SUBSIDIARY LEGISLATION 370.39

MULTILATERAL TRADING FACILITIES AND ORGANISED TRADING FACILITIES REGULATIONS

3rd January, 2018

LEGAL NOTICE 400 of 2017, as amended by Legal Notices 56 of 2018, 213 of 2025 and 288 of 2026.

Title, scope.

1. (1) The title of these regulations is the Multilateral Trading Facilities and Organised Trading Facilities Regulations.

(2) The purpose of these regulations is to implement Article 4(1) paragraphs (12), (19) to (25), (38) and (60) to (61), Articles 18(1) to (10), Articles 19, 20, Article 31(1) to (3), Articles 32(1) and (2) and Article 33(1) of MiFID as herein defined, and they shall be interpreted and applied accordingly.

Definitions.
Amended by:
L.N. 213 of 2025
L.N. 288 of 2026.

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

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"the Acts" means the Investment Services Act and the Financial Markets Act;

"ESAP" means European single access point in accordance with the ESAP Regulation;

"ESAP Regulation" means Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"liquid market" means a market for a financial instrument or a class of financial instruments, where there are ready and willing buyers and sellers on a continuous basis, assessed in accordance with the following criteria, taking into consideration the specific market structures of the particular financial instrument or of the particular class of financial instruments:

(a) the average frequency and size of transactions over a range of market conditions, having regard to the nature and life cycle of products within the class of financial instrument;

(b) the number and type of market participants, including the ratio of market participants to traded instruments in a particular product;

(c) the average size of spreads, where available;

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"Maltese investment firm" means a person licensed in terms of the Investment Services Act, whose head office is in Malta and who is entitled to carry on an activity in a Member State or EEA State other than Malta in exercise of a European Right;

"MAR" means Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, as amended from time to time;

"matched principal trading" means a transaction where the facilitator interposes itself between the buyer and the seller to the transaction in such a way that it is never exposed to market risk throughout the execution of the transaction, with both sides executed simultaneously, and where the transaction is concluded at a price where the facilitator makes no profit or loss, other than a previously disclosed commission, fee or charge for the transaction;

"MiFID" means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"multilateral system" means any system or facility in which multiple third-party buying and selling trading interests in financial instruments are able to interact in the system;

"multilateral trading facility" or "MTF" means a multilateral system, operated by a Maltese investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with Title II of MiFID;

"organised trading facility" or "OTF" means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of MiFID;

"regulated market" means a multilateral system operated and, or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and, or systems, and which is authorised and functions regularly and in

accordance with Title III of MiFID;

"Regulation (EU) No 648/2012" means Regulation (EU) No 648/2012 of the European Parliament and of the Council of the 4th July, 2012 on OTC derivatives, central counterparties and trade repositories, as amended from time to time;

"SME growth market" means an MTF that is registered as an SME growth market in accordance with the Financial Markets Act (SME Growth Markets) Regulations, 2017; L.N. 390.

"sovereign debt" means a debt instrument issued by a sovereign issuer;

"sovereign issuer" means any of the following that issues debt instruments:

(i) the Union;

(ii) a Member State or EEA State, including a government department, an agency, or a special purpose vehicle of the Member State or EEA State;

(iii) in the case of a federal Member State or EEA State, a member of the federation;

(iv) a special purpose vehicle for several Member States or EEA States;

(v) an international financial institution established by two or more Member States or EEA States which has the purpose of mobilising funding and provide financial assistance to the benefit of its members that are experiencing or threatened by severe financing problems; or

(vi) the European Investment Bank;

"systematic internaliser" means an investment firm which, on an organised, frequent and systematic basis, deals on own account in equity instruments by executing client orders outside a regulated market, an MTF or an OTF, without operating a multilateral system, or which opts in to the status of systematic internaliser;

"trading venue" means a regulated market, an MTF or an OTF;

(2) Words and expressions used in the Acts shall, in these regulations, have the same meaning as is assigned to them in the Acts.

