

SUBSIDIARY LEGISLATION 370.09**INVESTOR COMPENSATION SCHEME
REGULATIONS**

21st November, 2003

LEGAL NOTICE 368 of 2003, as amended by Legal Notices 36 of 2006, 425 of 2007, 228 of 2009, 62 of 2011, 230 of 2017, 280 of 2023, 186 of 2025 and 224 of 2026.

1. The title of these regulations is the Investor Compensation Scheme Regulations.

Citation.

1A. The objective of these regulations is to implement the relevant provisions of Directive 97/9/EC of the European Parliament and of the Council of 3rd March 1997 on investor-compensation schemes, and these regulations shall be interpreted and applied accordingly.

Scope.
Added by:
L.N. 36 of 2006.

2. In these regulations, unless the context otherwise requires -
"Act" means the Investment Services Act;

Interpretation.
Amended by:
L.N. 36 of 2006;
L.N. 224 of 2026.
Cap. 370.

"branch" means a place of business which forms a legally dependent part of a licence holder and from which some or all of the activities for which the licence holder has been authorised is conducted; all the places of business set up in any one country by a licence holder whose head office is in Malta or in another country shall be regarded as a single branch;

"competent authority" means the competent authority under the Act;

"eligible investor" means any investor who is not excluded from compensation in accordance with the First Schedule;

"Emergency Drawdown Reserve" means a reserve as established in regulation 12;

"Extraordinary Contribution" means a contribution as established in regulation 12;

"Financial Services Tribunal" means the tribunal established in terms of the Malta Financial Services Authority Act;

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"Fixed Contribution" means a contribution as established in regulation 12;

"instruments" shall have the meaning assigned to the word in article 2 of the Act;

"investment services activities related revenue" means the revenue of investment firms as reported in the annual audited financial statements, which is derived from activities for which an investment services licence has been granted in accordance with article 3 of the Act;

Provided that in the case of fund managers, such revenue shall include the aggregate of investment management and administration fees associated with retail clients, investment advisory fees associated with retail clients and other ISA related

revenue as reported in Appendix 2B;

"investor" means any person who has entrusted money or instruments to a licence holder in connection with licensed business, to the exclusion of persons listed in the First Schedule;

"EEA state" means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992, as amended by the protocol signed at Brussels on 17th March 1993, and as amended from time to time;

"licensed business" means the carrying out of any activity in regard to which there is a licence under the Act;

"licence holder" means any person who holds a licence to carry out investment services business in terms of the Act;

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"Management Committee" means the Compensation Schemes Management Committee established under regulations 3 and 5 and referred to in the Depositor Compensation Scheme Regulations;

"management expenses" means expenses incurred, or expected to be incurred, by the Scheme in connection with its objectives and functions under these regulations other than those incurred in the payment of compensation in accordance with regulation 19;

"Management Expenses Contribution" means a contribution as established in regulation 12;

"participant" means every licence holder participating or required to participate in the Scheme;

"professional investor" means a professional client as defined in Article 4(10) of 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;

"retail investor" means a retail client as defined in Article 4(11) of 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;

"Scheme" means the Investor Compensation Scheme established under regulation 3;

"total revenue" means all gross income received or receivable from the licence holder's business activities which are licensable under the Act, whether actually licensed or not;

"Variable Contribution" means a contribution as established in regulation 12;

and the words and expressions which are also used in the Act shall have the same meaning as in the Act.

Establishment of
the Investor
Compensation
Scheme.
*Amended by:
L.N. 36 of 2006.*

3. (1) There shall be established an Investor Compensation Scheme.

(2) The Scheme shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of the Act and of these regulations, of entering into contracts of borrowing or otherwise incurring indebtedness for the purposes of

its functions, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing or being sued and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions.

(3) The Scheme shall be managed and administered by and be under the general control of the Management Committee appointed in terms of regulation 5.

(4) The legal and judicial representation of the Scheme shall vest in the chairperson of the Management Committee:

Provided that, and without prejudice to the foregoing, the Management Committee may vest any one or more of its members or of the officers or agents of the Scheme with legal or judicial representation.

(5) For the purpose of enabling the Scheme and the competent authority to carry out their respective functions, the Scheme and the competent authority may share and exchange information, and shall otherwise consult and collaborate with one another.

4. (1) Without prejudice to any other power or function conferred on it by these regulations or by any other law, it shall be the function of the Scheme -

Functions of the Scheme.

- (a) to maintain a fund or funds out of which payments shall be made to investors and to meet such other payments or expenses as may be paid out of the fund or funds in accordance with these regulations;
- (b) to establish and maintain, after consultations with the competent authority, arrangements for the making of payments to investors in accordance with these regulations;
- (c) to process claims for compensation by investors as expeditiously as possible and to ensure that compensation is paid out without undue delay; and
- (d) to advise the competent authority on matters relating to compensation of investors.

(2) The objective of the Scheme is to provide a means of protection for private investors within the framework of these regulations. All the members of the Management Committee shall work in the best interest of the Scheme and shall pursue and promote its objective.

5. (1) The Management Committee shall be appointed by the competent authority and shall consist of a chairperson and seven (7) other members as follows:

Composition of the Management Committee.
Amended by:
L.N. 36 of 2006;
L.N. 186 of 2025.

