneration component of a particularly high amount, at least 60% of the amount is deferred;

- (o) The variable remuneration including the deferred portion, is paid or vests only if it is sustainable according to the financial situation of the AIF as a whole, and justified according to the performance of the business unit, the AIF and the individual concerned.

The total variable remuneration shall generally be considerably contracted where subdued or negative financial performance of the AIF concerned occurs, taking into account both current compensation and reduction in payouts of amounts previously earned, including through malus or clawback arrangements;

- (p) The pension policy is in line with the business strategy, objectives, values and long-term interests of the AIF.

If the employees leave the AIF before retirement, discretionary pension benefits shall be held by the AIF for a period of 5 years in the form of instruments defined in point [m]. In the case of an employee reaching retirement, discretionary pension benefits shall be paid to the employee in the form of instruments defined in point [m], subject to a 5 year retention period;

- (q) Staff are required to undertake not to use personal hedging strategies or remuneration – and liability-related insurance to undermine the risk alignment effects embedded in their remuneration arrangements;
- (r) Variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements prescribed in these Investment Services Rules.

2.03 The principles stipulated in SLC 2.02 above, shall apply to remuneration of any type paid by the AIF, to any amount paid directly by the AIF itself, including carried interest, and to any transfer of units or shares of the AIF, made to the benefits of those categories of staff, including senior management, risk takers, control functions and any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on their risk profile or the risk profiles of the AIF.

2.04 An AIF that is significant in terms of its size, its internal organisation and the nature, the scope and the complexity of its activities shall establish a remuneration committee. The remuneration committee shall be constituted in a way that enables it to exercise competent and independent judgement on remuneration policies and practices and the incentives created for managing risk.

2.05 The remuneration committee shall be responsible for the preparation of decisions regarding remuneration, including those which have implications for the risk and risk management of the AIF concerned and which are to be taken by the management body in its supervisory function. The remuneration committee shall be chaired by a member of the management body who does not perform any executive functions in the AIF concerned. The members of the remuneration committee shall be members of the management body who do not perform any executive functions in the AIF concerned.

INVESTMENT SERVICES RULES FOR INVESTMENT SERVICES PROVIDERS

PART B: STANDARD LICENCE CONDITIONS

Appendix 8 Transparency Requirements

1 Introduction

1.0 The SLCs prescribed in this Appendix are applicable to self-managed AIFs.

2 Annual Report

2.01 In terms of SLC 8.69 of Part B of these Rules, the AIF, shall, make available an annual report for each financial year no later than 6 months following the end of the financial year. The annual report shall be made available to investors on request.

2.02 The annual report of a self-managed AIF shall contain at least the following information:

- (a) A balance sheet or a statement of assets and liabilities;
- (b) An income and expenditure account for the financial year;
- (c) A report on the activities of the financial year;
- (d) Any material changes in the information listed in SLC 8.68 of Part B of these Rules and SLCs 3.01 to 3.07 of this Appendix during the financial year covered by the report;
- (e) The total amount of remuneration for the financial year, split into fixed and variable remuneration, paid by the AIF to its staff, and number of beneficiaries, and where relevant, carried interest paid by the AIF;
- (f) The aggregate amount of remuneration broken down by senior management and members of staff of the AIF whose actions have a material impact on the risk profile thereof.

2.03 Where the AIF is required to make public an annual financial report in accordance with Directive 2004/109/EC only such additional information referred to in SLC 2.02 above needs to be provided to investors on request, either separately or as an additional part of the annual financial report. In the latter case, the annual financial

report shall be made public no later than 4 months following the end of the financial year.

- 2.04 The accounting information given in the annual report shall be prepared in accordance with the accounting standards of the home Member State or EEA State of the AIF and with the accounting rules laid down in the fund rules or instruments of incorporation.
- 2.05 The accounting information given in the annual report shall be audited by a certified auditor and in accordance with the accounting rules laid down in the Constitutional Documents and/or Offering Document. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.
- 2.06 In complying with the requirements prescribed in SLC 2.01 to 2.05 above, the AIF shall also refer and comply with the applicable provisions of the Commission Delegated Regulation 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 Disclosure to investors

- 3.01 In terms of SLC 8.68 of Part B of these Rules, the AIF shall make available to investors, in accordance with the Constitutional Documents and/or Offering Document, the following information before it invests in the AIF, as well as any material changes thereof:
- (a) A description of the investment strategy and the objectives of the AIF, information on where any master AIF is established and where the underlying funds are established if the AIF is a fund of funds, a description of the types of assets in which the AIF may invest, the techniques it may employ and all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks, any restriction on the use of leverage and any collateral and asset reuse arrangements, and the maximum level of leverage which the AIF is entitled to employ;
 - (b) A description of the procedures by which the AIF may change its investment strategy or investment policy, or both;
 - (c) A description of the main legal implications of the contractual relationship entered into for the purpose of investment, including information on jurisdiction, on the applicable law and on the existence or not of any legal instruments providing for the recognition and enforcement of judgements in the territory where the AIF is established.

