



GOVERNMENT  
OF MALTA

# Malta Financial Services Oversight newsletter

22 April 2020







Forward by

## Edward Zammit Lewis

Minister for Justice, Equality and Governance

I welcome the opportunity to open this newsletter, which aims to inform all our stakeholders about the institutional reforms being implemented in Malta. Reforms which are being done in collaboration with the European Commission, and the Venice Commission of the Council of Europe. We are determined to enhance Malta's reputation as that is what our country deserves.

Since its inception last January, this Administration, which could still be considered in its early days, has steadily moved ahead on issues regarding the Judicial Sector and started tackling the recommendations made by the Venice Commission back in 2018. We understand that for any democracy to function, we must ensure proper rule of law. Over the past few weeks, history was made when the Prime Minister came to give advice to the President regarding the appointment of a new Chief Justice. For years, it had been the Prime Minister's Constitutional prerogative to select the new Chief Justice without the need for consultation or agreement with the Opposition, but now, and for the first time in Malta's history, our Prime Minister, Robert Abela, has put that practice aside. Instead we have worked together with the Parliamentary Opposition to select a candidate on whom we can finally all agree is the best person for this very important institutional role.

The enormity of this decision is not one which should be underestimated, as the role of Chief Justice is one of the most important posts in any democratic state. This is a sign of the goodwill of this Administration and that in these challenging times, when Judge Mark Chetcuti took his oath of office in a low-key swearing-in ceremony dictated by social distancing rules, Parliament can unite in decision-making.

This is only a step on the path to further reforms. We have already initiated a formal engagement with the Venice Commission and the European Commission towards a set of reforms, effecting various important institutions in the country and public administration, especially judicial appointments, judicial discipline and a method of removal of judiciary. The enhancement of our nation's reputation is our top priority. This is what our country deserves!

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# Malta agrees a new selection process to appoint the Police Commissioner

On April 2, the Maltese Parliament approved and legislated a new selection process for the appointment of a Police Commissioner. The historic reform provides for a new selection process whereby the Police Commissioner will be selected following a public call.

The prospective candidates will be interviewed by the Public Service Commission, which will shortlist two candidates from those interviewed. The Prime Minister will choose the Police Commissioner from the two shortlisted candidates. The chosen candidate will be interviewed by Members of Parliament sitting on the Parliament's Public Appointments Committee. Only after this session, will the chosen candidate will be appointed as the Police Commissioner.

The selection process will be more transparent as it drastically reduces the involvement of politicians, while also respecting the recommendations made by the Venice Commission. The Minister for Home Affairs, National Security and Law Enforcement, Byron Camilleri, described it as an important step in strengthening the rule of law in Malta.

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## Authorities adjust to **remote supervision** during the Covid-19 pandemic

In response to the Covid-19, the MFSA and FIAU have notified all authorised firms, recognised and licensed persons that supervisory examinations will be carried out remotely, aided significantly by the technology investment undertaken over the last 2 years. Supervision will be carried out by employing new online data gathering supervisory tools, including increasing and widening the scope of pre-visit documentation requests, issuing questionnaires and conducting Board and Officer interviews via teleconferencing or video link. Of course, both authorities will be working closely with businesses to support them with this new way of working and providing guidance and technological support to ensure compliance with the new procedures. Security of data remains paramount and encrypted platforms and two source authentications are standard throughout.

By adopting these new procedures, the MFSA will be continuing with its planned schedule of inspections, with no postponements planned unless specific circumstances require it.

The Authority has on a year-on-year basis been steadily increasing the number of supervisions and examinations being conducted, which by the end of this year are projected to reach 350.

This is also the case with FIAU, which was carrying out 22 offsite examinations when physical distancing measures came into force in March, compared to 3 offsite examinations in the same month in 2019. As planned a further 13 examinations commenced the week of 13 April despite the move to remote working, and another 20 examinations are planned to start in May 2020.

The authorities will also review on a case by case basis whether there is reason to warrant a physical inspection, such as when there are underlying concerns or lack of compliance.

Feedback so far from regulated entities has been positive, and there are early considerations to which of the new working practices may be adopted on a permanent basis to streamline existing practices.

## MFSA continues to impose further penalties on financial services providers

The MFSA has maintained a consistent and robust approach to companies that act in breach of regulation, demonstrated by the imposition of strict penalties for (1) AIS Capital Management Investment Fund (AIS); and (2) deVere & Partners during March.

Following a vigorous investigation, the MFSA found AIS to be in breach of corporate governance and compliance regulations. Throughout the process, the MFSA encouraged close communication and cooperation but AIS was not cooperative and had not complied with stringent regulatory standards. As a result of its failure to comply, the MFSA cancelled AIS' collective investment scheme license.