(a) two (2) officers performing duties with the competent authority;

(b) one (1) officer nominated by, and performing duties with, the Central Bank of Malta;

(c) one (1) person nominated by the Minister;

(d) one (1) person nominated by an association or associations or other bodies representing persons holding a licence under the Act who participates in, and contributes to the Scheme in accordance with these regulations, and which association or associations or other bodies are recognised for such purpose by the competent authority. The person nominated shall not be an officer or employee of, or in any other way hold any position with, a holder of a licence under the Act falling within the scope of these regulations;

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(e) one (1) person nominated by an association or associations or other bodies representing credit institutions who participates in, and contributes to the Depositor Compensation Scheme established under the Depositor Compensation Scheme Regulations, and which association or associations or other bodies are recognised for such purpose by the competent authority. The person nominated shall not be an officer or employee of, or in any other way hold any position with, a credit institution falling within the scope of the Depositor Compensation Scheme in accordance with the Depositor Compensation Scheme Regulations;

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(f) one (1) officer nominated by, and performing duties with the Malta Competition and Consumer Affairs Authority established under article 3 of the Malta Competition and Consumer Affairs Authority Act and such person shall represent the point of view of consumers:

Provided that the chairperson of the Management Committee shall also be an officer performing duties with the competent authority:

Provided further that an officer nominated and appointed under paragraphs (a), (b) and (f) shall remain a member of the Committee throughout the term of appointment only to the extent that such officer continues to be an officer of the competent authority, the Central Bank of Malta or the Malta Competition and Consumer Affairs Authority, as the case may be:

Provided further that whenever, for any reason whatsoever, the associations or other bodies representing licence holders or credit institutions referred to in paragraphs (d) and (e) fail to nominate the person they are required to nominate within the period of time established by the competent authority, such person shall be appointed by the competent authority at its discretion.

(2) The members of the Management Committee shall be appointed from among persons who, in the view of the competent authority, have proven knowledge, expertise and experience in financial services or management, or otherwise possess any other

relevant professional or commercial knowledge and expertise.

(3) A person shall not be eligible for appointment as a member of the Management Committee in accordance with sub-regulation (1) if such person has a financial or other interest as is likely to adversely affect the discharge by such person of his functions under these regulations. In addition, the members of the Management Committee appointed under paragraphs (d) and (e) of sub-regulation (1) shall serve in their personal capacity and shall not represent or receive directives or instructions from an association, entity or other body nominating them, however the Management Committee may expressly and in writing, authorise any such member to share specific information with the said association, entity or other body.

(4) Every member of the Management Committee shall hold office for such period and upon such terms and conditions as may be determined by the competent authority and indicated in the letter of appointment. Such term of office shall be of not less than three years and not more than five years. Every member of the Management Committee, including the chairperson, shall be eligible for re-appointment.

(5) A member of the Management Committee may be relieved of office by the competent authority on the grounds of inability to perform the functions of his office, whether due to infirmity of mind or of body, or of misbehaviour; and for the purposes of this subregulation repeated and unjustified non-attendance of meetings of the Management Committee may be deemed to amount to misbehaviour.

(6) A member of the Management Committee may resign from office by means of a letter addressed to the competent authority.

(7) The competent authority may fill any vacancy occurring in the Management Committee for any reason whatsoever, having regard to the provisions of subregulation (1).

(8) Notice of the names of the members of the Management Committee (and any resignation, dismissal and new appointment) shall be published in the Gazette.

(9) The competent authority shall establish any remuneration to be paid to the members of the Management Committee.

(10) The competent authority shall appoint one of its officers to serve as secretary to the Management Committee with such administrative functions and responsibilities as may be assigned to him by the Management Committee.

(11) For the purpose of the second proviso to sub-regulation (1), sub-regulation (2), the first sentence of sub-regulation (3), and sub-regulations (4), (5), (6), (8) and (9), "member" shall include the chairperson.

(12) Where the chairperson is absent or is unable to exercise the functions and powers of his office, and the competent authority has not appointed any other person to act as chairperson during the said period, the other members of the Management Committee shall designate one (1) of the said other members to carry out the functions

of the chairperson during such period.

Powers and duties
of the Management
Committee.
Amended by:
L.N. 186 of 2025.

6. (1) The Management Committee shall have the power to enter into such reasonable administrative and other expenses as may be necessary to enable it to fulfil its functions under these regulations.

(2) The Management Committee may place contributions made by licence holders in terms of regulation 11 and any other funds managed and administered by it on deposit or may invest such contributions, having regard to the need for prudence.

(3) For the purposes of being able to exercise its functions and objectives in accordance with regulation 4, the Management Committee may, on behalf of the Scheme, after consulting with the competent authority, take out insurance policies, borrow or otherwise incur indebtedness and obtain funding guarantees, as it may consider appropriate to establish additional sources of funding for the Scheme. For the purposes of this sub-regulation, the term "guarantees" shall include guarantees obtained from credit institutions construed in accordance with item 4 of the First Schedule to the Banking Act.

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(4) The Management Committee shall cause proper books of account to be kept so that the financial position of the Scheme can be ascertained with reasonable accuracy at any time.

(5) In exercising its powers and duties, the Management Committee shall be bound to safeguard and take into account the general interests of investors entitled to claim under these regulations.

Investment
management and
administrative
support
agreements.

7. Without prejudice to regulation 6(1), the Management Committee shall enter into such investment management and administrative support agreements as may be approved by the competent authority.

