

SUBSIDIARY LEGISLATION 370.18**INVESTMENT SERVICES ACT
(MARKETING OF UCITS) REGULATIONS**

1st July, 2011

*LEGAL NOTICE 241 of 2011, as amended by Legal Notices 344 of 2013
361 of 2021, 130 of 2022 and 191 of 2026.*

PRELIMINARY

1. The title of these regulations is the Investment Services Act (Marketing of UCITS) Regulations.

Citation and scope.
*Amended by:
L.N. 361 of 2021.*

(2) These regulations provide for the requirements applicable to the marketing of Maltese UCITS in other Member States or EEA States, and to the marketing of European UCITS in Malta.

(3) These regulations have the purpose of implementing Articles 1, 2(1)(b) and (e), 3, 91(1), 92, 93, 93a, 94, 96 and 108 of Directive 2009/65/EC of the UCITS Directive, and Article 30 of the Implementing Directive, and they shall be interpreted and applied accordingly.

2. (1) In these regulations, unless the context otherwise requires:

Interpretation.
*Amended by:
L.N. 191 of 2026.*

"the Act" means the Investment Services Act;

Cap. 370.

"closed ended scheme" means a collective investment scheme with fixed share capital, which complies with any additional criteria established in the Investment Services Rules issued by the competent authority in terms of the Act;

"ESMA" means the European Securities and Markets Authority established in terms of Article 1 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November, 2010;

"European management company" means a management company authorised by a European regulatory authority in a Member State or EEA State, other than Malta, and the regular business of which is the management of UCITS;

"European UCITS" means a UCITS authorised by a European regulatory authority in a Member State or EEA State, other than in Malta;

"feeder UCITS" means a UCITS or subfund thereof which has been approved to invest at least eighty five per cent of its assets in units of another UCITS or subfund thereof in terms of the UCITS Directive;

"home Member State of the UCITS management company" means the Member State or EEA State in which the management company has its registered office;

"Implementing Directive" means Commission Directive 2010/42/EU of 1 July 2010 implementing Directive 2009/65/EC of the

European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure;

"key investor information" shall have the same meaning assigned to it in the Investment Services Rules;

"Maltese management company" means a management company licensed by the competent authority, having its head office and registered office situated in Malta, and the regular business of which is the management of UCITS;

"Maltese UCITS" means:

- S.L. 370.16
- (a) an investment company, a partnership *en commandite* or a limited partnership with its registered office and head office situated in Malta and licensed in terms of the Act;
 - (b) where the UCITS is constituted as a common fund, a UCITS domiciled in Malta in terms of the Investment Services Act (Contractual Funds) Regulations, and licensed in terms of the Act;
 - (c) where the UCITS is established as a unit trust, a unit trust whose proper law is the law of Malta;

"master UCITS" means a UCITS which:

- (a) has, among its unit-holders, at least one feeder UCITS;
- (b) is not itself a feeder UCITS; and
- (c) does not hold units of a feeder UCITS;

"Member State" means a Member State of the European Union;

"Regulation No. 584/2010" means Commission Regulation (EU) No. 584/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities;

"UCITS" means the undertaking for collective investment in transferable securities in terms of regulation 3(2). For the purpose of these regulations, a UCITS shall also include subfunds thereof;

"UCITS Directive" means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) and includes any implementing measures that have been or may be issued thereunder;

"UCITS home Member State" or "UCITS home Member State or EEA State" means the Member State or EEA State in which the UCITS is authorised in accordance with Article 5 of the UCITS Directive, as transposed in national law;

"UCITS host Member State" or "UCITS host Member State or EEA

State" means a Member State or EEA State, other than the UCITS home Member State, in which the units of the UCITS are marketed;

"UCITS management company" means a Maltese management company or a European management company, as applicable.

- (2) For the purposes of these regulations:
 - (a) "common fund" shall be construed as referring to UCITS constituted as contractual funds and unit trusts; and
 - (b) "constitutional documents" shall be construed as referring to the fund rules, trust deeds and instruments of incorporation, as the case may be.
- (3) Words and expressions which are also used in the Act but which are not defined herein shall have the same meaning as in the Act.
- (4) In the event that any of these regulations conflicts with the provisions of the UCITS Directive, the latter shall prevail.

SCOPE

3. (1) These regulations shall apply to Maltese UCITS wishing to market their units in a Member State or an EEA State, and also to European UCITS wishing to market their units in Malta, in terms of the UCITS Directive. Scope.