On 30 March, the MFSA imposed an administrative penalty of €23,000 on deVere & Partners Holding Limited. The company had carried out insurance distribution activities without having the necessary license, which breached Insurance Distribution Regulations. The MFSA took direct and decisive action, imposing the highest penalty possible at the time.

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## FIAU steps up AML collaboration with national & international counterparts

**Money laundering is an international crime that requires a joined-up, international approach to fighting it. Sharing information is a crucial component in this fight.**

As part of its mission, the FIAU proactively shares information with its international counterparts in order to aid the global fight against financial crime. So far this year as at 15 April, the intelligence agency has already shared 1,233 so-called spontaneous reports compared to 1,549 for the whole of 2019. That compares with just 749 in 2018 and 277 in 2017.

The FIAU's efforts have been sustained through recent weeks even amidst the unprecedented restrictions imposed by the COVID-19 pandemic. The agency has also been stepping up its AML collaboration with local regulators, including the MFSA and Malta's Gaming Authority, the MGA. The FIAU recently signed Memorandums of Understanding with both organisations in order to boost coordination.

The three bodies have begun holding weekly meetings, now held remotely, to discuss any serious AML/CFT issues arising from supervisory inspections and compliance examinations. Prior to the commencement of AML/CFT compliance examinations on a regulated entity, the FIAU, MFSA and MGA share information available on the particular entity for better planning and risk assessment of the examination.

The FIAU is also closely involved throughout the license application process for gaming companies or financial institutions, assessing their AML controls and compliance functions. Thanks to the sharing of information between all three regulators, the FIAU can now input relevant information into CASPAR, its risk assessment tool, which will immediately adjust the risk profile of subject persons. Previously these records were updated only once a year.

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## FIAU sustains IT investment programme despite Covid-19

Shortly prior to the Covid-19 pandemic taking hold, the FIAU had reached advanced stages in the implementation of the UN-developed goAML platform. The goAML application is a fully integrated software solution developed specifically for use by Financial Intelligence Units (FIU's) and is one of the UN Office on Drugs and Crime's strategic responses to financial crime, including money-laundering and terrorist financing.

Undeterred, progress on getting the software customised and up and running is continuing during the Covid-19 pandemic. The adoption of goAML will make radical efficiencies to the way in which intelligence is processed. STRs will be uploaded automatically, saving time on manually inputting data, and enabling greater ease in requesting and exchanging information with national and international entities.

This investment follows a number of specialised software solutions that have been implemented by the FIAU, including specifically designed analytical tools, a newly developed software used to carry out risk assessment, and specialist cryptocurrency investigation software. Having experienced the efficiency gained through these software solutions, the FIAU is exploring where additional platforms could be employed to further streamline the process and ensure consistency of data management and analysis with other jurisdictions.

# MFSA raises the Bar for Company Service Providers

Following a consultation process on how best to reform Company Service Providers (CSPs), that was initiated during the last quarter of 2019, the MFSA published feedback on 9 April 2020.

CSPs are considered to be gatekeepers to Malta's financial services ecosystem, given the range of services they provide to companies, including helping with the formation of business entities, directorship/company secretary services and the provision of registered office, business or correspondence address for businesses. The MFSA's aim is to monitor the supervision of registered CSPs and their level of compliance with the applicable legislative framework.

The MFSA has put forward reforms which will generally raise standards for CSPs across the board, with one of the most salient changes being that all persons will be brought within the scope of the CSP Act and therefore subject to an authorisation requirement. This brings Malta in-line with many other European neighbours.

The reform is based on responses from over 50 industry participants and interested parties, which were all carefully considered. The changes support a more robust, coordinated, and proportionate risk-based approach to the current framework without causing a barrier to entry for sole practitioners and SMEs, as well as addressing key recommendations made by international institutions.

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# MFSA alert to Covid-19 scams amid spike in financial services fraud

The Malta Financial Services Authority has ramped up its warnings to consumers and other stakeholders amidst a rise in financial scams. The regulator believes fraudsters are taking advantage of the Covid-19 pandemic and the uncertainty it has caused to unsuspecting victims. Consumers are also more reliant on technology to access services due to the mandatory social distancing currently in place. That can make them more vulnerable to scams through emails and social media.

The MFSA has encouraged all members of the public to exercise caution when viewing social media adverts, investment advice notices, requests for donations, as well as requests for information related to medical or insurance policies. And equally warned businesses of the need to ensure security of sensitive data when working remotely, with both cybersecurity and employee awareness being emphasised.

At the same time, the regulator is alerting investors to the dangers of doing business with financial entities that claim they are licensed and/or authorised or regulated by the MFSA, when this is false. In recent weeks the MFSA has warned on a range of such companies including Crypto Foxtrades, BinaryFx pro, IbanFx and COINMALX.