- (d) The identity of the AIF's custodian, auditor and any other service providers and a description of their duties and the investors' rights;
- (e) A description of how the AIF is complying with the requirements of SLC 8.14 of Part B of these Rules;
- (f) A description of any delegated management function as referred to in SLC 8.01 of Part B of these Rules by the AIF and of any safe-keeping function delegated by the custodian, the identification of the delegate and any conflicts of interest that may arise from such delegations;
- (g) A description of the AIF's valuation procedure and of the pricing methodology for valuing assets, including the methods used in valuing hard-to-value assets in accordance with SLCs 3.53 to 3.59 and SLCs 8.37 to 8.46 of Part B of these Rules;
- (h) A description of the AIF's liquidity risk management, including the redemption rights both in normal and in exceptional circumstances, and the existing redemption arrangements with investors;
- (i) A description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by investors;
- (j) A description of how the AIF ensures a fair treatment of investors and, whenever an investor obtains preferential treatment, a description of that preferential treatment, the type of investors who obtain such preferential treatment and, where relevant, their legal or economic links with the AIF;
- (k) The latest annual report referred to in SLC 8.69 of Part B of these Rules as well as SLCs 2.02 to 2.06 of this Appendix;
- (l) The procedure and conditions for the issue and sale of units or shares;
- (m) The latest net asset value of the AIF or the latest market price of the unit or share of the AIF, in accordance with SLCs 3.53 to 3.59 and SLCs 8.37 to 8.46 of Part B of these Rules;
- (n) Where available the historical performance of the AIF;
- (o) The identity of the prime broker and a description of any material arrangements of the AIF with its prime brokers and the way the conflicts of interest in relation thereto are managed and the provision in the contract with the custodian on the possibility of transfer and reuse of AIF assets, and information about any transfer of liability to the prime broker that may exist;

- (p) A description of how and when the information required under SLC 3.05 and 3.06 of this Appendix will be disclosed.
- 3.02 The AIF shall inform the investors before they invest therein of any arrangement made by the custodian to contractually discharge itself of liability in accordance with Article 21(13) of the Directive as transposed in Part BIV of the Investment Services Rules for Investment Services Providers.
- 3.03 The AIF shall also inform investors of any changes with respect to custodian liability without delay.
- 3.04 Where the AIF is required to publish a prospectus in accordance with Directive 2003/71/EC or in accordance with Maltese law, only such information referred to in SLCs 3.01 to 3.03 above which is in addition to that contained in the prospectus needs to be disclosed separately or as additional information in prospectus.
- 3.05 The AIF shall periodically disclose to investors:
- (a) The percentage of the AIF's assets which are subject to special arrangements arising from their illiquid nature;
 - (b) Any new arrangements for managing the liquidity of the AIF;
 - (c) The current risk profile of the AIF and the risk management systems employed to manage those risks.
- 3.06 An AIF employing leverage shall disclose on a regular basis:
- (a) Any changes to the maximum level of leverage which the AIF may employ as well as any right of the reuse of collateral or any guarantee granted under the leveraging arrangement;
 - (b) The total amount of leverage employed by that AIF.
- 3.07 In complying with SLCs 3.05 and 3.06 above, the AIF shall also refer and comply with the applicable provisions of the Commission Delegated Regulation 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.

4 Disclosure to the Competent Authority

- 4.01 In terms of SLC 8.70 of Part B of these Rules the AIF shall regularly report to the MFSA on the principal markets and instruments in which it trades on behalf of the AIFs it manages.