(2) For the purpose of these regulations, UCITS shall mean undertakings which are harmonised in accordance with the UCITS Directive and which have -

- (a) as sole object the collective investment in transferable securities or in other liquid financial assets, as specified in the Investment Services Rules, of capital raised from the public and which operate on the principle of risk-spreading; and
- (b) units which are, at the request of holders, repurchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a UCITS to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such repurchase or redemption:

Provided that if a master UCITS has at least two feeder UCITS as unit holders, paragraph (a) shall not apply, giving the master UCITS the choice whether or not to raise capital from other investors.

- (3) The undertakings referred to in sub-regulation (2) may be constituted as:
 - (a) common funds which are managed either by Maltese or European management companies; or
 - (b) investment companies or limited partnerships with variable share capital.
- (4) These regulations shall not apply to:

- (a) investment companies and limited partnerships, the assets of which are invested through the intermediary of subsidiary companies mainly otherwise than in transferable securities;
- (b) collective investment schemes of the closed-ended type;
- (c) collective investment schemes which raise capital without promoting the sale of their units to the public within the European Union or EEA States or any part thereof:

Provided that if a master UCITS has at least two feeder UCITS as unit holders, it shall have the choice as to whether or not to raise capital from other investors;

- (d) collective investment schemes the units of which, under the constitutional documents, may be sold only to the public in third countries;
- (e) categories of UCITS whose investment and borrowing policies do not conform with those specified in the provisions of the Investment Services Rules;
- (f) collective investment schemes that are not harmonised in accordance with the UCITS Directive; or
- (g) a Maltese UCITS which is a master UCITS and which does not raise capital from the public in Malta, but has one or more feeder UCITS established in Malta.

(5) A Maltese UCITS which is subject to these regulations shall not convert itself into a collective investment scheme which would not be subject to these regulations, and any purported conversion shall be null and void.

MARKETING OF MALTESE UCITS IN A MEMBER STATE OR IN AN EEA STATE

Marketing of
Maltese UCITS.
Amended by:
L.N. 361 of 2021;\nL.N. 130 of 2022.

4. (1) Where a Maltese UCITS proposes to market its units in a Member State or EEA State other than Malta, it shall first submit a written notification letter of its intention to the competent authority.

(2) The notification letter shall be made in the form and manner prescribed in Regulation No. 584/2010 and shall furthermore include the following information:

- (a) information on the arrangements made for marketing of the units of the Maltese UCITS in the Member State or EEA State, including where relevant in respect of share classes;
- (b) an indication that the units of the Maltese UCITS will be marketed by the management company that manages the Maltese UCITS;
- (c) the details necessary for the invoicing or for the communication of any applicable regulatory fees or charges by the European regulatory authority of the host Member State or EEA State, including the address;

and

- (d) information on the facilities for the performance of tasks referred to in regulation 5(7) of these regulations.

(3) The Maltese UCITS shall enclose the following documents with the notification letter:

- (a) the latest version of its constitutional documents and its prospectus;
- (b) where appropriate, its latest annual report and any subsequent half-yearly report translated in accordance with regulation 5; and
- (c) the key investor information document as provided for in the Investment Services Rules and translated in accordance with regulation 5.

(4) The competent authority shall verify whether the information and documentation submitted by the Maltese UCITS in accordance with sub-regulations (2) and (3) is complete and, if satisfied, shall produce an attestation that the Maltese UCITS fulfils the conditions imposed by the UCITS Directive in the manner and form prescribed by Regulation No. 584/2010.

(5) The competent authority shall transmit the complete information and documentation referred to in sub-regulations (1), (2) and (3) to the European regulatory authority of the Member State or EEA State in which the Maltese UCITS proposes to market its units, by not later than ten working days from the date of receipt of the notification letter accompanied by the complete documentation referred to in sub-regulation (3). The competent authority shall also transmit to such European regulatory authority the attestation issued pursuant to sub-regulation (4):

Provided that in transmitting the notification to the European regulatory authority of the Member State or EEA State, the competent authority shall comply with the requirements of the provisions of Regulation No. 584/2010.

(6) The notification letter referred to in sub-regulation (2), and the attestation referred to in sub-regulation (4), shall be provided in a language customary in the sphere of international finance, unless the competent authority and the European authority of the Member State or EEA State in which the Maltese UCITS wishes to market its units agree that the said documents be provided in an official language of both Member States.