Trading process and finalisation of transactions in an MTF and an OTF. S.L. 370.05. *Amended by: L.N. 288 of 2026.*

3. (1) Maltese Investment firms and market operators operating an MTF or an OTF, shall, in addition to meeting the organisational requirements prescribed in the applicable provisions of the Investment Services Act (Control of Assets) Regulations, the Investment Services Rules for Investment Services Providers and the Conduct of Business Rulebook, comply with the following requirements:

(a) they shall establish transparent rules and procedures for fair and orderly trading and establish objective criteria for the efficient execution of orders;

(b) they shall have arrangements for the sound management of the technical operations of the facility, including the establishment of effective contingency arrangements to cope with risks of systems disruption;

(c) they shall establish transparent rules regarding the criteria for determining the financial instruments that can be traded under the systems of the MTF or the OTF;

(d) where applicable, they shall provide, or are satisfied that there is access to, sufficient publicly available information to enable its users to form an investment judgement, taking into account both the nature of the users and the types of instruments traded;

(e) they shall establish, publish, maintain and implement transparent and non-discriminatory rules, based on objective criteria, governing access to the facility of the MTF or the OTF;

(f) they shall have arrangements to identify clearly and manage the potential adverse consequences for the operation of the MTF or the OTF, or for the members or participants and users, of any conflict of interest between the interest of the MTF, the OTF, their owners or the Maltese investment firm or market operator operating the MTF or the OTF and the sound functioning of the MTF or the OTF; and

(g) they shall clearly inform its members or participants of their respective responsibilities for the settlement of the transactions executed in that facility. Maltese investment firms and market operators operating an MTF or an OTF shall also put in place the necessary arrangements to facilitate the efficient settlement of the transactions concluded under the systems of that MTF or OTF.

(2) Maltese investment firms and market operators operating an MTF or an OTF shall comply with articles 4F and 4G of the Financial Markets Act and have in place all the necessary effective systems, procedures and arrangements to do so.

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Amended by:
L.N.56 of 2018.

(3) MTFs and OTFs shall have at least three materially active members or users, each having the opportunity to interact with all the others in respect to price formation.

(4) Where a transferable security that has been admitted to trading on a regulated market is also traded on an MTF or an OTF

without the consent of the issuer, the issuer shall not be subject to any obligation relating to initial, ongoing or *ad hoc* financial disclosure with regard to that MTF or an OTF.

(5) Any Maltese investment firm and market operator operating an MTF or an OTF shall comply immediately with any instruction from the competent authority, pursuant to the applicable provisions of the Acts and the Malta Financial Services Authority Act, to suspend or remove a financial instrument from trading.

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(6) Maltese investment firms and market operators operating an MTF or an OTF shall provide the competent authority with a detailed description of the functioning of the MTF or the OTF, including, without prejudice to regulations 5(1), and (6) to (8), any links to or participation by a regulated market, an MTF, an OTF or a systematic internaliser owned by the same Maltese investment firm or market operator, and a list of their members, participants and, or users.

(7) The competent authority shall make the information referred to in sub-regulation (6) available to ESMA on request, including for the purpose of making it accessible on ESAP.

Provided that for the purpose of making such information accessible on ESAP, it shall be submitted in a data extractable format and accompanied by the following metadata:

(a) all the names of the investment firm or market operator to which the information relates;

(b) where available, the legal entity identifier of the investment firm or market operator, as specified in accordance with point (b) of Article 7(4) of the ESAP Regulation;

(c) the type of information, as classified in accordance with point (c) of Article 7(4) of the ESAP Regulation;

(d) an indication of whether the information contains personal data:

Provided further that such obligation shall apply with effect from 10th January 2030.

(8) The competent authority shall notify ESMA of every authorisation granted to a Maltese investment firm or a market operator to operate an MTF or an OTF.

Specific requirements for MTFs.

