

REPORT OF THE INVESTOR COMPENSATION SCHEME FOR 2015

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INTRODUCTION

In terms of regulation 8 of LN 368 of 2003 (the Investor Compensation Scheme Regulations 2003, hereinafter referred to as “the Regulations”), the Compensation Schemes Management Committee of the Investor Compensation Scheme (hereinafter referred to as “the Scheme”) is pleased to present its report on the discharge of its functions and its operations during 2015.

The Scheme’s audited financial statements as at the 31 December 2015 are also attached.

MANAGEMENT COMMITTEE

In accordance with regulation 3 of the Regulations, the Scheme is managed and administered by a Management Committee (hereinafter referred to as “the Committee”) appointed by the Malta Financial Services Authority. The Management Committee, which was re-appointed on 1 January 2016 for a period of three years, is made up of:

Chairman

Dr Anton Felice

Members

Mr Benny Borg Bonello

Mr James Bonello

Mr Oliver Bonello

Mr George F Farrugia

Mr Kenneth Farrugia

Dr Massimo Vella

Mr Geoffrey Bezzina ended his term of office as Secretary of the Committee on 29 April 2016.

MEETINGS OF THE COMMITTEE

The Management Committee held 11 meetings during 2015.

EMPLOYEES OF THE SCHEME

In last quarter of 2015, the Scheme has employed a statistician and a legal officer

on a full time basis to support its administrative needs.

LIST OF PARTICIPANTS

All Invest Company Limited
Alpha Value Management Limited
APS Bank Limited
AQA Capital Limited
AS Financial Services Limited
Bank of Valletta plc
Binary Investments (Europe) Limited
Brokersclub Limited
Calamatta Cuschieri & Co. Limited
Charts Investment Management Services Limited.
Citco Custody Limited
Cresco Capital Markets (Malta) Limited
Crystal Finance Investments Limited
Curmi & Partners Limited
D.B.R. Investments Limited
Domino Europe Limited
Elgin (Europe) Limited
FCS Asset Management Limited
Fexserv Investment Services (Malta) Limited
Financial Planning Services Limited
Finco Treasury Management Limited
Fundior investment Services Limited
Framont & partners management Limited
FX International Limited
FX- CAM consulting and advertisement Limited
FXDD Malta Limited Investment Services
Gamma Capital Markets Limited
Gamma Capital Trader Limited
Global Capital Financial Management Limited
Growth Investments Limited
Heptagon Capital Limited
Hogg Capital Investments Limited
Horus Malta Limited
HSBC Bank (Malta) plc

HSBC Global Asset Management (Malta) Limited
HSBC Securities Services (Malta) Limited
Integra Private Wealth Limited
Intrepid Capital Limited
Jesmond Mizzi Financial Advisors Limited
Joseph Scicluna Investment Services Limited
LL Capital & Partners Limited
Lombard Bank Malta plc
M.Z Investment Services Limited
Maltese Cross Financial Services Limited
Medina Asset Management Limited
Mediterranean Bank plc
MFSP Financial Management Limited
Michael Grech Financial Investment Services Limited.
MPM Capital Investments Limited
NBG Bank Malta Limited
Nemea Bank plc
Novofina Limited
NSFX Limited
Pilatus Bank Limited
Port FX Limited
Rizzo, Farrugia & Co. (Stockbrokers) Limited.
RTFX Limited
Sparkasse Bank Malta plc
Temple Asset Management Limited
Tendall Capital Markets Limited
Timberland Fund Management Limited
TMS Brokers Europe Limited
TradExec (TEX) Limited
Van Sterling Capital Limited
Vatas Asset Management Limited
Zarattini International Limited

FUNCTIONS OF THE SCHEME

The Regulations transpose Directive 97/9/EC on investor-compensation schemes. In terms of regulation 19 thereof, the Scheme is required to provide for the payment of

compensation for claims arising out of the licence holder's inability to:

- 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.

In both scenarios, the law clearly sets out that compensation is due in situations where the investment firm cannot return monies or instruments held by itself on behalf of the investor.

The trigger for the submission of such claims is an MFSA determination that an investment firm is insolvent, whilst still holding client's monies/instruments. As soon as this happens, the Scheme has three months in which to pay out compensation in respect of loss of monies/instruments held by the investment firm on behalf of investors, subject to the maximum amount set out in the Regulations (which stands at €20,000 per investor). The Scheme is not required to compensate investors for damages suffered as a result of mis-selling, negligent investment advice or a decline in the value of investments or similar actions.

Furthermore, in terms of regulation 4, the functions of the Scheme are:

- (a) To maintain a fund for the payment of claims for compensation by investors;

- (b) To place contributions to the fund on deposit or to invest such funds;
- (c) To establish procedures and arrangements for the payment of claims for compensation by investors;
- (d) To handle and pay claims for compensation by investors; and
- (e) To advise the Malta Financial Services Authority on matters relating to compensation of investors.

BUILDING THE FUND

The first function of the Scheme is to build and maintain a fund for the payment of claims to investors.

Fixed Contributions

All Category 2 and Category 3 participants reported to the Scheme by the Malta Financial Services Authority as being licensed to provide investment services to private individuals are required to pay a Fixed Contribution to the Scheme.

The Fixed Contribution is established in the Second Schedule of the Regulations at €2,911.72 for Category 2 licence holders and at €17,470.30 for Category 3 licence holders. The Fixed Contributions for 2015 amounted to €333,891 (2014: €331,936).

The Scheme is taking legal action against one licensed entity who has failed to pay its fixed contribution.