(7) Upon transmission of the documentation, the competent authority shall immediately notify the Maltese UCITS thereof and the Maltese UCITS may commence marketing its units in the Member State or EEA State as from the date of such notification.

(8) For the purposes of the notification procedure under this regulation, the Maltese UCITS shall not be required by the European regulatory authority of the Member State or EEA State in which it wishes to market its units, to submit any additional documents, certificates or information other than those requested in this regulation.

(9) The European regulatory authority of the Member State or EEA State in which the Maltese UCITS intends to market its units shall have access, by electronic means, to the documents referred to in sub-regulation (3) and, if applicable, to any translation thereof.

(10) The Maltese UCITS shall keep the documentation referred to in sub-regulation (3) and the translations thereof updated. The Maltese UCITS shall notify any amendments to the documents referred to in sub-regulation (3) to the European regulatory authority of the Member State or EEA State in which it is marketing its units and shall indicate where those documents can be obtained electronically.

(11) In the event of a change in the information regarding the arrangements made for marketing communicated in the notification letter in accordance with subregulations (1) and (2), or a change regarding share classes to be marketed, the Maltese UCITS shall give written notice thereof to both the competent authority and the European regulatory authority of the UCITS host Member State or EEA State at least one (1) month before implementing that change.

(12) Where, pursuant to a change as referred to in sub-regulation (11), the Maltese UCITS would no longer comply with the UCITS Directive, the competent authority shall inform the Maltese UCITS within fifteen (15) working days of receipt of all the information referred to in sub-regulation (11) that it is not to implement that change. In that case, the competent authority accordingly shall notify the European regulatory authority of the Member State or EEA State in which Maltese UCITS is currently marketing its units.

(13) Where a change referred to in sub-regulation (11) is implemented after information has been transmitted by the competent authority in accordance with sub-regulation (12) and pursuant to that change the Maltese UCITS no longer complies with the UCITS Directive, the competent authority shall take all appropriate measures in accordance with the Act, including, where necessary, the express prohibition of marketing of the Maltese UCITS and shall notify the European regulatory authority of the Member State or EEA State in which Maltese UCITS is currently marketing its units without undue delay of the measures taken.

(14) If a Maltese UCITS wishes to terminate arrangements made for marketing of its units, including, where relevant, the share classes thereof in the Member State or EEA State in which Maltese UCITS is currently marketing its units, in respect of which it has made a notification in accordance with sub-regulation 4(1), it shall be allowed to de-notify such marketing arrangements after fulfilling the following conditions:

- (a) a blanket offer shall be made to repurchase or redeem, free of any charges or deductions, all such units held by investors in that Member State or EEA State, and shall be publicly available for at least 30 working days, addressed, directly or through financial intermediaries, individually to all investors in that Member State or EEA State whose identity is known;
- (b) the intention to terminate arrangements made for

marketing such units in that Member State or EEA State is made public by means of a publicly available medium, including by electronic means, which is customary for marketing UCITS and suitable for a typical UCITS investor; and

- (c) any contractual arrangements with financial intermediaries or delegates are modified or terminated with effect from the date of de-notification in order to prevent any new or further, direct or indirect, offering or placement of the units identified in the notification referred to in sub-regulation 4(16).

(15) The information referred to in sub-regulations 4(14)(a) and (b) shall clearly describe the consequences for investors if they do not accept the offer to redeem or repurchase their units. Such information shall be provided in the official language or one of the official languages of the Member State or EEA State in respect of which the Maltese UCITS has made a notification in accordance with sub-regulation 4(1), or in a language approved by the competent authorities of that Member State EEA State. With effect from the date referred to in sub-regulation 4(14)(c), the Maltese UCITS shall cease any new or further, direct or indirect, offering or placement of its units which were the subject of de-notification in that Member State or EEA State.

(16) The Maltese UCITS shall submit to the competent authority a notification containing the information referred to in sub-regulations 4(14)(a), (b) and (c).

(16A) The competent authority shall verify whether the notification submitted by the Maltese UCITS in accordance with sub-regulation (16) is complete. The competent authority shall, no later than 15 working days from the receipt of a complete notification, transmit that notification to the European regulatory authority of the Member State or EEA State identified in the notification referred to in sub-regulation (16), and to ESMA. Upon transmission of the notification, the competent authority shall promptly notify the Maltese UCITS of that transmission.