Publication of
financial
statements.
Amended by:
L.N. 228 of 2009;
L.N. 280 of 2023.

8. (1) The Management Committee shall prepare annual forecast statements of the expected costs and revenues of the Scheme, and shall make available such forecast statements to all participants upon request.

(2) The Management Committee shall submit to the competent authority an annual report on the discharge of its functions and on the operation of the Scheme within seven (7) months from the financial year end of the Scheme. Such annual report shall include, *inter alia* -

- (a) a statement showing the payments in and payments out of the Scheme during its immediate previous financial year; and
- (b) annual audited financial statements prepared in accordance with International Accounting Standards.

(3) The annual report shall be made available on the website of the competent authority.

(4) The books of accounts shall be kept at such place as the Management Committee thinks fit.

9. (1) The meetings of the Management Committee shall be held as often as may be required but not less than once every three calendar months.

Meetings of the Committee.
Amended by:
L.N. 36 of 2006;
L.N. 186 of 2025.

(2) Meetings of the Management Committee shall be convened by the chairperson either on his own initiative or at the written request of any two members of the Management Committee.

(3) The Management Committee shall only hold the meeting if at least five (5) members are present, which members shall include the chairperson or, in his absence, the person designated to carry out the function of chairperson in accordance with regulation 5(12).

(4) For the purpose of decisions of the Management Committee, each member shall have one vote. Voting shall be by simple majority of the members present. In the event of an equality of votes, the chairperson shall have a second or casting vote.

(5) Subject to the foregoing provisions of this regulation, the Management Committee shall have power to regulate its own proceedings and may also establish such procedures or make such rules as it may deem appropriate for the better fulfilment of its purposes.

(6) The Management Committee may invite any person who in its opinion possesses specialised knowledge or expertise on a particular subject, to attend any meeting and take part in the discussions.

(7) Save where otherwise provided in subregulation (3), the Management Committee may act notwithstanding any vacancy in its membership, and any proceeding thereof or decision taken thereat shall be valid notwithstanding that the appointment of any person is not made.

10. (1) In terms of regulation 4, the Scheme shall establish and maintain a fund or a number of funds out of which payments to investors shall be made in accordance with these regulations.

Source and application of funds.

(2) The sources of funding shall include:

- (a) contributions levied from participants of the Scheme by the Management Committee;
- (b) money paid as administrative fees by all participants, as may be prescribed;
- (c) money received as income from the investment of the assets of the fund;
- (d) money borrowed by the Management Committee for the purposes of the Scheme;
- (e) money received by the Management Committee on any insurance policy it takes out; and
- (f) any other money required to be paid in to the fund or funds, received or recovered by the Management Committee for the purposes of the Scheme.

(3) There shall be paid out of the fund or funds:

- (a) money determined by the Management Committee as

compensation for investors;

- (b) money required for the repayment of (or interest on or charges in connection with) any money borrowed or for the payment of premia on any insurance policies taken out, for the purposes of the Scheme;
- (c) the costs incurred in administering and managing the Scheme; and
- (d) any other money paid out by the Management Committee for the purposes of the Scheme.

(4) The Management Committee shall hold, manage and apply the fund or funds in accordance with these regulations.

Participants.
Amended by:
L.N. 36 of 2006;
L.N. 62 of 2011;
L.N. 224 of 2026.
S.L. 370.03

11. (1) The following shall participate and contribute to the Scheme:

- (a) Licence holders in possession of a Class 1, Class 1 Minus, Class 2 and Class 3 licence in terms of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 and Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU;
- (b) credit institutions authorised to provide investment services; and
- (c) fund managers authorised to provide ancillary MiFID activities to retail clients, which activities are defined in Article 34 of 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:

Provided that licence holders licensed to provide investment services solely and exclusively to persons who do not fall within the definition of "retail investor" in accordance with regulation 2 shall not be required to participate in and contribute to the Scheme, however, they may request to participate and contribute at their own discretion:

Provided further that a branch of a licence holder operating in Malta which is licensed in a non-EEA State shall participate in and contribute to the Scheme, unless the Scheme has in force an agreement with the authority responsible for the management and administration of the scheme in that other state stipulating, *inter alia*, that the level or scope of cover provided for investors in that state is equal or exceeds the level or scope of cover in Malta:

Provided further that a branch of a licence holder operating in Malta which is licensed in an EEA State may at its own discretion, participate in and contribute to the Scheme only where

the level or scope of the Scheme in Malta exceeds the level or scope of cover provided in the EEA State in which it is licensed.

(2) The Scheme may enter into a bilateral agreement with any authority responsible for the management and administration of a scheme set up in any other country stipulating, inter alia, the level or scope of cover as well as the rules and procedures to be followed for the payment of compensation to investors, and in any such case, the guiding principles set out in Annex II of the Directive 97/9/EC of the European Parliament and of the Council of 3rd March 1997 on investor-compensation schemes shall, where appropriate, apply.

(3) Participation in the Scheme does not exclude the possibility that particular licence holders may have to participate also in another compensation or similar schemes set up under a different law and governed by another competent authority or other body.

(4) When a licence holder becomes a participant in the Scheme after the coming into force of these regulations, the Management Committee shall determine all the relative obligations and conditions of the new participant in terms of these regulations.

12. (1) Participants shall pay such contributions to the Scheme as prescribed in this regulation and such contributions shall not be refundable:

Contributions to
the Scheme.
Amended by:
L.N. 36 of 2006.
Substituted by:
L.N. 224 of 2026.