- 4.02 The AIF shall provide information on the main instruments in which it is trading, on markets of which it is a member or where it actively trades, and on the principal exposures and most important concentrations of the AIF.
- 4.03 In complying with SLCs 4.01 to 4.02 above, the AIF shall submit to the MFSA the information prescribed in Annex I to these Rules and shall further comply with the applicable provisions of the Commission Delegated Regulation 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.
- 4.04 The AIF shall provide the MFSA with the following information:
- (a) The percentage of the AIF's assets which are subject to special arrangements arising from their illiquid nature;
 - (b) Any new arrangements for managing the liquidity of the AIF;
 - (c) The current risk profile of the AIF and the risk management systems employed thereby to manage the market risk, liquidity risk, counterparty risk and other risks including operational risk;
 - (d) Information on the main categories of assets in which the AIF invested; and
 - (e) The results of the stress tests performed in accordance with SLCs 8.29(b) and 8.32 of Part B of these Rules together with the information reported in terms of Appendices 6 and 7 to Part B of these Rules.
- 4.05 In complying with SLC 4.04 above, the AIF shall submit to the MFSA the information prescribed in Annex II to these Rules and shall further comply with the applicable provisions of the Commission Delegated Regulation 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.
- 4.06 The AIF shall, on request provide the MFSA with an annual report for each financial year in accordance with SLCs 2.02 and 2.03 of this Appendix.
- 4.07 An AIF employing leverage on a substantial basis shall provide the MFSA with information about the overall level of leverage employed thereby, a break-down between leverage arising from borrowing of cash or securities and leverage embedded in financial derivatives and the extent to which the AIF's assets have been reused under leveraging arrangements.

- 4.08 The information provided pursuant to SLC 4.06 above shall include the identity of the five largest sources of borrowed cash or securities, and the amounts of leverage received from each of those sources for the AIF.
- 4.09 In complying with SLC 4.08 above, the AIF shall submit to the MFSA the information prescribed in Annex III to these Rules and shall further comply with the applicable provisions of the Commission Delegated Regulation 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.
- 4.10 Where necessary for the effective monitoring of systemic risk, the MFSA may require information in addition to that prescribed in this Appendix on a periodic as well as on an ad-hoc basis. The MFSA will inform ESMA about the additional information requirements.

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES RULES FOR
ALTERNATIVE INVESTMENT FUNDS**

ANNEX I

AIF-Specific Information to be provided

IMPORTANT INFORMATION

Important Information concerning Annex I

- ◇ Annex I is applicable to self-managed AIFs.
- ◇ Part B of the Investment Services Rules for Alternative Investment Funds should be read carefully before the form prescribed in this Annex is completed.
The information to be reported in the Form prescribed in this Annex is required in terms of
- ◇ Article 24(1) AIFMD as transposed in the SLCs 4.01 and 4.02 of Appendix 8 to Part B of the Investment Services Rules for Alternative Investment Funds.

In complying with the reporting obligations prescribed in this Annex, the AIF shall comply
- ◇ with the **Article 110** of the Commission Delegated Regulation 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.
- ◇ Monetary values are to be reported in the base currency of the AIF

Responsibility for the timely submission of the form prescribed in this Annex rests with the
- ◇ AIF. Particular attention must be paid to the reporting deadlines prescribed in Article 110 of the Commission Delegated Regulation. Undue and unjustifiably lengthy delays in the submission of responses from AIFs may result in the application of penalties and may require the re-submission of the form.

The provision of false, misleading or inaccurate information or omission of provision of
- ◇ material information may prejudice the status of the application and may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Investment Services Act, 1994.
- ◇ Hard copies of the Form prescribed in Annex I are to be submitted.
- ◇ Reference should be made to the Glossary of the Investment Services Rules for Alternative Investment Funds for the definition of certain terms referred to in this form.

ANNEX I

AIF-Specific Information to be provided Article 24(1) of Directive 2011/61/EU

	Data Type	Reported data
IDENTIFICATION OF THE AIF		
1	AIF Name	EU AIF: Yes/no
2	(legal name and standard code where applicable)	EU AIFM: Yes/no
3	Fund identification codes (as applicable)	
4	Inception date of the AIF	
5	Domicile of the AIF	
6	Identification of prime broker(s) of the AIF (Legal name and standard code, where applicable)	
7	Base currency of the AIF according to ISO 4217 and assets under management calculated as set out in Article 2	Currency
		Total AuM
8	Jurisdictions of the three main funding sources (excluding units or shares of the AIF bought by investors)	

9	Predominant AIF type (select one)	Hedge Fund, Private Equity Fund, Real Estate Fund, Fund of Funds, Other, None	
10	Breakdown of investment strategies <i>(Provide a breakdown of the investment strategies of the AIF depending on the predominant AIF type selected in question 1. See guidance notes for further information on how to complete this question).</i>		
			Indicate the strategy that best describe the AIF strategy Share in NAV (%)
	Data Type		Reported Data
	a) Hedge Fund Strategies <i>(Complete this question if you selected 'Hedge Fund' as the predominant AIF type in question 1.)</i>		
	<i>Indicate the hedge fund strategies that best describe the AIF strategies</i> Equity: Long Bias Equity: Long/Short Equity: Market Neutral Equity: Short Bias Relative Value: Fixed Income Arbitrage Relative Value: Convertible Bond Arbitrage Relative Value: Volatility Arbitrage Event Driven: Distressed/ Restructuring Event Driven: Risk Arbitrage/ Merger Arbitrage Event Driven: Equity Special Situations		