(17) The Maltese UCITS shall provide investors who remain invested in it as well as the competent authority with the information required under Articles 68 to 82 and under Article 94 of the UCITS Directive. The Maltese UCITS shall provide such information using any electronic or other distance communication means.

Provided that the information and communication means are available for investors in the official language or one of the official languages of the Member State or EEA State where the investor is located or in a language approved by the competent authorities of that Member State or EEA State.

(18) The competent authority shall transmit to the European regulatory authority of the Member State or EEA State identified in the notification referred to in sub-regulation (16) information on any changes to the documents referred to in sub-regulation (3).

(19) Without prejudice to other monitoring activities and

supervisory powers as referred to in Article 21(2) and Article 97 of the UCITS Directive, as from the date of transmission in terms of sub-regulation (18), the European regulatory authority of the Member State or EEA State identified in the notification referred to in sub-regulation (16) shall not require the Maltese UCITS concerned to demonstrate compliance with national laws, regulations and administrative provisions governing marketing requirements referred to in Article 5 of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014.

Documents and information to be provided to investors by the Maltese UCITS.
Amended by:
L.N. 361 of 2021;
L.N. 130 of 2022.

5. (1) Where a Maltese UCITS markets its units in another Member State or EEA State, it shall provide investors within the territory of such Member State or EEA State with the documents referred to under sub-regulation (1)(a) to (d) free of charge and upon request for the purposes of inspection and obtaining copies thereof:

- (a) a prospectus;
- (b) an annual report for each financial year;
- (c) a half-yearly report covering the first six months of the financial year; and
- (d) key investor information document.

(2) The information and documents prescribed in sub-regulation (1)(a) to (c) shall be provided to investors in the manner prescribed by the European regulatory authority of the Member State or EEA State in which the Maltese UCITS is marketing its units.

(3) The Maltese UCITS shall translate the key investor information document referred to in sub-regulation 1(d) into the official language, or one of the official languages, of the UCITS host Member State or EEA State or into a language approved by the European regulatory authority of that Member State or EEA State. The Maltese UCITS shall, at its discretion, translate the documents referred to in sub-regulation (1)(a) to (c) into the official language or one of the official languages of the Member State or EEA State in which it markets its units, into a language approved by the European regulatory authority of that Member State or EEA State or in a language customary in the sphere of international finance.

(4) The Maltese UCITS shall be responsible to provide accurate translations of the information or documents referred to in sub-regulation (1), and such translations shall faithfully reflect the content of the original information.

(5) The requirements prescribed in sub-regulations (1) to (4) shall also be applicable to any changes to the information and documents referred to therein.

(6) The frequency of the publication of the issue, sale, repurchase or redemption price of units of the Maltese UCITS in terms of sub-regulation (1)(c) shall be subject to applicable provisions prescribed in the Investment Services Rules.

(7) The Maltese UCITS proposing to market its units in another Member State or EEA State shall, in accordance with the laws,

regulations and administrative provisions in force in that Member State or EEA State, take the measures necessary to ensure that facilities are available therein to:

- (a) process subscription, repurchase and redemption orders and make other payments to unit-holders relating to the units of the UCITS, in accordance with the conditions set out in the documents required pursuant to sub-regulation 1(a) to (d);
- (b) provide investors with information on how orders referred to in point (a) above can be made and how repurchase and redemption proceeds are paid;
- (c) facilitate the handling of information and access to procedures and arrangements relating to the investors' exercise of their rights arising from their investment in the UCITS in the Member State or EEA State where the UCITS is marketed;
- (d) provide investors with information relevant to the tasks that the facilities perform in a durable medium; and
- (e) act as a contact point for communicating with the European regulatory authority of that Member State or EEA State.

(7A) The Maltese UCITS shall ensure that the facilities to perform the tasks referred to in sub-regulation (7), including electronically, are provided:

- (a) in the official language or one of the official languages of the Member State or EEA State where the UCITS is marketed or in a language approved by the European regulatory authority of that Member State or EEA State; and
- (b) by the UCITS itself, by a third party which is subject to regulation and supervision governing the tasks to be performed, or by both.

(7B) For the purposes of sub-regulation (7A)(b), where the tasks are to be performed by a third party, the appointment of the said third party shall be evidenced by a written contract, which specifies which of the tasks referred to in sub-regulation (7) are not to be performed by the UCITS and that such third party will receive all the relevant information and documents from the UCITS.