Provided that newly licensed participants of the Scheme shall be required to contribute to the Scheme as from the second year from licensing.

(2) Participants licensed to provide investment services solely and exclusively to persons who do not fall within the definition of "retail investor" shall not be required to contribute to the Variable Contribution, Emergency Drawdown Reserve, Extraordinary Contributions, and Management Expenses Contributions as defined in this regulation.

(3) Following internal evaluations, the Management Committee reserves the right to suspend or resume the collection of contributions every five (5) years, as deemed necessary.

(4) Every licence holder which participates in the Scheme shall pay a Fixed Contribution as follows:

- (a) Class 3 investment firms: five thousand euro (€5,000);
- (b) Class 2 investment firms and credit institutions which are both not authorised to deal on own account and fund managers: seven thousand euro (€7,000);
- (c) Class 2 investment firms and credit institutions which are both authorised to deal on own account: twenty-two thousand euro (€22,000);
- (d) Class 1 investment firms and Class 1 Minus investment firms: forty thousand euro (€40,000).

(5) The Fixed Contribution that shall be payable by a licence holder which joins the Scheme during a financial year, which has

also been licensed for longer than one (1) year, shall be calculated in accordance with the following formula:

$$\frac{\text{contribution} * \text{days}}{365}$$

Provided that for the purposes of this sub-regulation, "contribution" shall mean the Fixed Contribution as provided for in sub-regulation (4), whereas "days" shall mean the number of days that elapse from the day in which said licence holder joins the Scheme, up to the end of that calendar year.

(6) The additional Fixed Contribution that shall be payable during the calendar year in which a participant upgrades its licence as follows:

- (a) from a Class 3 to Class 2 not authorised to deal on own account; or
- (b) from Class 2 not authorised to deal on own account to Class 2 authorised to deal on own account; or
- (c) from Class 2 not authorised to deal on own account to Class 1 and, or Class 1 Minus,

shall be calculated in accordance with the following formula:

$$\frac{\text{difference} * \text{days}}{365}$$

Provided that for the purposes of this sub-regulation, "difference" shall mean the difference between the Fixed Contribution previously levied on the participant and the newly applicable Fixed Contribution, whereas "days" shall mean the number of days that elapse from the day in which said licence holder upgrades the licence in accordance with this sub-regulation, up to the end of that calendar year.

(7) Payment of the Fixed Contribution to the Scheme shall be made by the 31st July of each year or within thirty (30) calendar days from the date in which the licence holder shall become liable to contribute to the Scheme, as the case may be.

(8) The Variable Contribution is calculated by applying a percentage rate to the increase in the investment services activities related revenue of the licence holder on an annual basis. The percentage rate for the Variable Contribution is zero point one percent (0.1%).

(9) The Variable Contribution shall be accounted for in the financial year when the Fixed Contribution is paid.

(10) The Variable Contribution shall be held by the licence holder in a reserve so that the funds will be made available within thirty (30) calendar days from the time when the Scheme makes a

call on such funds in accordance with regulation 16.

(11) Funds in this reserve, which shall be called the "Investor Compensation Scheme Reserve" in all accounts and documents, shall be invested by the licence holder with a third party approved in writing by the Management Committee. Such third party shall hold the funds on pledge in favour of the Scheme and shall specifically acknowledge the rights of the Scheme as pledgee and shall notify the Scheme in writing accordingly.

(12) At the end of every financial year, each licence holder shall ensure that the current market value of the investments in which the Variable Contribution is invested is at least equal to the higher amount between zero point one percent (0.1%) of the investment services activities related revenue and the minimum amount established in sub-regulation (22). If this requirement is not satisfied, the licence holder shall take immediate steps to top up these investments as necessary within one (1) month of the financial year end.

(13) Funds comprising the Investor Compensation Scheme Reserve may only be invested with a third party as follows:

- (a) at least twenty-five percent (25%) of the total amount shall be maintained in an interest-bearing bank account denominated in euro with a maximum maturity thirty (30) day call or invested in Malta Treasury Bills denominated in euro; and
- (b) not more than seventy-five percent (75%) of the total amount shall be invested as follows:
 - (i) at least fifty percent (50%) which in this case is thirty-seven-point five percent (37.5%) of the total Investor Compensation Scheme Reserve shall be invested in Malta Government stocks or in local SICAVs that invest principally in Malta Government stock; and
 - (ii) the balance may be invested in debt instruments issued by local or international entities with an investment grade of not lower than "A" by a reputable credit rating agency, which are quoted on an investment exchange and which are in a dematerialised form.

(14) A licence holder whose capital is denominated in a currency which is not euro may, subject to approval by the Management Committee, maintain the Variable Contribution in the currency of such capital:

Provided that when called upon, the Variable Contribution paid to the Scheme is made in euro.

(15) Deposits made by a licence holder shall not be kept by such holder with itself or held with a bank or other institution which is an associated or parent company of the licence holder. For the purposes of this sub-regulation, an associated company shall mean any subsidiary of the parent company of the licence holder or any company over which the parent company exercises direct or

indirect control or in which the parent company holds directly or indirectly more than twenty-five percent (25%) of the shareholding.

(16) A licence holder may not switch from an investment which is pledged in favour of the Scheme into another type of investment, without the written consent of the Management Committee.