<p>Credit Long/Short</p> <p>Credit Asset Based Lending</p> <p>Macro</p> <p>Managed Futures/CTA: Fundamental</p> <p>Managed Futures/CTA: Quantitative</p> <p>Multi-strategy hedge fund</p> <p>Other hedge fund strategy</p>		
<p>b) Private Equity Strategies <i>(Complete this question if you selected 'Private Equity' as the predominant AIF type in question 1.)</i></p>		
<p><i>Indicate the private equity strategies that best describe the AIF strategies</i></p> <p>Venture Capital</p> <p>Growth Capital</p> <p>Mezzanine Capital</p> <p>Multi-Strategy private equity fund</p> <p>Other private equity fund strategy</p>		
<p>c) Real Estate Strategies <i>(Complete this question if you selected 'Real Estate' as the predominant AIF type in question 1.)</i></p>		
<p><i>Indicate the real estate strategies that best describe the AIF strategies</i></p> <p>Residential real estate</p> <p>Commercial real estate</p> <p>Industrial real estate</p> <p>Multi-strategy real estate fund</p> <p>Other real estate strategy</p>		
<p>d) Real Estate Strategies <i>(Complete this question if you selected 'Fund of Funds' as the predominant AIF type in question 1.)</i></p>		

Indicate the 'fund of fund' strategies that best describe the AIF strategies			
Fund of hedge funds			
Fund of private equity			
Other fund of funds			
e) Other Strategies (Complete this question if you selected 'Other' as the predominant AIF type in question 1.)			
Indicate the 'fund of fund' strategies that best describe the AIF strategies			
Community fund			
Equity fund			
Fixed income fund			
Infrastructure fund			
Other fund			
PRINCIPAL EXPOSURES AND MOST IMPORTANT CONCENTRATION			
11	Main instruments in which the AIF is trading		
	Type of instrument/instrument code	Value (as calculated under Article 3 AIFMD)	Long/short position
	Most important instrument		
	2 nd most important		
	3 rd most important		
	4 th most important		
	5 th most important		
12	Geographical focus		
	Provide a geographical breakdown of the investments held by the AIF by percentage of the total net asset value of the AIF	% of NAV	
	Africa		
	Asia and Pacific (other than Middle East)		

	Europe (EEA)					
	Middle east					
	North America					
	South America					
	Supranational/multiple region					
13	10 principal exposures of the AIF at the reporting date (most valuable in absolute terms)					
	Type of asset/liability	Name/description of the market	Value of aggregate exposure as calculated under article 3	% of gross market value	Long/short position	Counterparty (where relevant)
1st						
2nd						
3rd						
4th						
5th						
6th						
7th						
8th						
9th						
10th						
14	5 most important portfolio concentrations:					
	Type of asset/liability	Name/description of the market	Value of aggregate exposure as calculated under article 3	% of gross market value	Long/short position	Counterparty (where relevant)
1st						

2 nd						
3 rd						
4 th						
5 th						
15	Typical deal/position size <i>(complete this question if you selected as your predominant AIF type 'private equity fund in question 1')</i>			(Select one) Very small, small		
				Lower mid market, upper mid market, large cap, mega cap		
16	Principal markets in which AIF trades					
	<i>Please enter name and identifier (eg MIC Code) where available, of market with greatest exposure</i>					
	<i>Please enter name and identifier (eg MIC Code) where available, of market with 2nd greatest exposure</i>					
	<i>Please enter name and identifier (eg MIC Code) where available, of market with 3rd greatest exposure</i>					
17	Investor concentration					
	Specify the approximate percentage of the AIFs equity that is beneficially owned by the five beneficial owners that have the largest equity interest in the AIF (as a percentage of outstanding units/ shares of the AIF; look-through to the beneficial owners where known or possible)					
	Breakdown of investor or concentration by status of investors (estimate if no precise information available)			%		
	→ Professional Clients (as defined in Directive 2004/39/EC (MiFID))					
	→ Retail investors					