(8) For the purpose of pursuing its activities, the Maltese UCITS may use the same reference to its legal form in terms of regulation 3(3), in its designation in the Member State or EEA State in which it markets its units as it uses in Malta.

(9) A Maltese UCITS shall make public in an appropriate manner the issue, sale, repurchase or redemption price of its units each time it issues, sells, repurchases or redeems them, in accordance with Investment Services Rules.

6. The competent authority shall take appropriate measures if it receives notification from the European regulatory authority of

Breaches by
Maltese UCITS.

Supervision of
Maltese UCITS
marketing units in
a Member State or
EEA State other
than Malta.

the Member State or EEA State in which the Maltese UCITS is marketing its units, that such European regulatory authority has clear and demonstrable grounds to believe that a Maltese UCITS, the units of which are being marketed within its territory, is in breach of the obligations arising from the provisions of the UCITS Directive, and which provisions do not however confer supervisory and regulatory powers on such European regulatory authority.

7. (1) The competent authority alone shall have the power to take action against a Maltese UCITS if it infringes the provisions of the Act, any regulations issued thereunder or any applicable Investment Services Rules, as well as any regulation laid down in the constitutional documents or prospectus.

(2) Where the units of a Maltese UCITS are being marketed in a Member State or EEA State other than Malta, the competent authority shall, without delay, notify the European regulatory authority of that Member State or EEA State of any decision to withdraw the authorisation of the Maltese UCITS, or any other serious measure taken against a Maltese UCITS, or any suspension of the issue, repurchase or redemption of the units of a Maltese UCITS imposed upon it.

(3) Where the units of the Maltese UCITS are marketed by a European management company, the competent authority shall also proceed to notify any measure taken in accordance with sub-regulation (2) to the European regulatory authority of the Member State or EEA State where the European management company is registered.

MARKETING OF EUROPEAN UCITS IN MALTA

Marketing of
European UCITS
in Malta.
Amended by:
L.N. 361 of 2021;
L.N. 130 of 2022.

8. (1) A European UCITS may market its units in Malta and shall be exempt from the provisions of article 4 of the Act, provided that prior to commencement of its marketing in Malta, the competent authority has received from the European regulatory authority of the UCITS home Member State or EEA State a notification letter made in the form and manner prescribed in Regulation No. 584/2010, which notification letter shall furthermore include the following information:

- (a) information on the arrangements made for marketing by the European UCITS of its units in Malta, including where relevant in respect of share classes;
- (b) an indication that the units of the European UCITS will be marketed by the management company that manages the European UCITS;
- (c) the details necessary for the invoicing or for the communication of any applicable regulatory fees or charges by the competent authority, including the address; and
- (d) information on the facilities for the performance of tasks referred to in regulation 9(5) of this Act.

(2) Together with the notification letter, the European UCITS shall enclose the following:

- (a) the latest version of its constitutional documents and

its prospectus in Maltese or English;

- (b) where appropriate, its latest annual report and any subsequent half-yearly report in Maltese or English;
- (c) the key investor information document as provided for in the Investment Services Rules in Maltese or English; and
- (d) an attestation drawn up by the European regulatory authority that the European UCITS fulfils the conditions of the UCITS Directive, prepared in the manner and form prescribed by Regulation No. 584/2010.

(3) The competent authority shall ensure that a European UCITS is able to market its units in Malta upon notification, in accordance with sub-regulations (1) and (2).

(4) The European UCITS may access the Maltese market as from the date of notification to the competent authority by the European regulatory authority of the UCITS home Member State or EEA State in accordance with sub-regulations (1) and (2).

(5) The competent authority shall receive the complete documentation and information referred to in sub-regulation (1) and (2) from the European regulatory authority of the UCITS home Member State or EEA State in the manner prescribed by Articles 3 and 4 of Regulation No. 584/2010:

Provided that the notification letter and the attestation referred to in sub-regulations (1) and (2) shall be provided to the competent authority in a language customary in the sphere of international finance, unless the competent authority and the European regulatory authority of the UCITS home Member State or EEA State agree that said documents be provided in an official language of both Member States.

(6) For the purpose of the notification procedure set out in this regulation, the competent authority shall not request any additional documents, certificates or information other than those provided in this regulation. In addition, the competent authority shall not impose any additional requirements or administrative procedures on the European UCITS in respect of the field governed by the UCITS Directive.

