

# MFSA

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## MALTA FINANCIAL SERVICES AUTHORITY

### **Consultation document on the proposed Second Tier Market Rules**

#### **[1.0 Introduction]**

Chapter 10 of the Listing Rules – Second Tier Market Requirements was initially introduced in the Listing Rules (previously as Chapter 17 of the Listing Rules) to provide an Alternative Market for companies which do not satisfy the conditions for listing on the Main Market as set out in Chapter 3. Originally, this Chapter also contemplated a more simplified Admission Document from that required by companies applying for admissibility to listing on the Main Market.

Chapter 10 was subsequently amended as a result of the transposition of the Prospectus and Transparency Directive in the Listing Rules. This resulted in diminishing the difference between the application process applicable to companies on the Second Tier Market and companies on the Main Market.

The Listing Authority deems that it is appropriate to revise the current situation by issuing separate rules applicable to the Second Tier Market from the Listing Rules. The Listing Authority is proposing to have two separate markets; the Main Market and the Second Tier Market.

#### **[2.0 Present Second Tier Market]**

As at today, only companies which do not meet the listing requirements of Chapter 3 of the Listing Rules may be eligible to apply for Admissibility to Listing on the Second Tier Market. Following the transposition of the Prospectus and Transparency Directive in the Listing Rules there are no material difference in the application process and the continuing obligations of companies which are listed on the Second Tier Market when compared to the application process and the continuing obligations applicable to companies which are listed on the Main Market.

Presently there are there are six primary listings on the Second Tier Market with one of the companies having listed equity securities.

#### **[3.0 Proposed Second Tier Market]**

##### **[3.1 Proposed Rules]**

The Listing Authority is proposing rules relating to the conditions and requirements needed to be satisfied by an applicant for the securities for admissibility to trading on the Second Tier Market which qualifies as a Multilateral Trading Facility within the meaning of the Investment Services Act (Cap. 370) and which operates in or from Malta.

The Listing Authority would establish the general conditions and requirements needed to be satisfied by an applicant and the Multilateral Trading Facility would issue rules relating to the continuing obligations and the contents of the Admission Document. It is envisaged that the Multilateral Trading Facility would be operated by the Malta Stock Exchange and would be a separate market from the existing market. Furthermore in order to incentivise admissibility to trading on the Second Tier

Market it is being proposed that no admissibility to trading fees will currently be due to the Listing Authority.

The Proposed Rules are divided into four parts as follows:

1. Part One – Conditions for admissibility to trading
2. Part Two – Application Process
3. Part Three – Publication of information
4. Part Four – Suspension of Trading, Cancellation of trading, Sanctions and Appeals

The following sections include a summary of each part, highlighting the main differences between the present Listing Rules and the proposed new rules.

### [3.2 Part One - Conditions for admission to trading]

Presently Chapter 10 of the Listing Rules state that only companies which do not meet the listing requirements of Chapter 3 of the Listing Rules may be eligible to apply for Admissibility to Listing on the Second Tier Market. It is being proposed that being a separate market any company may apply on this market.

Conditions for admission to trading which are materially different from those found in Chapter 10 of the Listing Rules include:

1. The Applicant must have fully paid-up capital of at least fifty thousand euro (€50,000) or the equivalent value in any other convertible currency;
2. In the case of debt instruments, the minimum subscription amount should be of at least €50,000 per individual investor with subsequent minimum trading amounts of €50,000 per investor;
3. In the case of equity, the Applicant shall have a minimum of 50 shareholders in each class of shares and each shareholder must hold shares with a minimum aggregate value of at least €2,500.
4. In the case where there is an existing Substantial Shareholder (10% or more of votes), the Applicant must demonstrate by the presence of independent directors on the board or otherwise to the satisfaction of the Listing Authority, that it is capable at all times of operating and making decisions independently of any Substantial Shareholder;
5. In the case of debt instruments, the Applicant has to have at least two years trading record.

### [3.3 Part Two – Application Process]

The Applicant must appoint an Admission Agent to take responsibility for the admission process.

The Listing Authority is proposing that the Applicant and the Admission Agent would submit the application required by the proposed rules and all relevant documents to the Multilateral Trading Facility, that is, the Malta Stock Exchange.

The following documents are to be submitted to the Listing Authority through the Multilateral Trading:

1. Application Form;
2. Declarations made by the Admission Agent;
3. Declaration made by the Multilateral Trading Facility confirming that all the conditions required by both the Multilateral Trading Facility and the Listing Authority have been complied and including a recommendation for authorisation of the admissibility to trading of the Applicant's securities;

#### [3.4 Part Three – Publication of Information]

The Listing Authority may require the Multilateral Trading Facility and/or the Applicant and/or the Admission Agent to provide it with information or to publish such information.

#### [3.5 Part Four – Suspension of Trading, Cancellation of trading, Sanctions and Appeals]

This part indicates when the Listing Authority shall suspend the trading of the security or cancels the admission to trading and what actions it may take when these rules are infringed.

#### [4.0 Transitional period]

Upon the coming into effect of these Rules, no further securities will be granted admissibility to listing on the Second Tier Market in terms of Chapter 10 of the Listing Rules.

In so far as the issuers whose securities are already admitted to listing on the Second Tier Market is concerned, in terms of the Transitional arrangements set out in Act XIX of 2010 the Listing Authority may determine a date as from which these Rules would apply to the companies which are presently listed on the Second Tier Market.

Companies which are presently listed on the Second Tier Market would therefore either have to apply for admissibility to listing on the Official List in terms of the Listing Rules, with admissibility being granted only if the company satisfies all the conditions in terms of the Listing Rules, or alternatively the new set of rules would apply to these issuers from the date which the Listing Authority determines in terms of the Transitional arrangements indicated above.

#### [5.0 Consultation period]

The proposed Rules attached to this consultation document as Appendix 1 are being issued for consultation. The Listing Authority invites comments by not later than 2<sup>nd</sup> December 2011 on the proposed Rules. Interested parties are to send their comments in writing addressed to the Chairman – Listing Committee (e-mail: [listcomm@mfsa.com.mt](mailto:listcomm@mfsa.com.mt)).

#### [6.0 Contacts]

Any queries regarding the proposed Listing Rules are to be directed to:

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