(17) The licence holder may deposit the entire amount of the Variable Contribution directly with the Scheme, in which case such deposit shall be on account of the licence holder's liabilities under regulation 16 and the provisions of this regulation, shall also be applicable to such deposit except for sub-regulations (11), (12), (13), (14), (15), and (16).

(18) No interest shall be payable by the Scheme to the licence holder.

(19) When a Variable Contribution is higher than the Investor Compensation Scheme Reserve, the licence holder shall be required to make a Variable Contribution for the difference to ensure that the higher amount is always on reserve.

(20) If the Investor Compensation Scheme Reserve exceeds the Variable Contribution, no transfer to the said Reserve shall be made.

(21) The minimum amount held on reserve or deposited with the Scheme shall never be less than six hundred ninety-eight euro and eighty-one cents (€698.81).

(22) Participants shall be required to insert a suitable note in their annual financial statements as to the amount of Variable Contribution held on reserve or deposited with the Scheme:

Provided that the annual financial statements containing such provision shall be submitted to the Scheme by not later than four (4) months following the end of the licence holder's financial year:

Provided further that if for valid reasons a licence holder is not able to carry out its obligations within the period established in accordance with the preceding proviso from the closing of its financial year, as applicable, it shall apply to the Scheme for its consent to extend the period of submission:

Provided further that when a licence holder applies for such an extension, it shall provide the Scheme with all the relevant details and the reasons for its request and shall allow the Scheme adequate time to consider such an application, which shall remain at the sole discretion of the Management Committee.

(23) For amounts held on reserve, it would be appropriate to include the nominal and market value of the instruments in which the reserve has been invested, together with a maturity schedule according to the type of instrument.

(24) The amount on reserve shall be deducted in full as an illiquid adjustment for the purposes of calculating the licence holder's financial resources in its financial return submitted in accordance with its licence conditions.

(25) Participants are further required to maintain an Emergency Drawdown Reserve, equivalent to one percent (1%) of the investment services activities related revenue, in the form of cash and cash equivalents.

(26) The Emergency Drawdown Reserve shall be held by the licence holder in a reserve so that the funds shall be made available within thirty (30) calendar days from the time in which the Scheme makes a call on such funds in accordance with regulation 16.

(27) Following a decrease in the investment services activities related revenue in any year, the Emergency Drawdown Reserve shall not be reduced.

(28) Participants shall be required to insert a suitable note in their annual financial statements as to the amount of Emergency Drawdown Reserve held on reserve:

Provided that the annual financial statements containing such provision shall be submitted to the Scheme by not later than four (4) months following the end of the licence holder's financial year:

Provided further that if for valid reasons a licence holder is not able to carry out its obligations within the period established in accordance with the preceding proviso from the closing of its financial year, as applicable, it shall apply to the Scheme for its consent to extend the period of submission:

Provided further that when a licence holder applies for such an extension, it shall provide the Scheme with all the relevant details and the reasons for its request and shall allow the Scheme adequate time to consider such an application, which shall remain at the sole discretion of the Management Committee.

(29) The amount on reserve shall be deducted in full as an illiquid adjustment for the purposes of calculating the licence holder's financial resources in its financial return submitted in accordance with its licence conditions.

(30) In those circumstances deemed exceptional by the Management Committee, the Scheme shall require participants to pay an Extraordinary Contribution, at least once in every calendar year.

(31) The Extraordinary Contribution shall be made available within thirty (30) calendar days from the time when the Scheme issues a notification.

(32) The Extraordinary Contribution shall be calculated by applying a percentage rate to the investment services activities related revenue of the licence holder. The percentage rate for the Extraordinary Contribution is set at zero point one five percent (0.15%):

Provided that the Scheme, with the consent of the competent authority, may require higher Extraordinary Contributions, including but not limited to, for the purpose of replenishing its own funds following a payout.

(33) The Scheme may require participants to pay a Management

Expenses Contribution at least once in every financial year if it has reasonable grounds to believe that the funds available are insufficient to meet management expenses in the financial year, or that they will be insufficient thereafter:

Provided that where an investment firm becomes a participant of the Scheme during a financial year, which has also been licensed for longer than one (1) year, the Management Expenses Contribution payable by such participant during that financial year shall be calculated *pro rata* according to the number of remaining days of the same year.

(34) The Scheme shall apply any amount collected from a Management Expenses Contribution to the payment of management expenses and shall not treat such funds as funds available for compensation.

(35) The Management Expenses Contribution shall be calculated in accordance with the following formula:

$$\frac{\text{ISA Revenue of Participant}}{\text{Total ISA Revenue of all Participants}} * \text{Management Expenses}$$

(36) The Scheme shall, prior to the expiry of each financial year, prepare a statement with estimates of receipts and payments relating to its management expenses for the subsequent financial year, which estimates shall be approved by the Management Committee.

Determination.

13. (1) Where -

- (a) it appears to the competent authority that a participant is unable, for the time being, for reasons which are directly related to its financial circumstances to meet its obligations arising from claims by its investors and to have no early or foreseeable prospect of being able to do so, or has otherwise suspended payment; or
- (b) in respect of a participant which has its head office in Malta an order has been made by the Courts in Malta for its winding-up or liquidation under the laws of Malta;

whichever is the earlier, the competent authority shall, as soon as practicable, make a determination to that effect.

(2) The competent authority may, by way of guidelines, establish those circumstances or criteria which it may consider in arriving at a decision as to whether it will make a determination in terms of subregulation (1).