(7) *Deleted by Legal Notice 361 of 2021.*

(8) The competent authority shall have access by electronic means, to the documents referred to in sub-regulation (2)(a), (b) and (c) and, if applicable, to any translation thereof.

(9) The European UCITS shall keep the documentation referred to in sub-regulation (2) and the translations thereof up to date. In addition it shall notify the competent authority of any amendments to the documents referred to in sub-regulation (2) and shall indicate where such documentation can be obtained electronically.

(10) In the event of a change in the information regarding the arrangements made for marketing communicated in the notification letter in accordance with sub-regulation (1), or a change regarding

share classes to be marketed, the European UCITS shall give written notice thereof to both the competent authority and European regulatory authority of the UCITS home Member State or EEA State at least one month before implementing that change.

(11) Where, pursuant to a change as referred to in sub-regulation (10), the European UCITS would no longer comply with the UCITS Directive, the European regulatory authority of the UCITS home Member State or EEA State shall inform the European UCITS within fifteen (15) working days of receipt of all the information referred to in sub-regulation (10) that it is not to implement that change.

(12) Where a change referred to in sub-regulation (10) is implemented after information has been transmitted in accordance with sub-regulation (11) and pursuant to that change the European UCITS no longer complies with the UCITS Directive, the European regulatory authority of the UCITS home Member State or EEA State shall take all appropriate measures, including, where necessary, the express prohibition of marketing of the European UCITS, and shall notify the competent authority without undue delay of the measures taken.

(13) If a European UCITS wishes to terminate arrangements made for marketing of its units, including, where relevant, the share classes thereof in Malta, it shall be allowed to de-notify such marketing arrangements after fulfilling the following conditions:

- (a) a blanket offer shall be made to repurchase or redeem, free of any charges or deductions, all such units held by investors in Malta, and shall be publicly available for at least thirty (30) working days, addressed, directly or through financial intermediaries, individually to all investors in Malta, whose identity is known;
- (b) the intention to terminate arrangements made for marketing such units in Malta is made public by means of a publicly available medium, including by electronic means, which is customary for marketing UCITS and suitable for a typical UCITS investor; and
- (c) any contractual arrangements with financial intermediaries or delegates are modified or terminated with effect from the date of de-notification in order to prevent any new or further, direct or indirect, offering or placement of the units identified in the notification referred to in sub-regulation 8(15).

(14) The information referred to in sub-regulations 8(13)(a) and (b) shall clearly describe the consequences for investors if they do not accept the offer to redeem or repurchase their units. Such information shall be provided in the official language or one of the official languages of Malta, or in a language approved by the competent authority. As of the date referred to in sub-regulation 8(13)(c), the European UCITS shall cease any new or further, direct or indirect, offering or placement of its units which were the subject of de-notification in Malta.

(15) The European UCITS shall submit to the European regulatory authority of the UCITS home Member State or EEA State a notification containing the information referred to in sub-regulations 8(13)(a), (b) and (c).

(15A) The competent authority shall receive the notification referred to in sub-regulation (15) from the European regulatory authority of the European UCITS home Member State or EEA State.

(15B) The competent authority shall also receive from the European regulatory authority of the European UCITS home Member State or EEA State information on any changes to the documents referred to in sub-regulation (2).

(16) The European UCITS shall provide investors who remain invested in it as well as the European regulatory authority of the European UCITS home Member State or EEA State with the information required under Articles 68 to 82 and under Article 94 of the UCITS Directive. The European UCITS may provide such information using any electronic or other distance communication means, provided that the information and communication means are available for investors located in Malta in the official language or one of the official languages of Malta, or in a language approved by the competent authority.

(17) Where the competent authority is identified in the notification referred to in sub-regulation (15), it shall have the same rights and obligations as the competent authority of the UCITS host Member State as set out in Article 21(2), Article 97(3) and Article 108 of the UCITS Directive.

(18) Without prejudice to other monitoring activities and supervisory powers as referred to in Article 21(2) and Article 97 of the UCITS Directive, as transposed in national law, as from the date of receipt of the information under sub-regulation (15B), the competent authority shall not require the European UCITS concerned to demonstrate compliance with national laws, regulations and administrative provisions governing marketing requirements referred to in Article 5 of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014.