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES RULES FOR
ALTERNATIVE INVESTMENT FUNDS**

ANNEX II

**AIF-Specific Information to be provided to the
MFSA**

IMPORTANT INFORMATION

Important Information concerning Annex II

- ◇ Annex II is applicable to self-managed AIFs and concerns AIF-specific information to be provided to the Competent Authority.
- ◇ Part B of the Investment Services Rules for Alternative Investment Funds should be read carefully before the form prescribed in this Annex is completed.
- ◇ The information to be reported in the Form prescribed in this Annex is required in terms of Article 24(2) AIFMD as transposed in SLC 4.04 of Appendix 8 to Part B of the Investment Services Rules for Alternative Investment Funds.
- ◇ In complying with the reporting obligations prescribed in this Annex, the self-managed AIF shall comply with the **Article 110** of the Commission Delegated Regulation 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.
- ◇ Monetary values are to be reported in the base currency of the AIF
- ◇ Responsibility for the timely submission of the form prescribed in this Annex rests with the AIF. Particular attention must be paid to the reporting deadlines prescribed in Article 110 of the Commission Delegated Regulation. Undue and unjustifiably lengthy delays in the submission of responses from AIFs may result in the application of penalties and may require the re-submission of the form.
- ◇ The provision of false, misleading or inaccurate information or omission of provision of material information may prejudice the status of the application and may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Investment Services Act, 1994.
- ◇ Hard copies of the Form prescribed in Annex II are to be submitted.
- ◇ Reference should be made to the Glossary of the Investment Services Rules for Alternative Investment Funds for the definition of certain terms referred to in this form.

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Annex II

AIF-Specific Information to be provided to competent authorities (Article 24(2) of Directive 2011/61/EU)

	Data type	Reported data	
IDENTIFICATION OF THE AIF			
1	AIF Name	EU AIF: yes/no	
2	Fund manager	EU AIFM: Yes/no	
1	AIF name		
2	Fund manager		
3	Fund identification codes, as applicable		
4	Inception date of the AIF		
5	Base currency of the AIF according to ISO 4217 and assets under management calculated as set out in Article 2	Currency	Total AuM
6	Identification of prime broker(s) of the AIF		
7	Jurisdictions of the three main funding sources		
Instruments Traded and individual exposures			
8	Individual exposures in which it is trading and the main categories of assets in which the AIF invested as the reporting date		
	a) Securities	<i>Long value</i>	<i>Short value</i>
	Cash and cash equivalents		
	<i>Of which are:</i>	<i>Certificates of deposit</i>	
		<i>Commercial papers</i>	
		<i>Other deposits</i>	
		<i>Other cash and cash equivalents (excluding government securities)</i>	

	Listed equities		
	<i>Of which are:</i>	<i>Issued by financial institutions</i>	
		<i>Other listed equity</i>	
	Unlisted equities		
	Corporate bonds not issued by financial institutions		
	<i>Of which are:</i>	<i>Investment grade</i>	
		<i>Non-investment grade</i>	
	Corporate bonds issued by financial institutions		
	<i>Of which are:</i>	<i>Investment grade</i>	
		<i>Non-investment grade</i>	
	Sovereign bonds		
	<i>Of which are:</i>	<i>EU Bonds with a 0-1 year term to maturity</i>	
		<i>EU Bonds with a 1+ year term to maturity</i>	
		<i>Non G-10 Bonds with a 0-1 year term to maturity</i>	
		<i>Non G-10 Bonds with a 1+ year term to maturity</i>	
	Convertible bonds not issued by financial institutions		
	<i>Of which are:</i>	<i>Investment grade</i>	
		<i>Non-investment grade</i>	
	Convertible bonds issued by financial institutions		
	<i>Of which are:</i>	<i>Investment grade</i>	
		<i>Non-investment grade</i>	
	Loans		
	<i>Of which are:</i>	<i>Leveraged loans</i>	
		<i>Other loans</i>	

Structured/secured products			
<i>Of which are:</i>		<i>ABS</i>	
		<i>RMBS</i>	
		<i>CMBS</i>	
		<i>Agency MBS</i>	
		<i>ABCP</i>	
		<i>CDO/CLO</i>	
		<i>Structured certificates</i>	
		<i>ETP</i>	
		<i>Other</i>	
b) Derivatives			
Equity derivatives			<i>Long value</i>
			<i>Short value</i>
<i>Of which are:</i>		Related to financial institutions	
		Other Equity derivatives	
Fixed income derivatives			
CDS			
<i>Of which are:</i>		<i>Single name financial CDS</i>	
		<i>Single name sovereign CDS</i>	
		<i>Single name other CDS</i>	
		<i>Index CDS</i>	
		<i>Exotic (incl credit default tranche)</i>	
			<i>Gross value</i>
Foreign exchange (for investment purposes)			
Interest rate derivatives			
			<i>Long value</i>
			<i>Short value</i>
Commodity derivatives			
<i>Of which are:</i>		<i>Energy</i>	
		<i>Of which:- Crude oil</i>	
		<i>- Natural gas</i>	
		<i>- Power</i>	
		<i>Precious Metals</i>	