(3) As soon as practicable after a determination is made, the competent authority shall inform the Management Committee in writing of such determination. The Management Committee may take additional measures it deems necessary or appropriate within its powers under these regulations.

(4) The competent authority shall, as soon as possible, inform any other compensation scheme relating to financial services activities, as may be established under any other law and regulated by other competent authority or other body, which it believes may be effected by such determination.

(5) In making a determination in accordance with subregulation (1), the competent authority shall have regard to any report of an officer or officers authorised by it on the state of affairs of the licence holder, and any other information in its possession.

14. (1) On being informed by the competent authority that a determination has been made under regulation 13(1), the Management Committee shall publish a notice in at least two local newspapers, informing investors of the licence holder concerned of such determination and of the manner in which claims supported by documentary evidence are to be submitted.

Application for compensation.

(2) The right of an investor for compensation shall not be forfeited if the investor is able to prove that he was unable to assert his right to compensation within any prescribed time-limits as may be provided by the Management Committee.

(3) The Management Committee may, following an application for compensation being made to it by an investor, accept or refuse to provide compensation in accordance with these regulations.

(4) The Management Committee shall proceed to pay compensation for verified claims within three months of the date of the determination given in terms of regulation 13(1):

Provided that the Management Committee may, in exceptional circumstances, apply to the competent authority for an extension of this period by a further period of up to three months, and up to two further periods of up to three months each thereafter.

15. (1) The Management Committee shall make its own administrative arrangements for verifying claims. These arrangements shall include:

Verification of claims.

- (a) providing an application form for claimants both in English and in Maltese;
- (b) providing for the exercise of the Management Committee's right of subrogation under regulation 22; and
- (c) requiring claimants to give:
 - (i) their identity and address;
 - (ii) the capacity in which they claim;
 - (iii) evidence of the investments; and
 - (iv) any other information as may be required by the Management Committee.

(2) The Management Committee may refuse to make a payment for compensation until the claimant informs the Management Committee as to the capacity in which he is the beneficial owner of the investment and provides satisfactory documentary evidence and information to allow the Management Committee to determine the

amount of compensation payable.

Cap. 373.

(3) The Management Committee may decide to delay payment to a claimant until determination of any criminal charge brought against the claimant, investor, or any person entitled to or interested in respect of an investment under the provisions of the Prevention of Money Laundering Act or a corresponding law of a country outside Malta.

(4) Where in the opinion of the Management Committee circumstances so warrant, the Management Committee may effect part payments to claimants eligible for compensation under these regulations.

When funds appear to be inadequate.
Substituted by:
L.N. 224 of 2026.

16. Whenever it appears to the Management Committee that the funds held by the Scheme are inadequate for it to be able to exercise its functions during a compensation event, the Management Committee may require the licence holders to make a contribution to the Scheme, in the form of:

- (a) the Variable Contribution, reserved for this purpose by the licence holder in accordance with regulation 12;
- (b) the Emergency Drawdown Reserve, reserved for this purpose by the licence holder in accordance with regulation 12; and
- (c) an Extraordinary Contribution, as established in regulation 12:

Provided that such further contributions shall be provided to the Scheme within thirty (30) calendar days from when such contributions are requested by the Scheme.

Limit of compensation.
Amended by:
L.N. 36 of 2006;
L.N. 425 of 2007;
L.N. 224 of 2026.

17. (1) The total amount of compensation that may be paid out to an investor shall be the lesser of ninety per cent (90%) in respect of all claims which have been made by such investor, or up to 20,000 euro.

(2) All compensation payments shall be made in euro. Where the monies or instruments owed or belonging to eligible investors are in a currency other than the euro, the exchange rate used shall be the applicable euro foreign exchange rate reference as quoted by the European Central Bank on the date of the determination given in accordance with regulation 13(1).

Claimants.
Amended by:
L.N. 36 of 2006.

18. (1) Only persons falling within the definition of "investor" in regulation 2 may make a claim against the Scheme in terms of these regulations. An investor may only submit one claim in respect of all his investments, taken in aggregate, with the licence holder concerned.

(2) The categories listed in the First Schedule are excluded from claiming under the Scheme.

(3) An investor may not claim against more than one scheme in respect of a single claim. Where a claim has been made under two or more compensation schemes, the Management Committee shall conclusively determine under which scheme the claimant is eligible for compensation.

(4) Claims shall be made in such form, and shall be accompanied by such documentation or information, as the Management Committee may determine and make public from time to time.

19. (1) After a determination is made, in terms of regulation 13, the Scheme shall provide for the payment of compensation in respect of claims arising out of a licence holder's inability to:

Claims.
Amended by:
L.N. 230 of 2017.

- (a) repay money owed to or belonging to investors and held on their behalf in connection with licensed business; or
- (b) return to investors any instruments belonging to them and held, administered or managed on their behalf in connection with licensed business or, where this is not possible, their monetary equivalent or value.

(2) Notwithstanding the provisions of regulation 17, the Scheme shall also, in accordance with the provisions of article 26(3)(e) of the Arbitrator for Financial Services Act, settle any judgment or arbitration award for up to twenty thousand euro (EUR 20,000), in respect of any civil liability which is obtained by an investor against a participant with regard to licensed business in respect of which there is a determination, and such payment shall be made within ten (10) working days from the day when the judgement or arbitration award becomes *res judicata*:

Provided that following the settlement of any such amount by the Scheme, the maximum compensation sum payable to each investor in terms of regulation 17(1) shall be reduced by the amount settled by the Scheme in accordance with this sub-regulation.