9. (1) Where a European UCITS markets its units in Malta, it shall provide investors in Malta with the documents referred to under sub-regulation (1)(a) to (d) free of charge and upon request for the purposes of inspection and obtaining copies thereof:

- (a) a prospectus;
- (b) an annual report for each financial year;
- (c) a half-yearly report covering the first six months of the financial year; and
- (d) key investor information document.

(2) The European UCITS shall translate the key investor information document referred to in sub-regulation 1(d) into the

Documents and information to be provided to Maltese investors by the European UCITS.
Amended by:
L.N. 344 of 2013;
L.N. 361 of 2021;
L.N. 130 of 2021.

official language, or one of the official languages of Malta or into a language approved by the competent authority. The information and documents prescribed in sub-regulation (1)(a) to (c) shall be provided to investors in the manner prescribed by the Investment Services Rules. This information and documentation shall be translated, at the choice of the European UCITS, into the official language or one of the official languages of Malta, into a language approved by the competent authority or into a language customary in the sphere of international finance.

(3) The European UCITS shall be responsible for providing accurate translations of the information referred to in sub-regulations (1) and (2), which translation shall faithfully reflect the content of the original information.

(4) The requirements prescribed in sub-regulations (1) to (3) shall also be applicable to any changes to the information and documents referred to therein.

(5) The European UCITS marketing its units in Malta shall, in accordance with the laws, regulations and administrative provisions in force in Malta, take the measures necessary to ensure that facilities are available in Malta to:

- (a) process subscription, repurchase and redemption orders and make other payments to unit-holders relating to the units of the European UCITS, in accordance with the conditions set out in the documents required pursuant to sub-regulation 1(a) to (d);
- (b) provide investors with information on how orders referred to in point (a) above can be made and how repurchase and redemption proceeds are paid;
- (c) facilitate the handling of information and access to procedures and arrangements relating to the investors' exercise of their rights arising from their investment in the European UCITS in Malta;
- (d) make the information and documents required pursuant to Chapter IX available to investors under the conditions laid down in Article 94, for the purposes of inspection and obtaining copies thereof;
- (e) provide investors with information relevant to the tasks that the facilities perform in a durable medium; and
- (f) act as a contact point for communicating with the competent authority.

(5A) The European UCITS shall not be required to have a physical presence in Malta or to appoint a third party for the purposes of sub-regulation (5).

(5B) The European UCITS shall ensure that the facilities to perform the tasks referred to in sub-regulation (5), including electronically, are provided:

- (a) one of the official languages of Malta or in a language

approved by the competent authority; and

- (b) by the European UCITS itself, by a third party which is subject to regulation and supervision governing the tasks to be performed, or by both.

(5C) For the purposes of sub-regulation (5B), where the tasks are to be performed by a third party, the appointment of the said third party shall be evidenced by a written contract, which specifies which of the tasks referred to in sub-regulation (5) are not to be performed by the European UCITS and that the third party will receive all the relevant information and documents from the European UCITS.

(6) For the purpose of pursuing its activities, the European UCITS may use the same reference to its legal form in its designation in Malta as it uses in the home Member State or EEA State in which it is authorised.

(7) A European UCITS marketing its units in Malta shall, in an appropriate manner, make public the issue, sale, repurchase or redemption price of its units each time it issues, sells, repurchases or redeems them, in accordance with Investment Services Rules.

(8) The provisions of article 11(1)(a) and (b) of the Act shall not apply to European UCITS marketing their units in Malta.

10. (1) The European regulatory authority of the UCITS home Member State or EEA State shall have the sole power to take action against a European UCITS marketing its units in Malta, if the European UCITS infringes any law, regulation or administrative provision of the UCITS home Member State or EEA State or any regulation laid down in constitutional documents. However, the competent authority may nonetheless take action against that European UCITS if it infringes any laws, regulations and administrative provisions in force in Malta, falling outside the scope of the UCITS Directive or the requirements set out in Articles 92 and 94 of the said Directive.

Breaches by
European UCITS.

(2) Where the competent authority has clear and demonstrable grounds to believe that a European UCITS, the units of which are being marketed in Malta, is in breach of the obligations arising from the provisions of the Act, these regulations or the Investment Services Rules, which do not confer supervisory and regulatory powers on the competent authority, the competent authority shall refer those findings to the European regulatory authority of the UCITS home Member State or EEA State, which shall take appropriate measures.

