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MFSA Highlights the Need for a Depository Passport During Industry Webinar on the AIFMD

The need for a depository passport was highlighted by the Malta Financial Services Authority during a webinar on Wednesday dedicated to the ongoing review of the directive covering asset management.

The webinar about the Alternative Investment Fund Managers Directive (AIFMD) was organised by the MFSA's Financial Supervisors Academy and was attended by over 100 top level executives from over 20 jurisdictions around the world, including several of the smaller ones that face similar challenges to Malta.

The MFSA Chief Officer Supervision Christopher Buttigieg said in his speech that Malta had originally raised the issue of the depository passport during the 2009 debate on the original AIFMD proposal, but that this remains an issue as without it the internal market for asset management "is incomplete". This point was also highlighted by the MFSA's Chief Officer Strategy, Policy and Innovation, Michael Xuereb, during his closing speech.

The MFSA is also concerned about an unclear definition of 'leverage' which may hinder the efficacy of macroprudential analysis, and inconsistencies in the application of the reporting regime across national authorities. It has also pointed out that the lack of external valuers in the jurisdiction could impact negatively on competition, also leading to higher fees among other problems.

These were just some of several points raised during the webinar, which focused on the current review of the Directive. Although it has evolved over the years, this particular process started in 2018 and – following public consultation between October 2020 and January 2021 – is due to be adopted by the European Commission by the end of 2021.

A KPMG report on the Directive in 2019 had highlighted several weaknesses, with the European Securities and Markets Authority (ESMA) identifying four main pillars of concern: harmonisation; additional MiFID services; delegation and substances; and leverage.

Speaker Gabriela Figueiredo Dias, the chair of the Portuguese Securities Market Commission (CMVM), stressed that AIFMD provides economic stability while playing a role in restoring confidence to the markets. However, she highlighted the CMVM's concern that the proportionality principle should be applied, and that the AIFMD and UCITS frameworks should be aligned where applicable.

This last point was also raised by Carlos Aparicio, Team Leader, Data and Statistics Team at ESMA, who explained that fund managers currently report under five different regulations and would benefit from overall consistency in reporting definitions.

Giulia Gaddari from the MFSA also picked up on the importance of proportionality, explaining the disadvantages for small funds, which have the same licensing requirements as full AIFMs, including regulatory requirements and the associated costs.

A representative from the Alternative Investment Management Association, Marie-Adelaide de Nicolay, followed up on this point, saying that any changes as a result of the review should be subject to an impact assessment.

Malta is an established EU jurisdiction of choice for asset managers and investment funds. However, the sector lately lost some ground to other EU jurisdictions. MFSA is working on a strategy to strengthen the regulatory framework in this area to clear the way for future growth, and in this respect a Discussion Paper will soon be published, seeking feedback from stakeholders on a number of initiatives aimed at addressing current criticalities and fostering sound growth.

The Financial Supervisors Academy was established by the MFSA last year to train upcoming financial supervisors for the Authority itself, as well as for employees from other regulators, supervisors, policy makers and academics. Over the past months, its webinars have covered topics such as market abuse, Fintech, sustainable finance and non-bank financial intermediation. It is also focusing on the development of the interpersonal skills through courses on public speaking, leadership, employee development.

FACT FILE

- The Net Asset Value of AIFs in the EU stands at €6.8 trillion
- These are spread across 32,000 funds, handled by over 1,800 managers (in addition to 679 who handle both AIFs and UCITS)

About MFSA

The Malta Financial Services Authority (MFSA) is the single regulator of financial services in Malta, covering banks, insurance companies, investment services, trusts and pensions. In 2018, the MFSA became the first European regulator to develop a framework to regulate virtual financial assets. The MFSA's mission, as enshrined in its Vision 2021, is to enhance its position as an independent, proactive and trustworthy supervisory authority with the main purpose of safeguarding the integrity of markets and maintaining stability within the financial sector, for the benefit and protection of consumers. The MFSA licenses over 2,000 entities to operate in the financial services sector.



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