		<i>Of which:- Gold</i>		
		<i>- other Commodities</i>		
		<i>Of which:- Industrial metals</i>		
		<i>- Livestock</i>		
		<i>- Agricultural Products</i>		
	Other derivatives			
	c) Physical (Real/Tangible) Assets		<i>Long value</i>	
	Physical: real estate			
	<i>Of which are:</i>	<i>Residential real estate</i>		
		<i>Commercial real estate</i>		
	Physical: Commodities			
	Physical: Timber			
	Physical: Art and collectables			
	Physical: Transportation assets			
	Physical: Other			
	d) Collective Investment Undertakings		<i>Long value</i>	
	investments in CIU operated/managed by the AIFM			
	<i>Of which are:</i>	<i>Money Market Funds and Cash management CIU</i>		
		<i>ETF</i>		
		<i>Other CIU</i>		
	Investments in CIU not operated/managed by the AIFM			
	<i>Of which are:</i>	<i>Money Market Funds and Cash management CIU</i>		
		<i>ETF</i>		
		<i>Other CIU</i>		
	e) Investments in other asset classes		<i>Long value</i>	<i>Short value</i>
	Total other			
9	Value of turnover in each asset class over the reporting months			
	a) Securities		<i>Market value</i>	
	Cash and cash equivalents			
	Listed equities			
	Unlisted equities			

	Corporate bonds not issued by financial institutions		
	<i>Of which are:</i>	<i>Investment grade</i>	
		<i>Non-investment grade</i>	
	Corporate bonds issued by financial institutions		
	Sovereign bonds		
	<i>Of which are:</i>	<i>EU Member State bonds</i>	
		<i>Non EU Member State Bonds</i>	
	Convertible bonds		
	Loans		
	Structured/securitised products		
	b) Derivatives	<i>Notional Value</i>	<i>Market Value</i>
	Equity derivatives		
	Fixed income derivatives		
	CDS		
	Foreign exchange		
	Interest rate derivatives		
	Commodity derivatives		
	Other derivatives		
	c) Physical (Real/Tangible) assets	<i>Market value</i>	
	Physical: Commodities		
	Physical: real estate		
	Physical: Timber		
	Physical: Art and collectables		
	Physical: Transportation assets		
	Physical: Other		
	d) Collective Investment Undertakings		
	e) Other asset classes		
	Currency of exposures		
10	Total long and short value of exposures (before currency hedging) by the following currency groups:	<i>Long value</i>	<i>Short value</i>
	AUD		
	CAD		
	CHF		

	EUR		
	GBP		
	HKD		
	JPY		
	USD		
	Other		
11	Typical deal/position size (Complete this question if you selected as your predominant AIF type 'private equity fund')	[SELECT ONE] Very small (<€5m) Small (€5m to €25m) Low/mid-market (€25m to <€150m) Upper mid-market (€150m to €500m) Large cap (€500m to €1bn) Mega cap (€1bn and greater)	
12	(Complete this question if you selected as your predominant AIF type 'private equity fund' above; please complete for each company over which the AIF has a dominant influence (leave blank if none) as defined in Article 1 of Directive 83/349/EEC)	<i>Name</i>	<i>% Voting rights</i>
			<i>Transaction type</i>
	RISK PROFILE OF THE AIF		
	1. Market risk profile		
13	Expected annual investment return/IRR in normal market conditions (in%)		
	Net Equity Delta		
	Net DV01		
	Net CS01		
	2. Counterparty risk profile		
14	Trading and clearing mechanisms		

	a) Estimated % (in terms of market value) of securities that are traded: <i>(leave blank if no securities traded)</i>	%	
	On a regulated exchange		
	OTC		
	b) Estimated % (in terms of trade volumes) of derivatives that are traded <i>(leave blank if no derivatives traded)</i>	%	
	On a regulated exchange		
	OTC		
	c) Estimated % (in terms of trade volumes) of derivatives transactions cleared: <i>(leave blank if no derivatives traded)</i>	%	
	By a CPP		
	Bilaterally		
	d) Estimated % (in terms of market value) of repo trades cleared: <i>(leave blank if no repos traded)</i>	%	
	By a CPP		
	Bilaterally		
	Tri-party		
15	Value of collateral and other credit support that the AIF has posted to all counterparties		
	a) Value of collateral posited in the form of cash and cash equivalents		
	b) Value of collateral posited in the form of other securities (excluding cash and cash equivalents)		
	c) Value of other collateral and credit support posted (including face amount of letters and credit and similar third party credit support)		
16	Of the amount of collateral and other credit support that the reporting fund has posted to counterparties: what percentage has been re-hypothecated by counterparties?		
17	Top five counterparty exposures (excluding CCPs)		
	a) Identify the top five counterparties to which the AIF has the greatest mark-to-market net counterparty credit exposure, measured as a % of the NAV of the AIF	<i>Name</i>	<i>Total exposure</i>
	Counterparty 1		
	Counterparty 2		
	Counterparty 3		

