CONSULTATION DOCUMENT

Strengthening the

Malta Financial Services Authority

Taking the Financial Sector to a New Level

PURPOSE OF CONSULTATION DOCUMENT

The last twenty years have seen the financial sector growing into one of the most important sectors of the economy, employing around 10,000 employees and accounting for over 10 per cent of the Gross Value Added.

This was made possible by having in place a robust regulatory support infrastructure, offering access to a full range of banking, insurance and investment products. Critical to this success was the Malta Financial Services Authority (MFSA), a fully autonomous public institution.

Established by law in 2002, MFSA took over the supervisory functions which were previously carried out by the Central Bank of Malta, the Malta Stock Exchange and the Malta Financial Services Centre. Being the single regulator for financial services in Malta, the Authority has played a pivotal role into transforming Malta’s financial services industry from one that was primarily led by the domestic market into a truly international financial services centre, attracting many international financial services firms.

The financial sector is highly dynamic. For Malta to consolidate its present position and develop further its potential to evolve into a real alternative to the world’s main international financial centres, its regulatory body must continue to evolve.

One of the measures that forms part of the Government programme is to continue seeking the views of the industry and the public when taking decisions that impact this sector. The aim of the Consultation Document is to spearhead a debate on the strengthening of MFSA,
which should result in improved productivity, higher efficiency, and more effectiveness amid a changing regulatory landscape.

The Consultation Document reviews the current state of the financial sector in focussing on the challenges and opportunities that are likely to emerge in the coming years. It also reviews the regulatory authority with a view of encouraging ideas from stakeholders on the strengthening of the MFSA.

THE FINANCIAL SECTOR: DYNAMIC AND FAST CHANGING

One of Malta great successes over the years was its ability to renew and diversify its economy. Malta managed to retain a strong manufacturing base and at the same time proved able to distinguished itself across a range of service industries, chiefly among them the financial services and knowledge-based sectors in line with developments in many European economies.

This achievement has been made possible due to sound economic principles, a pro-business environment and forward looking and responsive regulator. By having a strong supervisory framework fully in line with both the EU and the Organisation for Economic Co-operation and Development (OECD), Malta transformed itself into a dynamic financial centre.

During the past years, Malta has accelerated its effort to increase the depth and breadth of its financial industry. The finance sector has expanded by around 25 per cent annually and now accounts for over one tenth of value generated, employing thousands of persons. Over 90 per cent of Foreign Direct Investment is in financial services and insurance sectors.

Despite this success, standing still is not an option as other competing centres continue to evolve. Constant innovation to reflect the emerging realities is essential to transform Malta into an alternative to established European financial hubs.
A STRONG AND RELEVANT REGULATOR

Viewed by industry players and investors as a particularly business friendly location, Malta also has a reputation for having a strong and robust EU compliant regulatory framework. It managed to strike a good balance, providing an appropriate supervision and due diligence in a transparent manner without over-regulating in a way that might inhibit growth and innovation.

While the overall objectives and legislation is set and drawn by Government, the regulatory function is the responsibility of the Malta Financial Services Authority (MFSA), a fully autonomous public institution that reports to Parliament on an annual basis.

The MFSA is a member of the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Securities and Markets Authority (ESMA), the International Organisation of Securities Commissions (IOSCO), and the International Association of Insurance Supervisors (IAIS). It is also a signatory of the Multilateral Memorandum of Understanding with other members of these Institutions.

Through the regulatory role, that was entrusted to MFSA since its inception, the MFSA has the responsibility to licence, regulate and supervise investment funds, banking and insurance businesses, as well as investment services providers and trustees. Presently the MFSA also manages Malta’s Registry of Companies and until recently received Consumer Complaints which have been transferred to the Office of the Arbiter. It is also the Listing Authority for the purpose of the Financial Markets Act and the Resolution Authority for the purpose of Directive 2014/59/EU and the Recovery and Resolution Regulations (L.N. 301 of 2015).

STRENGTHENING MALTA’s COMPETITIVE EDGE

Besides having a responsive and transparent regulator, traditionally, Malta has enjoyed strong cost advantages in the financial services sector. However, additional regulatory and compliance requirements together will supply side constraints are putting upward pressures on the cost structure. Therefore, Malta’s competitive edge needs to shift. Nowadays, innovation has assuming a key role in Malta’s financial industry. All stakeholders are also becoming increasingly aware that efficiency and timely action are crucial for future success.
Pragmatic regulation, creative innovation and service diversification should be a constant feature for Malta’s financial services. To ensure continued success, these features need to be at the forefront in the way the regulatory authority operates.

Malta needs to maintain its very high-level standards of due diligence on companies. Procedures should remain rigorous and extensive and where necessarily enforced. The final aim should be to attract the right type of business. Operators in the sector need to be of a certain quality and good reputation. This will also enhance Malta’s international reputation, resulting in positive externalities.

A MORE EFFICIENT, PROACTIVE AND DYNAMIC REGULATOR

Recent international regulatory developments following the 2007 financial crises have challenged the financial sector. In order to remain successful and enhance its competitive advantage in such a highly mobile sector, Malta needs to anticipate change. Consumers have more empowerments through conduct of business regulations which however are very demanding on operators. European directives impose limits on flexibility. While operators should appreciate that supranational authorities, in particular the International Monetary Fund (IMF) and the European Central Bank (ECB) through the Single Supervisory Mechanism, continuously carry out peer reviews on the Authority, it is still essential that pragmatism on the part of the regulator continue to be of central importance. A pragmatic risk based approach rather than a descriptive one will help to foster efficiency. A pragmatic risk based approach should also lead to a more conductive environment with regards innovation.

The MFSA should continue to be innovative as it proved, in recent years, capable of being particularly through the development of cell companies in insurance and securitization and more recently the notified Alternative Investment Funds. Similarly, the industry must strive to be more pragmatic in the design of new products and the niches to tap. It is crucial that the new set-up is reactive enough to address situations where regulations lag the developments of new products. A revamped MFSA needs also be vigilant to ensure that any
new niches do not endanger the long-term stability of the sector and with-it Malta’s reputations.

The regulatory authority should continue to be available to discuss these issues in an open and transparent matter with the industry. The government is committed to the continued development of the financial services sector and is publishing this Consultation Document to seek the views of all operators to strengthening the MFSA using the following principles as guidelines:

- An Authority making use of best practices in decision making and processes through proper assessment of risk management;

- An Authority that seeks to maximise a] its financial resources through the use and application of cutting edge applications and processes and b] its human resources through good staff development and remuneration policies. This will enable operators to benefit from streamlined procedures, reduced bureaucracy and continuity;

- An Authority that has a high level organisational structure that strikes the optimum balance between delegation and responsibility and formalising its relationship with stakeholders;

- An Authority that takes a leading role in engaging with the industry with the aim of developing the required capabilities, capacity and regulatory frameworks to move into new areas of business;

- An Authority that strive to strengthen and encourage mutual understanding with the operators and other stakeholders to facilitate cooperation and better use of resources.
DEADLINE FOR SUBMISSION

The Parliamentary Secretary for Financial Services, the Digital Economy and Innovation invites the operators, stakeholders and the general public to forward their views on the Consultation Document. Feedback and views will be received up till the 15th of September 2017 by email on fsdei.opm@gov.mt or by post to the following address: Parliamentary Secretariat for Financial Services, Digital Economy and Innovation, Auberge De Castille, Valletta.