The Third Schedule of the Regulations provides inter alia that the Malta Stock Exchange Compensation Fund is to cease

and become absorbed as an integral part of the Scheme. The Compensation Fund is now an integral part of the ICS's patrimony and the moratorium period, which allowed firms to set-off their respective ICS contributions from their share of the Compensation Fund, has now been fully utilised.

Variable Contributions

The Second Schedule of the Regulations also provides for participating licence holders to maintain an Investor Compensation Scheme Reserve to be accounted for in the financial year when the Fixed Contribution is paid.

Participating licence holders are required to transfer to this Reserve a "variable contribution" which cannot be less than €698.81. Annually, licence holders are required to adjust their variable contribution such that the amount held on Reserve would be equivalent to 0.1% of their total revenue (as at the previous financial year end). Licence holders may top-up, but not draw, from the Reserve. The Regulations provide that the said Reserve is to be invested by the licence holder with a third party who is approved by the Scheme.

The majority of participants have pledged their investments to the Scheme in terms of guidelines which were issued in 2004 and hold the minimum of €698.81 by way of Reserve.

Some participants took the opportunity to pay the amount of the Variable Contribution directly to the Scheme. The Management Committee determined that the payment of the variable

contribution to the Scheme shall be on account against a potential claim on the Scheme, which may call on these funds in terms of regulation 16. No interest shall be payable by the Scheme to the licence holder on funds deposited with the Scheme.

The Statement of changes in funds in the attached financial statements explains the amounts held by licence holders and pledged in favour of the Scheme. This amounts to €110,709. The Statement also shows the variable contribution paid directly to the Scheme. This is indicated as part of the Scheme's net assets and amounts to €62,387.

PROTECTION OF FUNDS

The second function of the Scheme is to protect and safeguard the fixed and variable contributions that are transferred or transferable by participating licence holders to the Scheme.

The Management Committee is required to deposit or invest the fixed contributions that are made to the fund, until such time as they are required for the payment of claims for compensation by investors.

In the performance of this task and in accordance with regulation 7, the Committee appointed the Central Bank of Malta to provide investment management services including financial, accounting and other related support services. The agreement with the Central Bank, in force since 2003 and revised in 2011, includes parameters for the investment of funds by the Central Bank of Malta on behalf of the Scheme. These

parameters apply prudent investment criteria that take account of both the short and long term liquidity requirements of the Scheme.

PROCEDURES FOR THE PAYMENT OF CLAIMS

The third function of the Scheme is to establish procedures for the payment of claims for compensation by investors.

In this connection, the Committee is required to inform the general public about the procedures and arrangements for claiming against the Scheme. For this purpose it has set up a website (www.compensationschemes.org.mt), from where users can obtain information about the Scheme. Information on the website is available in English and Maltese.

Regulation 11 and 35 require the Committee to consult the relevant Compensation Schemes in other countries for the purpose of assessing appropriate and feasible procedures by which investors may claim against the respective Schemes. Claims against foreign schemes may follow defaults by branches in Malta of an investment services provider licensed in another Member State.

During the year, there were no participants with branches outside Malta.

INVESTORS' CLAIMS

The fourth function of the Scheme is to handle and pay claims to investors.

On 11 August 2014, the MFSA made a determination to the effect that Maltese Cross Financial Services Limited was unable, for the time being, to meet its obligations arising from claims by its investors for reasons which are directly related to its financial circumstances.

To this effect, the MFSA determined that Maltese Cross Financial Services Limited was unable to repay money owed to or belonging to investors and held on their behalf in connection with licensed business; or return to investors all instruments belonging to them and held, administered or managed on their behalf in connection with licensed business.

The ICS published notices in all major newspapers informing eligible investors on how they may apply for compensation from the Scheme and the time limits for making such claim. An application form and detailed Q&As, in English and Maltese, were made available on the scheme's website, which was updated from time to time.

Staff of the MFSA's Consumer Complaints Unit answered queries from clients of the failed firm about the claims process. The same members of staff assessed claims made by the firm's clients in accordance with the Scheme's rules and procedures.

All claimants received final communication from the Scheme. In those cases where the claimant was eligible, the ICS informed the investor about the payment process and the subrogation of his rights in favour of the ICS. Claimants who were not eligible were provided with a reasoned opinion as to the ICS's decision.

The Scheme was able to proceed with the payment of verified claims within three months of the date of the determination. Subsequently, the total compensation payable was estimated at EUR2, 404,578 (2014: EUR2, 386, 387) out of which EUR 71,710 (2014: EUR 1,348,526) were unpaid as at 31 December 2015.

In virtue of regulation 14 (4) of the Regulations, the Scheme requested an extension of the time period for the making of claims. Such time limit was extended to 31 January 2015.

By the date of this report the Scheme has paid the sum of EUR2, 404,578.

On paying compensation, the ICS became subrogated in the investor's rights and claims. The aforesaid subrogation shall not prejudice any claims that the investor may have for amounts in excess of the amount paid by the ICS. The Scheme will be pursuing recoveries on the basis of such subrogation.

CONSULTATION

The fifth function of the Scheme is to advise the Malta Financial Services Authority on matters relating to investors' compensation.

The ICS has made recommendations to the MFSA that review the participation and financing requirements of the Scheme. In drawing up these recommendations the Scheme has examined whether funding is adequate to meet future potential claims. The recommendations also take account of new loss events which will be required to be covered by the Scheme in virtue of the Arbitrator for Financial Services Act, 2016.



Anton Felice

Chairman – Compensation Schemes Management Committee

25 May 2016

Attachment: Audited Financial Statements of the Investor Compensation Scheme for 2015