(3) The amount of an investor's claim shall be calculated by the Management Committee after taking into account any or all of the following factors:

- (a) legal and contractual conditions;
- (b) counterclaims;
- (c) market value; and
- (d) surrender value.

20. Where the Management Committee is of the opinion that an investor is not eligible for compensation in whole or in part in terms of these regulations, the Management Committee shall give notice in writing to such investor of that opinion and the reasons therefor.

Eligibility for
compensation.

21. (1) In considering compensation to any investor for any payment under these regulations, the Management Committee shall take into account any payments made under a policy of professional indemnity insurance, if any, held by the licence holder or any payments made under any other law or arrangement in respect of the same losses.

Compensation paid
to be deducted
from compensation
payable.

(2) The Management Committee shall deduct such amount of compensation paid from the amount of compensation that may be

payable to the investor in respect of any or all of the circumstances arising from this regulation.

Subrogation.
Substituted by:
L.N. 224 of 2026.

22. (1) Without prejudice to any other right which the Scheme may have at law, the Scheme shall, upon paying compensation in accordance with these regulations, be immediately and automatically subrogated into all the rights and remedies of the investor against the licence holder and, or any third party, up to the amount of the compensation paid:

Provided that upon paying compensation in accordance with these regulations, the Scheme shall decide in its absolute discretion which recoveries are likely to be both reasonably possible and cost-effective to pursue.

(2) Prior to payment by the Scheme, eligible investors shall confirm in writing that:

- (a) they have not received any payment from any other scheme or from the licence holder concerned in respect of the same loss;
- (b) they shall provide any assistance the Scheme may require to enable it to exercise its rights and remedies against the licence holder; and
- (c) their rights in respect of any money or instruments comprising the claim shall be subrogated in favour of the Scheme.

Establishment of
the level of
compensation.

23. (1) Where two or more persons are jointly entitled to an investment account, each of these persons shall be treated as having a separate account of an amount produced by dividing the amount of the investment to which such persons are jointly entitled by the number of persons so entitled, unless there exists specific evidence or special contractual provisions determining the particular entitlements of such persons in which case such evidence shall be taken into account in determining their entitlements.

(2) Where a person is acting as trustee or nominee for one or more persons under a deed of trust or other similar agreement, the amount comprising the claim shall be deemed to belong to the beneficial owners equally, unless there exists specific evidence or special contractual provisions determining the beneficial interests of such persons in which case such evidence shall be taken into account in determining their entitlements, and provided in any event that ownership is proved to the entire satisfaction of the Management Committee.

Consumer
information.

24. The Management Committee shall ensure that the general public is adequately informed about the operation of the Scheme arrangements.

Advertisements.

25. (1) Licence holders shall make available to actual and intending investors adequate and clear information concerning the applicability of the Scheme together with such other particulars as may from time to time be specified by the competent authority in a manner and form specified by the competent authority:

Provided that a licence holder shall not advertise or cause

to be advertised the fact that money or instruments placed with a licence holder are protected by or through the Scheme except with the prior written consent of the competent authority.

(2) The competent authority may, from time to time, specify the information that licence holders are to provide to investors regarding the Scheme and its operations, as well as the manner and form in which such information should be provided.

26. (1) The Management Committee may request participants, either directly or through the competent authority, to provide such information which the Management Committee may consider relevant for the proper administration of the Scheme, within a period of time as may be established by the Management Committee. The request may be addressed to the participant or to any of its directors or officials who are in possession of such information.

Power of the Management Committee to obtain information.
Amended by:
L.N. 425 of 2007.

(2) Without prejudice to any provision of these regulations, a participant or any director or official thereof, who fails to comply with the Management Committee's request for information within the period of time established by the Management Committee in terms of subregulation (1), or who knowingly or recklessly furnishes information, or makes a statement which is inaccurate, false or misleading in any material respect, shall be liable to an administrative penalty not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) as may be imposed by the competent authority by means of a notice in writing and without recourse to a court hearing.

(3) Where an administrative penalty has been imposed by the competent authority in terms of subregulation (2), an appeal shall lie to the Financial Services Tribunal in accordance with articles 6 and 19 of the Act.

27. (1) Members of the Management Committee and persons appointed under regulation 6(1) shall be subject to the provisions of the Professional Secrecy Act and shall keep confidential any information obtained by them in the course of performing their duties under these regulations, and shall not reveal any information to any person, credit institution, association or entity except as may be allowed by these regulations or any other law or by Court order.

Respect for confidentiality.
Cap. 377.

(2) The duty of confidentiality shall not be contravened in the case of:

- (a) exchange of information between the Management Committee and competent authorities in other countries, or the competent authorities for the management and administration of corresponding schemes in other countries, provided that the relevant information is necessary for the discharge of their duties under these regulations; and
- (b) any use or disclosure as may be required to enable the Management Committee and its officers or agents to perform their duties and carry out their functions under these regulations.

Failure to comply with obligations.

28. (1) Where a licence holder fails to comply with its obligations under these regulations, the Management Committee shall notify and consult with the competent authority and shall agree on the appropriate measures to be taken by the competent authority, including the imposition of penalties, to ensure that the licence holder complies with such obligations.

