

L.N. 224 of 2026

**INVESTMENT SERVICES ACT
(CAP. 370)**

Investor Compensation Scheme (Amendment) Regulations, 2026

IN EXERCISE of the powers conferred by article 12 of the Investment Services Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

1. The title of these regulations is the Investor Compensation Scheme (Amendment) Regulations, 2026 and these regulations shall be read and construed as one with the Investor Compensation Scheme Regulations, hereinafter referred to as the "principal regulations".
Citation.
S.L. 370.09.
2. Regulation 2 of the principal regulations shall be amended as follows:
Amends regulation 2 of the principal regulations.
 - (a) immediately after the definition "competent authority" there shall be added the following new definitions:

" "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;"
 - (b) immediately after the definition "Financial Services Tribunal" there shall be added the following new definition:

" "Fixed Contribution" means a contribution as established in regulation 12;"
 - (c) immediately after the definition "instruments" there shall be added the following new definition:

" "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:

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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;";

(d) immediately after the definition "Management Committee" there shall be added the following new definitions:

" "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;";

(e) immediately after the definition "total revenue" there shall be added the following new definition:

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

Amends
regulation 11
of the principal
regulations.

3. Sub-regulation (1) of regulation 11 of the principal regulations shall be substituted by the following new sub-regulation:

"Participants. (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."

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Substitutes
regulation 12
of the principal
regulations.

4. Regulation 12 of the principal regulations shall be substituted by the following new regulation:

"Contributions
to the Scheme.

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

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.

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(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."

Substitutes
regulation 16 of
the principal
regulations.

5. Regulation 16 of the principal regulations shall be substituted by the following new regulation:

"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."

6. Sub-regulation (2) of regulation 17 of the principal regulations shall be substituted by the following new sub-regulation:

Amends regulation 17 of the principal regulations.

"(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)".

7. Regulation 22 of the principal regulations shall be substituted by the following new regulation:

Substitutes regulation 22 of the principal regulations.

"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

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instruments comprising the claim shall be subrogated in favour of the Scheme."

Deletes
regulation 36
of the principal
regulations.

8. Regulation 36 of the principal regulations shall be deleted.

Amends the
First Schedule
to the principal
regulations.

9. Item 18 of the First Schedule to the principal regulations shall be substituted by the following new item:

"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."

Deletes the
Second and
Third Schedule
to the principal
regulations.

10. The Second Schedule and Third Schedule to the principal regulations shall be deleted.

General
amendment to
the principal
regulations.

11. In the Maltese version only of the principal regulations the word "liċenza", wherever it occurs, shall be substituted by the word "liċenzja".
