

Annex D - Changes to Part BI MiFID Firms

<u>Current Rule</u>	<u>New Rule</u>
<p>R1-1.2.1 (111)</p> <p>“Small and medium-sized investment firm” shall, for the purposes of these rules, have the same meaning as that assigned to it by Commission Recommendation 2003/361/EC;</p>	<p>Deleted to transpose IFD and CRD</p>
N/A	<p>R1-1.2.1 (115)</p> <p>“Subordinated Loan Agreement” shall mean an instrument which is eligible for inclusion within the own funds calculation of a Licence Holder in accordance with the CRR, and the IFR, as applicable;</p>
N/A	<p>R1-1.6.16 A Licence Holder shall obtain the Authority’s written consent before entering into, amending, and/or terminating a Subordinated Loan Agreement in line with Rule R1-1.6.17 of this Rulebook.</p>
N/A	<p>R1-1.6.17 A Subordinated Loan Agreement shall be drawn up between the Licence Holder and lender. The Subordinated Loan Agreement shall meet all the criteria for it to be an eligible instrument for inclusion within the own funds calculation in accordance with Section 3 of Title 2 of Part 2 of this Rulebook, and Section 3 of Title 2 of Part 3 of this Rulebook, as applicable.</p>
N/A	
<p>Rule R2-3.2.66(xx) of Part BI:</p> <p>“a substantial portion, and in any event at least 50%, of any variable remuneration must consist of an appropriate balance of:</p> <p>(a) shares or, subject to the legal structure of the Licence Holder concerned, equivalent ownership</p>	<p>Rule R2-3.2.66(xx) of Part BI:</p> <p>“a substantial portion, and in any event at least 50%, of any variable remuneration must consist of an appropriate balance of:</p> <p>(a) shares or, subject to the legal structure of the Licence Holder concerned, equivalent ownership</p>

interests; or share-linked instruments or, subject to the legal structure of the Licence Holder concerned, equivalent non-cash instruments, and”	interests; or share-linked instruments or, subject to the legal structure of the Licence Holder concerned, equivalent non-cash instruments, in the case of a non-listed Licence Holder and”
R1-1.11.5 Licence Holders which are subject to SL 330.09 shall submit to the Authority an original copy of the Recovery and Resolutions Plan by not later than 1 June.	R1-1.11.5 Licence Holders which are subject to SL 330.09 shall submit to the Authority an original copy of the Recovery Plan by not later than 1 June of each year.
€750,000	€750,000
<ul style="list-style-type: none"> - Dealing on own account <p>And/Or</p> <ul style="list-style-type: none"> - Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis <p>And</p> <p>If applicable, any other activities and services as licensed under the ISA</p> <p>Or</p> <ul style="list-style-type: none"> - OTFs that deal on own account 	<p>Either</p> <ul style="list-style-type: none"> - Dealing on own account <p>And/Or</p> <ul style="list-style-type: none"> - Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis <p>And</p> <p>If applicable, any other activities and services as licensed under the ISA</p> <p>Or</p> <ul style="list-style-type: none"> - OTFs that deal on own account
R2-3.2.7 Should the Licence Holder be requested by the Authority to submit an RMICAAP Report, the Licence Holder would be expected to submit a report in the suggested format set out in the Appendices to the Guidance Notes to these Rules, which, inter alia, should include:	R2-3.2.7 Should the Licence Holder be requested by the Authority to submit an RMICAAP Report, it should at least include:
R2-3.2.8 The Licence Holder should use the example RMICAAP Report as set out in the Appendices to the Guidance Notes to these Rules in order to keep a record of:	R2-3.2.8 The Licence Holder at least keep a record of:
R2-3.5.2	
By way of derogation from the previous rule, the MFSA may exempt small and medium-sized investment firms from complying with the requirements set out	

therein if such an exemption does not threaten the stability of the Maltese financial system.	
<p>R2-3.5.3</p> <p>Decisions on the application of the exemption referred to in the previous rule shall be fully reasoned, shall include an explanation as to why the exemption does not threaten the stability of the Maltese financial system and shall contain the exact definition of the small and medium-sized investment firms which are to be exempted.</p> <p>If the MFSA decides to apply the exemption referred to in the previous Rule, it shall notify the ESRB thereof.</p>	Deleted to transpose IFD and CRD
R2-3.5.6 By way of derogation from the previous rule, the MFSA may exempt small and medium-sized investment firms from complying with the requirements set out therein if such an exemption does not threaten the stability of the Maltese financial system.	Deleted to transpose IFD and CRD