(3) If, despite the measures taken by the European regulatory authority of the UCITS home Member State or EEA State, or because such measures prove to be inadequate, or because the European regulatory authority of the UCITS home Member State or EEA State fails to act within a reasonable timeframe, the European UCITS persists in acting in a manner that is clearly prejudicial to the interests of the Maltese investors, the competent authority may, as a consequence, take either of the following actions:

- (a) after informing the European regulatory authority of

the UCITS home Member State or EEA State, the competent authority may take all the appropriate measures needed in order to protect investors, including the possibility of preventing the European UCITS concerned from carrying out any further marketing of its units in Malta; or

(b) if necessary, bring the matter to the attention of ESMA.

(4) The competent authority shall, without delay, inform the European Commission and ESMA of any measure taken pursuant to sub-regulation (3)(a).

MISCELLANEOUS

Cooperation with
European
regulatory
authorities.
Added by:
L.N. 191 of 2026.

11. (1) Where the European regulatory authority of the UCITS host Member State makes a request to the competent authority in accordance with Article 98(3) of the UCITS Directive, as transposed in national law, to exercise, without delay, any of its powers in accordance with Article 98(2) of the UCITS Directive, other than paragraph (j) thereof as transposed in the Act, the competent authority shall, without undue delay, inform such European regulatory authority, ESMA, and if there are potential risks to the stability and integrity of the financial system the ESRB, of the powers exercised and its findings.

(2) Where Malta is the UCITS host Member State, the competent authority may, where it has reasonable grounds for doing so, request the European regulatory authority of the UCITS home Member State or EEA State to exercise, without delay, powers pursuant to Article 98(2) of the UCITS Directive, other than paragraph (j) thereof, as transposed in national law, specifying the reasons for its request in as specific a manner as possible and informing ESMA, and if there are potential risks to the stability and integrity of the financial system the ESRB thereof.

Notification
regarding
liquidity
management
tools.
Added by:
L.N. 191 of 2026.

12. (1) Where Malta is the UCITS home Member State, the competent authority shall inform, without delay, the European regulatory authority of the UCITS management company where Malta is not the home Member State of the UCITS management company, the European regulatory authority of the UCITS host Member State, ESMA, and if there are potential risks to the stability and integrity of the financial system the ESRB, of any notification received in accordance with Article 84(3) of the UCITS Directive, as transposed in the Investment Services Rules:

Provided that ESMA may share the information received in accordance with this sub-regulation with the European regulatory authorities referred to in this sub-regulation.

(2) Where the competent authority exercises powers in accordance with Article 15(2)(m) of the Act, it shall notify the European regulatory authority of the UCITS host Member State, the

European regulatory authority of the UCITS management company where Malta is not the home Member State of the UCITS management company, ESMA, and if there are potential risks to the stability and integrity of the financial system the ESRB thereof.

(3) Where Malta is the UCITS host Member State and, or the home Member State of the UCITS management company, the competent authority may request the European regulatory authority of the UCITS home Member State to exercise powers in accordance with paragraph (b) of Article 84(2) of the UCITS Directive, as transposed in national law, specifying the reasons for the request and informing ESMA, and if there are potential risks to the stability and integrity of the financial system the ESRB thereof.

(4) Where Malta is the UCITS home Member State and the competent authority does not agree with a request received in accordance with Article 84(3b) of the UCITS Directive, as transposed in national law, it shall inform the requesting European regulatory authorities, ESMA and where the ESRB was informed of such request in accordance with the said Article, as transposed in national law, the ESRB thereof, stating the reasons for the disagreement:

Provided that in such case, an opinion shall be issued by ESMA in accordance with Article 84(3d) of the UCITS Directive of the AIFM.

(5) Where the competent authority does not act in accordance with ESMA's opinion as referred to in sub-regulation (4) or does not intend to comply with such opinion, it shall inform ESMA and the requesting European regulatory authorities thereof, stating the reasons for its non-compliance or intention not to comply:

Provided that in the event of a serious threat to investor protection, to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system in the European Union and unless such publication conflicts with the legitimate interests of the UCITS' unit holders or of the public, the fact that the competent authority does not comply or does not intend to comply with ESMA's opinion, together with the reasons provided by the competent authority for its non-compliance or intention not to comply, may be published by ESMA:

Provided further that an analysis shall be carried out by ESMA as to whether the benefits of publication would outweigh the amplification of the threats to investor protection, to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system in the European Union resulting from that publication and the competent authority shall be given advance notice of such publication.

SCHEDULE A

*Deleted by:
L.N. 361 of 2021.*
