

REPORT OF THE INVESTOR COMPENSATION SCHEME FOR 2017

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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 2017.

The Scheme’s audited financial statements as at the 31 December 2017 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

Chairman

Mr Robert Caruana (appointed member on the 29 August 2017 and Chairman on 23 April 2018)

Dr Anton Felice (resigned from member and Chairman on 29 March 2018)

Members

Mr Benny Borg Bonello

Mr James Bonello

Mr George F Farrugia

Mr Kenneth Farrugia

Dr Massimo Vella

Mr Oliver Bonello (resigned on 29 August 2017)

Mr Silvio Galea (appointed on 23 April 2018)

Secretary

Mr Aldo Giordano

MEETINGS OF THE COMMITTEE

The Management Committee held 10 meetings during 2017.

FINANCIAL STATEMENTS AS AT 31 DECEMBER 2014

The Scheme registered a surplus of €20,788 in 2017 compared to €17,158 registered in 2016. Management and administration expenses amounted to €28,877 (2016: €31,954).

Accumulated funds and reserves amounted to €1,905,922 (2016: €1,890,735). Of the capital and reserves the sum of €85,458 (2016: €82,046) is held on deposit as part of the variable contribution of licence holders. A further €130,317 (2016 €126,635) is held by participants in a reserve (the "Investor Compensation Scheme Reserve") which is pledged to the Scheme and is payable on call whenever the Scheme's funds are inadequate.

LIST OF PARTICIPANTS

All Invest Company Limited*
ALB Forex Trading Limited
Alpha Value Management Limited
APS Bank Limited
AQA Capital 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
FABAR Wealth Management Limited
Fair-finance asset Management Limited
FCS Asset Management Limited
Fexserv Investment Services (Malta) Limited
Financial Planning Services Limited
Finco Treasury Management Limited
Framont & partners management 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
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
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
Nord Hedge Asset Management Limited
Novofina Limited
NSFX Limited
Pilatus Bank Limited
Port FX Limited

Rizzo, Farrugia & Co. (Stockbrokers) Limited.
Skilling Group 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
*The MFSA made a determination against All Invest Company Limited on 4 October 2017.

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).

- c) The Scheme in accordance with the provisions set out in article 26 (3) (e) of the Arbitrator for Financial Services Act XVI of 2016 is also required to settle any judgment or award up to EUR 20,000, in respect of any civil liability which is obtained by an investor against a participant in regard to licensed business in respect of which there is a determination.

The maximum amount of compensation pay out to an investor shall be not more than €20,000 in total, inclusive of any payout made under the Regulations.

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
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 2017 amounted to €364,254 (2016: €360,973).

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 €130,317. 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 €85,458.

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. Users can obtain information about the Scheme from its website. (www.compensationschemes.org.mt),

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 4 October 2017, the MFSA made a determination in terms of regulation 13 of the Regulations to the effect that All Invest Company Limited was unable to meet its obligations arising from claims by its investors for reasons which are directly related to its financial circumstances.

The Scheme published notices in three local newspapers informing eligible investors on how they may apply for compensation from the Scheme. Two application forms and detailed Q&As, were made available on the Scheme's website, which was updated from time to time.

Investors were requested to fill in claim form A with regard to claims originating from:

- a) Investment may have been held by the Company in the name of their client. The Company may have purchased the investment in the name of its client. Where this was the case, and particularly for investments listed on the Malta Stock Exchange ("MSE"), the investor could confirm that such investments were correctly registered in his name. If so, his holdings could be administered through another licensed financial intermediary, and no claim on the Scheme was necessary.

- b) Investments may have been held by the Company under Nominee. The Company may have purchased investments in its own name for the benefit of the Client. If such investments had not been returned to the client, a claim could be made to the Scheme for its consideration.
- c) The Company may have been holding monies of the Client. If such monies had not been returned to the client, a claim could be made to the Scheme for its consideration.

On the other hand Investors were requested to fill in claim form B with regard to claims originating from:

- d) Clients of the Company may also have obtained a judgement or award in accordance with article 26 (3) (e) of the Arbitrator for Financial Services Act XVI of 2016 in respect of a civil liability against All Invest Company Limited. If such judgement or award had not been settled by the Company, a claim could be made to the Scheme for its consideration.

The Scheme staff 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 Scheme informed the investor about the payment process and the subrogation of his rights in favour of the Scheme. Claimants who were not eligible were provided with a reasoned opinion as to the Scheme's decision

On paying any compensation, the Scheme became subrogated in the investor's rights and claims against All Invest Company Limited and against any other party solely with respect to the recovery of the compensation paid by the Scheme. The aforesaid subrogation shall not prejudice any claims that the investor may have for amounts in excess of the amount paid by the Scheme.

It is estimated that the Scheme will pay around €700,000 in compensation to eligible claimants.

CONSULTATION

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

The ICS has advised the MFSA to issue a consultation report that reviews the participation and financing requirements of the Scheme. In drawing up this consultation report the Scheme has examined whether funding is adequate to meet future potential claims. The consultation report also took 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.

A subcommittee has been appointed, following the feedback received from stake holders. The subcommittee is discussing the different methods of calculating contributions and will be publishing a feedback statement after the Committee's decision on the method adopted.



Robert Caruana

Chairman – Compensation Schemes Management Committee

28 May 2018

Attachment: Audited Financial Statements of the Investor Compensation Scheme for 2017