4. (1) Maltese investment firms and market operators operating an MTF shall, in addition to meeting the requirements prescribed in regulation 3 and the applicable provisions of the Investment Services Act (Control of Assets) Regulations, the Investment Services Rules for Investment Services Providers and the Conduct of Business Rulebook, establish and implement non-discretionary rules for the execution of orders in the system.

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(2) Member States shall require that the provisions of regulation 3(1)(e), governing access to an MTF, comply with the conditions established in regulation 8 of the Financial Markets Act (Membership and Access) Regulations. S.L. 345.06.

(3) Maltese investment firms and market operators operating an MTF shall have arrangements:

(a) to be adequately equipped to manage the risks to which it is exposed, to implement appropriate arrangements and systems to identify all significant risks to its operation, and to put in place effective measures to mitigate those risks;

(b) to have effective arrangements to facilitate the efficient and timely finalisation of the transactions executed under its systems; and

(c) to have available, at the time of authorisation and on an ongoing basis, sufficient financial resources to facilitate its orderly functioning, having regard to the nature and extent of the transactions concluded on the market and the range and degree of the risks to which it is exposed.

(4) The rules prescribed in the Conduct of Business Rulebook on general principles and information to clients, assessment of suitability and appropriateness and reporting to clients, obligations to execute orders on terms most favourable to the client and client order handling rules are not applicable to the transactions concluded under the rules governing an MTF between its members or participants or between the MTF and its members or participants in relation to the use of the MTF.

(5) The members of or participants in the MTF shall comply with the obligations prescribed in the Conduct of Business Rulebook on general principles and information to clients, assessment of suitability and appropriateness and reporting to clients, obligations to execute orders on terms most favourable to the client and client order handling rules with respect to their clients when, acting on behalf of their clients, they execute their orders through the systems of an MTF.

(6) Maltese investment firms or market operators operating an MTF shall not execute client orders against proprietary capital, or engage in matched principal trading.

Specific requirements for OTFs.

5. (1) A Maltese investment firm and a market operator operating an OTF shall establish arrangements preventing the execution of client orders in an OTF against the proprietary capital of the investment firm or market operator operating the OTF or from any entity that is part of the same group or legal person as the investment firm or market operator.

(2) A Maltese investment firm or market operator operating an OTF shall engage in matched principal trading in bonds, structured finance products, emission allowances and certain derivatives only where the client has consented to the process.

(3) A Maltese investment firm or market operator operating an OTF shall not use matched principal trading to execute client orders in an OTF in derivatives pertaining to a class of derivatives that has been declared subject to the clearing obligation in accordance with Article 5 of Regulation No 648/2012.

(4) A Maltese investment firm or market operator operating an OTF shall establish arrangements ensuring compliance with the definition of matched principal trading prescribed in regulation 2(1).

(5) A Maltese investment firm or market operator operating an OTF may engage in dealing on own account other than matched principal trading only with regard to sovereign debt instruments for which there is not a liquid market.

(6) The operation of an OTF and of a systematic internaliser shall not take place within the same legal entity.

(7) An OTF shall not connect:

(a) with a systematic internaliser in a way which enables orders in an OTF and orders or quotes in a systematic internaliser to interact; and

(b) with another OTF in a way which enables orders in different OTFs to interact.

(8) A Maltese investment firm or a market operator operating an OTF may engage another Maltese investment firm to carry out market making on that OTF on an independent basis:

Provided that for the purposes of this regulation, a Maltese investment firm shall not be deemed to be carrying out market making on an OTF on an independent basis if it has close links with the Maltese investment firm or market operator operating the OTF.

(9) The execution of orders on an OTF shall be carried out on a discretionary basis.

(10) A Maltese investment firm or market operator operating an OTF shall exercise discretion only in either or both of the following circumstances:

(a) when deciding to place or retract an order on the OTF they operate;

(b) when deciding not to match a specific client order with other orders available in the systems at a given time, provided it is in compliance with specific instructions received

from a client and with its obligations to execute orders on terms most favourable to the client as prescribed in the Conduct of Business Rulebook.