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## The Malta Digital Innovation Authority announces an **Award for Innovative Technologies** in Response to Covid-19

The Malta Digital Innovation Authority is launching an award to encourage the fast deployment of innovative technology to address the current societal challenge and which can be used in similar future scenarios. Whether it is a mobile app, a device or a website, whether it is an

educational tool, a monitoring tool or a means of easing social distancing. More information related to guidelines, eligibility requirements and evaluation criteria can be found on our website.

<https://mdia.gov.mt/covid19>



# Malta Communications Authority hails resilience of network amid surge in remote working

**The global public health emergency has highlighted the importance of uninterrupted telephone, internet and mail delivery services. Communications is proving its worth on a number of key fronts, notably in supporting the required physical social distancing whilst maintaining virtual social proximity. It is also sustaining economic activity, such as being an enabler for remote working. On top of all this it provides the required coordination between key emergency services and accessibility to public of such services.**

Even during these challenging times, Malta's communications infrastructures, including postal, have so far taken the load in their stride despite the inevitable increase in demand. This has been possible thanks to the ongoing investment in telecommunications networks, favoured by a regulatory system aimed at promoting competition in the market.

The way in which people in Malta use communications services has undergone unprecedented change in the month since the first Covid-19 case was confirmed as the way we communicate, work, shop and socialise, adapt to the evolving situation. A dramatic increase in demand has been registered across all communications services, including fixed and mobile voice, TV and the Internet.

The MCA maintains ongoing liaison between operators and the Government with the focus on ensuring that citizens and businesses stay connected and adjust with ease during this extraordinary crisis.

The Authority has set up a reporting mechanism to ensure a follow-up on the evolution of traffic and user experience and maintains close cooperation with several ministries and other governmental bodies to support the telecommunications sector and the Maltese Government in dealing with this pandemic.

Supporting key workers and stay-at-home initiatives remains a priority. The telecommunications service providers have introduced several beneficial measures including free mobile services for key frontline professionals and to customers stranded abroad as well as free entertainment applications and premium TV channels to complement stay-at-home efforts.

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# IMF Executive Board Concludes 2020 Article IV Consultation with Malta

On 8 April, the IMF Executive Board endorsed the structural reforms and fiscal policy Malta is enacting. Malta has already announced a raft of measures for banking and tax deferrals in line with the IMF's framework and the IMF recognised the continued commitment of Malta's Government, Central Bank, tax authorities and financial services agencies to addressing financial integrity risks and combating financial crime.

The Executive Board Assessment said that whilst, "...near-term efforts are rightly focused on limiting and containing the adverse social and economic effects of the COVID-19 outbreak..." it stressed that that Malta's main medium-term challenge is to mitigate financial integrity risks. In the assessment whilst commending the progress made to date, the IMF outlined specific areas for action:

- Enhancing supervisory capacity of the Financial Services sector
- Update and streamline the legal framework for bank insolvency
- Better understanding of inter-company lending and the vulnerabilities
- Implement guidelines for Public Investment projects
- A new legal framework for managing government guarantees
- Address long-term age-related spending pressures through measures that increase the effective retirement age and further encourage enrolment in voluntary savings schemes
- Diminish Malta's potential vulnerability to international taxation regime changes by diversifying revenues outside of Corporate Income Tax

The IMF also acknowledged the significant economic impact the outbreak of Covid-19 will have on Malta, but stressed that this is not the time to rest on actions to mitigate financial integrity risks.

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# Interview

with **Professor Peter Baldacchino**, Chair of the Accountancy Board and Head of the Department of Accountancy, University of Malta.

## Professor Baldacchino, please tell us about your role as the Chair of the Accountancy Board and what you look to achieve?

We exercise oversight of registered accountants and auditors in Malta. We conduct investigations and monitor the professional conduct of our members, where necessary sharing the information with other bodies to enforce penalties. For this reason, we are in the process of agreeing a MOU with the FIAU to consolidate our already extensive interactions into a formal structure. As a body we also provide feedback and recommendations to the MFSA to support further refining of the regulatory framework for the sector. I am a staunch believer that the closer the co-operation between bodies, the better the outcome will be for all, as intelligence and learning sharing leads to adoption of best practices across the board.

## Has this led to success in bringing about disciplinary action and in some instance prosecution?

Yes, as part of our investigations we have found cases where we have suspected irregularities may be taking place, we have gathered evidence, and if deemed it warranted sharing, we did so with the police force and FIAU. Since 2018 we have conducted 13 investigations and a further 11 disciplinary proceedings took place. This has been one of the catalysts to our formalising the relationships between agencies.

## With your other hat on, as the Head of the Department of Accountancy at the University of Malta, how is education supporting accountants and auditors?

