

12 October 2020

Update to Investment Services Rulebooks

1. Introduction

The Authority has updated certain sections of the Investment Services Rules for Investment Services Providers to implement the Commission Implementing Regulation (EU) 2018/1212 of 03 September 2018 (the 'Implementing Regulation'), which came into force on 03 September 2020 and to align certain provisions emanating from Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 (the 'SRD II').

2. Overview of the changes to [Part BI: Rules applicable to Investment Services Licence Holders which qualify as MiFID Firms](#) (**"the MiFID Rules"**)

- a. Title 7 Disclosure Requirements - Section 9: Disclosure requirement for Licence Holders engaged in Portfolio Management which invest in shares of Listed Companies

Sub-section R4-7.9.1 "*General provisions*" of Section 9 of the MiFID Rules has been amended by inserting a new Rule R4-7.9.1.3 as follows:

When the Licence Holder is engaged in shareholder identification and/or is involved in the transmission of information, including the transmission of information along the chain of intermediaries and/or facilitate the exercise of shareholders rights, the Licence Holder shall comply with the provisions of the [Commission Implementing Regulation \(EU\) 2018/1212](#) in its entirety.

3. Overview of the changes to [Part BII: Standard Licence Conditions applicable to UCITS Management Companies](#) (**"the UCITS ManCo Rules"**)

- a. Section 6 - Investment in Shares Traded on a Regulated Market

Section 6 of the UCITS ManCo Rules has been amended by inserting a new Rule 6.10 introducing the requirement for UCITS Mancos to abide by the Implementing Regulation.

4. Overview of the changes to [Part BIII: Standard Licence Conditions applicable to Alternative Investment Fund Managers](#) (**"the AIFM Rules"**)

- a. Supplementary SLCs for Licence Holders Which Invest in Shares Traded on a Regulated Market

Section 12: Supplementary SLCs for Licence Holders which Invest in Shares Traded on a Regulated Market has been amended by inserting a new Rule 12.10 introducing the requirement for AIFMs to comply with the Implementing Regulation.

5. Overview of the changes to [Part BIV: Standard Licence Conditions Applicable to Investment Services Licence Holders, which qualify as Custodians of Collective Investment Schemes](#) (the **“Custodians Rules”**)

- a. New sub-sections in Section 2 of the Custodians Rules

New sub-sections under the headings *“Transparency provisions”*, *“Identification of shareholders”*, *“Transmission of information”*, *“Facilitation of the exercise of shareholder rights”* and *“Non-discrimination, proportionality and transparency of costs”* have been introduced to Section 2: Financial Resources Requirements, Accounting and Record Keeping of the Custodians Rules to clarify the applicability of the SRD II and the Implementing Regulation to Custodians.

6. Overview of the changes to [Part BII: Standard Licence Conditions applicable to Malta Based UCITS Collective Investment Schemes](#) (the **“UCITS Rules”**)

- a. A new sub-section – Supplementary Conditions for Self-Managed Schemes Investing in Shares Traded on a Regulated Market

Section 16: Supplementary Conditions for Self-Managed Schemes of the UCITS Rules have been amended by introducing a new sub-section under the heading *“Supplementary Conditions for Self-Managed Schemes Investing in Shares Traded on a Regulated Market”* to clarify the applicability of the SRD II and Implementing Regulation to self-managed UCITS.

7. Overview of the changes to [PART B: Standard Licence Conditions Applicable to Alternative Investment Funds](#) (the **“AIF Rules”**)

- a. A new sub-section section – Supplementary Requirements for Self-managed AIFs Investing in Shares Traded on a Regulated Market

Section 8: Supplementary Licence Conditions Applicable to Self-Managed AIFs of the AIF Rules, has been amended by introducing a new sub-section under the heading *“Supplementary Requirements for Self-managed AIFs Investing in Shares Traded on a Regulated Market”* to ensure a consistent approach of the applicability of the relevant provisions emanating from SRD II and the Implementing Regulation.

8. Conclusion

Any queries regarding the Rules mentioned in this Circular should be directed to the Securities and Market Supervision function for attention of the Investment Firms Team (investmentfirms@mfsa.mt) or Funds Team (funds@mfsa.mt).