(11) For the system that crosses client orders the Maltese investment firm or market operator operating the OTF may decide if, when and how much of two or more orders it wants to match within the system. In accordance with sub-regulations (1) to (4) and (6) to (8), of this regulation and without prejudice to sub-regulation (5), with regard to a system that arranges transactions in non-equities, the Maltese investment firm or market operator operating the OTF may facilitate negotiation between clients so as to bring together two or more potentially compatible trading interest in a transaction:

Provided that this obligation shall be without prejudice to regulation 3 and the provisions of the Conduct of Business Rulebook on obligation to execute orders on terms most favourable to the client.

(12) When a Maltese investment firm or market operator requests to be authorised for the operation of an OTF or on *ad hoc* basis, the competent authority may require the following:

(a) a detailed explanation of the reason why the system does not correspond to and cannot operate as a regulated market, MTF, or systematic internaliser;

(b) a detailed description as to how discretion will be exercised, in particular when an order to the OTF may be retracted and when and how two or more client orders will be matched within the OTF.

(13) In addition to the information provided pursuant to sub-regulation (12), the Maltese investment firm or market operator of an OTF shall provide the competent authority with information explaining its use of matched principal trading. In this regard, the competent authority shall monitor a Maltese investment firm's or market operator's engagement in matched principal trading to ensure that it continues to fall within the definition of such trading and that its engagement in matched principal trading does not give rise to conflicts of interest between the Maltese investment firm or market operator and its clients.

(14) Articles 24, 25, 27 and 28 of MiFID as transposed in the Conduct of Business Rulebook on general principles and information to clients, assessment of suitability and appropriateness and reporting to clients, obligations to execute orders on terms most favourable to the client and client order handling rules shall be applicable to the transactions concluded on an OTF.

Monitoring of compliance with the rules of the MTF or the OTF and with other legal obligations. *Amended by: L.N. 213 of 2025.*

6. (1) Maltese investment firms and market operators operating an MTF or an OTF shall establish and maintain effective arrangements and procedures, relevant to the MTF or OTF, for the regular monitoring of the compliance by its members or participants or users with its rules.

(2) Maltese investment firms and market operators operating an MTF or an OTF shall monitor the orders sent, including cancellations and the transactions undertaken by their members or participants or users under their systems, in order to identify infringements of those rules, disorderly trading conditions, conduct that may indicate behaviour that is prohibited under MAR or system disruptions in relation to a financial instrument and shall deploy the resource necessary to ensure that such monitoring is effective.

(2a) Maltese investment firms and market operators operating an MTF or an OTF shall have arrangements in place to ensure that they meet data quality standards pursuant to Article 22b of MiFIR.

(3) Maltese investment firms and market operators operating an MTF or an OTF shall inform the competent authority immediately of significant infringements of its rules or disorderly trading conditions or conduct that may indicate behaviour that is prohibited under MAR or system disruptions in relation to a financial instrument. The competent authority shall communicate this information to ESMA and to the European regulatory authorities of other Member States or EEA States.

(4) With regard to conduct that may indicate behaviour that is prohibited under MAR pursuant to sub-regulation (3), the competent authority must be convinced that such behaviour is being or has been carried out before it notifies the European regulatory authorities of the other Member States or EEA States and ESMA.

(5) Maltese investment firms and market operators operating an MTF or an OTF shall supply without undue delay the information referred to in sub-regulations (3) and (4) above to the authorities competent for the investigation and prosecution of market abuse and to provide full assistance to the latter in investigating and prosecuting market abuse occurring on or through its systems.

Suspension and removal of financial instruments from trading on an MTF or an OTF.

7. (1) Without prejudice to the right of the competent authority to demand suspension or removal of a financial instrument from trading in terms of the Acts, a Maltese investment firm or a market operator operating an MTF or an OTF may suspend or remove from trading a financial instrument which no longer complies with the rules of the MTF or an OTF unless such suspension or removal would be likely to cause significant damage to the investors' interests or the orderly functioning of the market.