	Counterparty 4		
	Counterparty 5		
	b) Identify the top 5 counterparties that have the greatest mark-to-market net counterparty credit exposure to the AIF, measured as a % of the NAV of the AIF	<i>Name</i>	<i>Total exposure</i>
	Counterparty 1		
	Counterparty 2		
	Counterparty 3		
	Counterparty 4		
	Counterparty 5		
18	Direct clearing through central clearing counterparties (CCPs)		
	a) During the reporting period, did the AIF clear any transactions directly through a CCP?	Yes/ NO (if no, skip remainder of the question and go to question 21)	
	b) If you answered 'yes' in 18(a), identify the top 3 central clearing counterparties (CCPs) in terms of net credit exposure	<i>Name</i>	<i>Value held</i>
	CCP 1 (leave blank if not applicable)		
	CCP 2 (leave blank if not applicable)		
	CCP 3 (leave blank if not applicable)		
	3. LIQUIDITY PROFILE		
	Portfolio Liquidity Profile		
19	Investor liquidity profile		
	Percentage of portfolio capable of being liquidated within:		
	1 day or less 2-7 days 8 - 30 days 31-90 days 181 - 365 days more than 365 days		
20	Value of unencumbered cash		
	Investor liquidity profile		
21	Investor liquidity profile		
	Percentage of investor equity that can be redeemed within (as% of AIF's NAV)		
	1 day or less 2-7 days 8 - 30 days 31-90 days 181 - 365 days more than 365 days		
22	Investor redemptions		

	a) Does the AIF provide investors with withdrawal/redemption rights in the ordinary course?	Yes	no
	b) What Is the frequency of investor redemptions (if multiple classes of shares or units, report for the largest share class by NAV)	Daily Weekly Fortnightly Monthly Quarterly Half yearly Annual Other N/A.	
	c) What is the notice period required by investors for redemption in days (report asset weighted notice period if multiple classes or shares or units)		
	d) What is the investor lock-up period in days (report asset weighted notice period if multiple classes or shares or units)		
23	Special arrangements and preferential treatment		
	a) As at the reporting date, what percentage of the AIFs NAV is subject to the following arrangements:	% of NAV	
	side pockets		
	gates		
	suspension of dealing		
	other arrangements	[Type]	[%]
	b) indicate the percentage of net asset value of AIFs assets that are currently subject to the special arrangements arising from their illiquid nature under article 23(4)(a) of the AIFMD including those in question 25a?		
	Special arrangements as a % of NAV		
	c) Are there any investors who obtain preferential treatment or the right to preferential treatment and therefore are subject to disclosure to the investors in the AIF in accordance with article 23(1)(j) of the AIFMD?	Yes/No	
	d) If 'yes' to letter c), then please indicate all relevant preferential treatment:		

	Concerning different disclosure/reporting to investors		
	Concerning different investor liquidity terms		
	Concerning different fee terms for investors		
	Preferential treatment other than that specified above		
24	Provide the breakdown of the ownership of units in the AIF by investor group (as % of NAV of AIF assets; look through to the beneficial owners where known or possible)		
25	Financing liquidity		
	a) Provide the aggregate amount of borrowing by and cash financing available to the AIF (including all drawn and undrawn, committed and uncommitted lines of credit as well as any term financing)		
	b) Divide the amount reported in letter a) among the periods specified below depending on the longest period for which the creditor is contractually committed to provide such financing:		
	1 day or less 2-7 days 8 - 30 days 31-90 days 181 - 365 days more than 365 days		
	4. BORROWING AND EXPOSURE RISK		
26	Value of borrowings of cash or securities represented by:		
	Unsecured cash borrowing:		
	Collateralised/secured cash borrowing - via prime broker:		
	Collateralised/secured cash borrowing - via (reverse) repo:		
	Collateralised/secured cash borrowing - via other:		
27	Value of borrowings embedded in financial instruments		
	Exchange-traded derivatives: Gross exposure less margin posted		
	OTC derivatives: Gross exposure less margin posted		
28	Value of securities borrowed for short positions		
29	Gross exposure of financial and, as the case may be, or legal structures controlled by the AIF as defined in recital 78 of the AIFMD		
	<i>Financial and, as the case may be, or legal structure</i>		
	<i>Financial and, as the case may be, or legal structure</i>		
	<i>Financial and, as the case may be, or legal structure</i>		
		