(2) If these measures fail to secure compliance on the part of the licence holder, the Management Committee shall report the matter to the competent authority for any further measure to be taken at law, including the possible restriction or withdrawal of the licence holder's licence.

(3) After the restriction or withdrawal of a licence, cover shall continue to be provided in respect of licensed business up to the date of restriction or withdrawal of the licence.

Procedures to investigate complaints.

29. The Scheme shall establish and maintain adequate internal procedures to investigate complaints against it by licence holders and by investors.

Power to issue guidelines.

30. (1) The competent authority may issue guidelines to licence holders for the purposes of these regulations.

(2) Such guidelines may contain such incidental, supplementary and consequential provisions as appear to the competent authority to be expedient for the purpose of these regulations.

Exemption from liability for damages.

31. The Management Committee and officers and agents of the Scheme shall not be liable in damages for anything done or omitted in the discharge of functions under these regulations unless it is shown that the act or omission was in bad faith.

Financial year end of the Scheme.

32. The financial year end of the Scheme shall be an accounting period of twelve months ending on the thirty-first day of December of each year.

Audit.

33. The accounts of the Scheme shall be audited in accordance with International Standards on Auditing by auditors appointed by the Management Committee from among persons who are qualified to be appointed as auditors of a company under the law for the time being in force in Malta.

Cooperation with other authorities.

34. The competent authority and the Management Committee shall consult the relevant competent authorities and the persons responsible for compensation schemes in other countries outside Malta and seek to reach agreement with those authorities and persons about:

- (a) the procedures to be followed if a participant defaults;
- (b) the amounts of compensation payable, after deductions if any, under each scheme; and
- (c) any other aspect which is deemed appropriate for the proper management and administration of the schemes.

35. (1) The Management Committee established under regulation 3 of the Depositor Compensation Scheme Regulations and the Management Committee referred to in these regulations are one and the same. The Management Committee established under regulation 3 of these regulations shall continue in the personality of the Management Committee established immediately before the coming into force of these regulations and accordingly shall succeed to all its rights and obligations.

Transitory
provision.
S.L. 371.09

(2) All appointments, decisions, contributions, claims, payments or other acts made or taken under the Investor Compensation Scheme Regulations, 2003, before the coming into force of these regulations, shall continue in force and shall be deemed to have been made or taken under these regulations, and any reference in any law to the Management Committee shall be deemed to be a reference to the Management Committee established under regulation 3.

L.N. 6 of 2003.

36. *Repealed by Legal Notice 224 of 2026.*

Compensation
Fund.

37. Notwithstanding the provisions of regulation 5(4), the term of office of the members of the Management Committee sitting on the said Committee on 2nd September 2025, shall be deemed to be terminated on the said date.

Transitory
provision,
termination of
office.
Added by:
L.N. 186 of 2025.

*Substituted by:
L.N. 36 of 2006.
Amended by:
L.N. 224 of 2026.*

FIRST SCHEDULE

Exclusions

(Regulation 2, 18)

The following are excluded from claiming under the Scheme:

1. Persons carrying on investment services within the meaning of the Investment Services Act, or equivalent or similar foreign legislation;
2. Credit institutions carrying on the business of banking within the meaning of the Banking Act, or equivalent or similar foreign legislation;
3. Financial institutions within the meaning of the Financial Institutions Act, or equivalent or similar foreign legislation;
4. Insurance undertakings carrying on the business of insurance within the meaning of the Insurance Business Act and the Insurance Brokers and other Intermediaries Act, or under equivalent or similar foreign legislation;
5. Collective investment schemes;
6. Pension and retirement funds;
7. Companies which are of such a size that they are not permitted to draw up abridged balance sheets pursuant to the Companies Act, or under equivalent or similar foreign legislation;
8. Governments and administrative authorities, national and international institutions;
9. Local and municipal councils or authorities;
10. Debt securities issued by the same institution and liabilities arising out of own acceptances and promissory notes;
11. Persons holding accounts which do not disclose the investor's identity;
12. Companies and commercial partnerships in the same group as the licence holder;
13. Directors and managers of the relevant licence holder and members of the licence holder with personal liability, persons holding five percent or more of the capital of such licence holder, the auditors of the licence holder and persons of the same description with respect to a company forming part of the same group of companies as the licence holder;
14. Close relatives, that is, ascendants, descendants or the spouse of the persons referred to in paragraph 13;
15. Investors who have any responsibility for or have taken advantage of certain facts relating to a licence holder which gave rise to the licence holder's financial difficulties or contributed to the deterioration of its financial situation;
16. Investors in respect of transactions in connection with which a criminal conviction has been obtained for money laundering in terms of the Prevention of Money Laundering Act, or under equivalent or similar foreign legislation;
17. Nominees, trustees or other third parties acting on behalf or in the interest of the persons referred to in this Schedule to the extent of the funds held in such capacity;
18. Other categories of professional and institutional investors, including but not

limited to elective professional investors and eligible counterparties, as may be determined from time to time by the Management Committee.

SECOND SCHEDULE
Contributions in terms of regulation 12

*Amended by:
L.N. 36 of 2006.
Substituted by:
L.N. 425 of 2007.
Amended by:
L.N. 62 of 2011.*

Repealed by Legal Notice 224 of 2026.

THIRD SCHEDULE
(Regulation 36)

Repealed by Legal Notice 224 of 2026.