(2) Maltese investment firms or market operators operating an MTF or an OTF that suspends or removes from trading a financial instrument shall also suspend or remove derivatives referred to in points (4) to (10) of Section C of Annex I of MiFID, as transposed in the second schedule to the Investment Services Act, that relate or are referenced to that financial instrument where necessary to support the objectives of the suspension or removal of the underlying financial instrument. The Maltese investment firm or market operator operating an MTF or an OTF shall make public its decision on the suspension or removal of the financial instrument and of any related derivative and communicate the relevant decisions to the competent authority.

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(3) When the suspension or removal originated in Malta, regulated markets, other MTFs, other OTFs and systematic internalisers, which fall under the jurisdiction of the competent authority and trade the same financial instrument or derivatives referred to in points (4) to (10) of Section C of Annex I of MiFID, as transposed in the second schedule to the Investment Services Act, that relate or are referenced to that financial instrument, shall also suspend or remove that financial instrument or derivatives from trading, where the suspension or removal is due to suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument infringing Articles 7 and 17 of MAR except where such suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market. The competent authority shall immediately make public and communicate to ESMA and the European regulatory authorities of the other Member States or EEA States such a decision.

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(4) Where the competent authority receives a notification from a European regulatory authority of another Member State or EEA State, it shall require that regulated markets, other MTFs, other OTFs and systematic internalisers, which fall under its jurisdiction and trade the same financial instrument or derivatives referred to in points (4) to (10) of Section C of Annex I of MiFID, as transposed in the second schedule to the Investment Services Act, that relate or are referenced to that financial instrument, also suspend or remove that financial instrument or derivatives from trading, where the suspension or removal is due to suspected market abuse, a take-over bid or the non-disclosure of inside information about the issuer or financial instrument infringing Articles 7 and 17 of MAR except where such suspension or removal could cause significant damage to the investors' interests or the orderly functioning of the market. The competent authority shall communicate its decision to ESMA and other European regulatory authorities, including an explanation if the decision was not to suspend or remove from trading the financial instrument or derivatives referred to in points (4) to (10) of Section C of Annex I of MiFID, as transposed in the second schedule to the Investment Services Act, that relate or are referenced to that financial instrument.

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(5) Sub-regulations (2) to (4) shall also apply when the suspension from trading of a financial instrument or derivatives referred to in points (4) to (10) of Section C of Annex I of MiFID, as transposed in the second schedule to the Investment Services Act, that relate or are referenced to that financial instrument is lifted. Cap. 370.

(6) The notification procedure referred to in sub-regulations (2) to (4) shall also apply in the case where the decision to suspend or remove from trading a financial instrument or derivatives referred to in points (4) to (10) of Section C of Annex I of MiFID, as transposed in the second schedule to the Investment Services Act, that relate or are referenced to that financial instrument is taken by the competent authority. Cap. 370.

8. The operator of an MTF may apply to the competent authority to have the MTF registered as an SME growth market. In such cases the Financial Markets Act (SME Growth Markets) Regulations, 2017 shall apply. L.N. 390.

9. (1) Where a person falling within the scope of these regulations fails to comply with any provisions of such regulations or any rules issued thereunder further implementing such regulations, the competent authority may, by notice in writing and without recourse to a court hearing, impose on such person an administrative penalty and other administrative measures in accordance with the provisions of the Financial Markets Act (MiFID and MiFIR Administrative Penalties, Measures and Investigatory Powers) Regulations, 2017 or the Investment Services Act and Banking Act (MiFID and MiFIR Administrative Penalties, Measures and Investigatory Powers) Regulations, 2017. Administrative Penalties, other administrative measures and Appeals. L.N. 392. L.N. 401.

(2) A right of appeal to the Financial Services Tribunal shall lie from the decisions which the competent authority shall take under these regulations and the provisions of Part VI of the Financial Markets Act or article 19 of the Investment Services Act shall apply *mutatis mutandis*. Cap. 345. Cap. 370.