30	Leverage of the AIF		

	a) as calculated under the Gross Method		
	b) as calculated under the Commitment Method		
	5. OPERATIONAL AND OTHER RISK ASPECTS		
31	Total number of open positions		
32	Historical risk profile		
	a) Gross Investment Returns or IRR of the AIF over the reporting period (in %, gross of management and performance of fees)		
	1st Month of Reporting Period		
	2nd Month of Reporting Period		
	.		
	.		
	Last Month of Reporting Period		
	b) Net investment returns or IRR of the AIF over the reporting period (in %, gross of management and performance of fees)		
	1st Month of Reporting Period		
	2nd Month of Reporting Period		
	.		
	.		
	Last Month of Reporting Period		
	c) Change in Net Asset Value of the AIF over the reporting period (in %, including the impact of subscriptions and redemptions)		
	1st Month of Reporting Period		
	2nd Month of Reporting Period		
	.		
	.		
	Last Month of Reporting Period		
	d) Subscriptions over the reporting period		
	1st Month of Reporting Period		
	2nd Month of Reporting Period		
	.		
	.		
	Last Month of Reporting Period		
	e) Redemptions over the reporting period		

	1st Month of Reporting Period		
	2nd Month of Reporting Period		
	.		
	.		
	Last Month of Reporting Period		

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES RULES FOR
ALTERNATIVE INVESTMENT FUNDS**

ANNEX III

**AIF-Specific Information to be made available to
the MFSA**

IMPORTANT INFORMATION

Important Information concerning Annex III

- ◇ Annex III is applicable to self-managed AIFs.
- ◇ Part B of the Investment Services Rules for Alternative Investment Funds should be read carefully before the form prescribed in this Annex is completed.
- ◇ The information to be reported in the Form prescribed in this Annex is required in terms of Article 24(4) AIFMD as transposed in SLCs 4.08 of Appendix 8 to Part B of the Investment Services Rules for Alternative Investment Funds.
- ◇ In complying with the reporting obligations prescribed in this Annex, the self-managed AIF shall comply with the Article 110 of the Commission Delegated Regulation 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.
- ◇ Monetary values are to be reported in the base currency of the AIF
- ◇ Responsibility for the timely submission of the form prescribed in this Annex rests with the AIF. Particular attention must be paid to the reporting deadlines prescribed in Article 110 of the Commission Delegated Regulation. Undue and unjustifiably lengthy delays in the submission of responses from AIFs may result in the application of penalties and may require the re-submission of the form.
- ◇ The provision of false, misleading or inaccurate information or omission of provision of material information may prejudice the status of the application and may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Investment Services Act, 1994.
- ◇ Hard copies of the Form prescribed in Annex III are to be submitted.
- ◇ Reference should be made to the Glossary of the Investment Services Rules for Alternative Investment Funds for the definition of certain terms referred to in this form.

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

ANNEX III			
AIF Specific Information to be made available to the competent authorities (Article 24(4) of Directive 2011/61/EU)			
	DATA TYPE	REPORTED DATA	
1	Of the amount of collateral and other credit support that the reporting AIF has posted to counterparties: what percentage has been re-hypothecated by counterparties?		
	Borrowing and Exposure Risk		
2	Value of borrowings of cash or securities by:		
	Unsecured cash borrowing:		
	Collateralised/secured cash borrowing - Via Prime broker		
	Collateralised/secured cash borrowing - Via (reverse) repo		
	Collateralised/secured cash borrowing - Via other		
3	Value of borrowing embedded in financial instrument		
	Exchange-traded derivatives: Gross exposure less margin posted		
	OTC Derivatives: Gross exposure less margin posted		
4	Five largest sources of borrowed cash or securities (short positions):		
	Largest		
	2nd largest		
	3rd largest		
	4th largest		
	5th largest		
5	Value of securities borrowed for short positions		
6	Gross exposure of financial and, as the case may be, or legal structures controlled by the AIF as defined in Recital 78 of the AIFMD		
	<i>Financial and, as the case may be, or legal structure</i>		

	<i>Financial and, as the case may be, or legal structure</i>		
	<i>Financial and, as the case may be, or legal structure</i>		
	...		
7	Leverage of the AIF		
	a) Gross method		
	b) Commitment method		