We have been very active on the educational front, and this isn't only limited to students. We recognise the importance of financial services to Malta's economy, and that requires supply of qualified accountants and auditors to ensure companies are meeting their fiduciary, regulatory obligations, as well as robust ongoing education to keep on top of developments in the industry.

As part of this we had planned to have Professor Steven Toms from the University of Leeds join us as a visiting academic this year. Working with the National Coordinating Committee, we had scheduled seminars in Forensic Accounting with emphasis on anti-money laundering and combating the financing of terrorism for April and October.

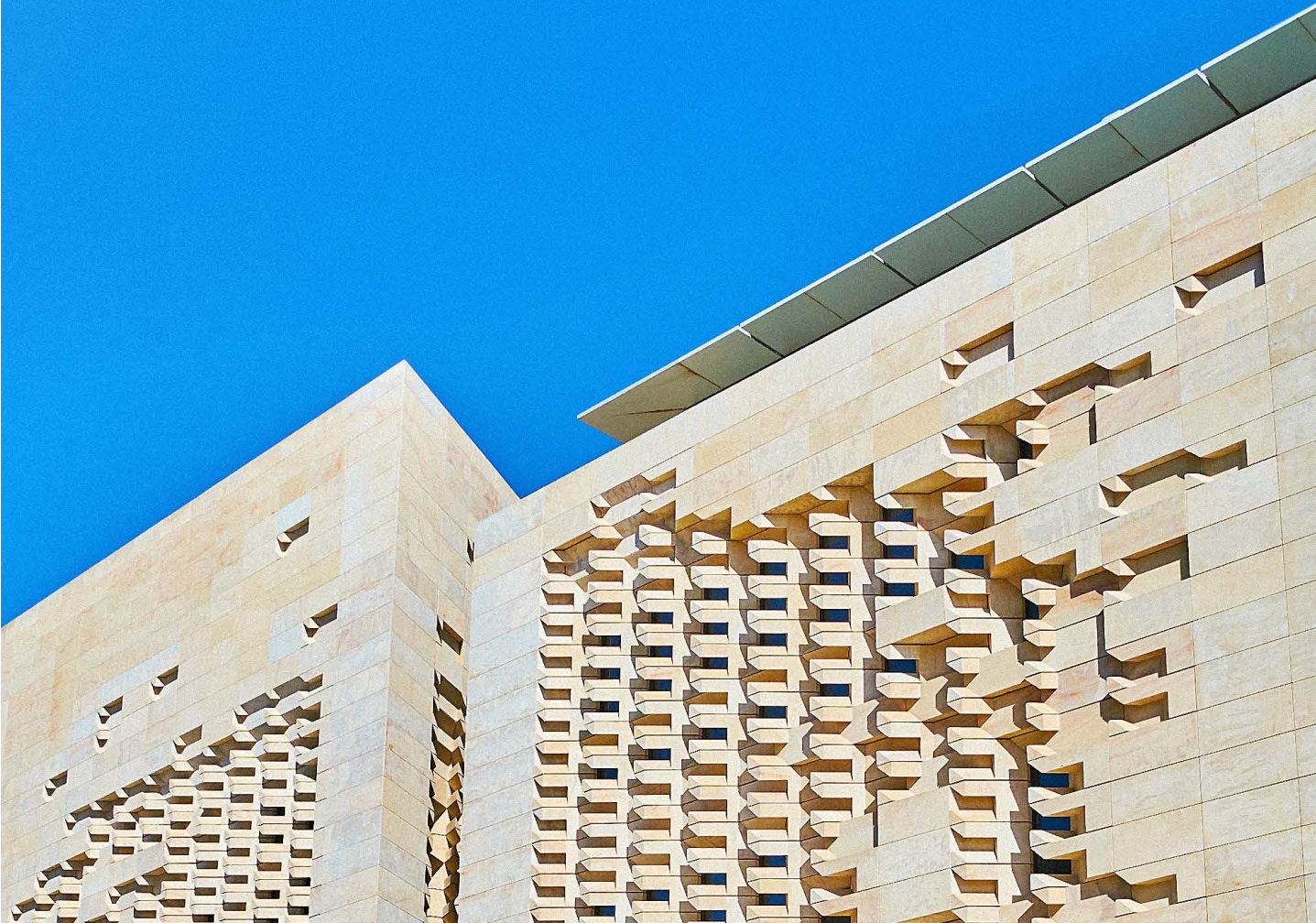
Unfortunately, the April seminar did not take place due to the Covid-19 pandemic, but we hope that come October we will be able to run them as planned, or failing that, through video conferencing. The sessions are open to our students and also to public sector officers including those at the MFSA and FIAU.

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