

## **Investor Compensation Scheme**

*c/o Malta Financial Services Authority*

*Notabile Road, Attard BKR3000*

### **Claims relating to Maltese Cross Financial Services Limited**

#### **Questions And Answers (Q&A)**

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##### **Common terms you will come across in this Q&A:**

<b>“the Firm”</b>	Maltese Cross Financial Services Limited
<b>“ICS” or “the Scheme”</b>	Investor Compensation Scheme
<b>“MFSA” or “the Authority”</b>	Malta Financial Services Authority
<b>“Investor” or “claimant”</b>	clients of the Firm who have entrusted money or investments in connection with the Firm’s licensed business
<b>“the Regulations”</b>	<b>the Investor Compensation Scheme Regulation – Legal Notice 368 of 2003</b>

*These Q&As may be updated from time to time. Please visit [www.compensationschemes.org.mt](http://www.compensationschemes.org.mt) or call the Investor Compensation Scheme on 80074924 for more information.*

##### **1) What is Maltese Cross Financial Services Limited and what has happened to it?**

Maltese Cross Financial Services Limited is a Maltese registered entity holding a Category 2 licence.

On 7 August 2014, the MFSA announced that it had suspended the operations of the Firm with immediate effect.

The Malta Financial Services Authority has, on 11 August 2014, made a determination to the effect that Maltese Cross Financial Services Limited is 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.

##### **2) What does this mean for clients of Maltese Cross Financial Services Limited?**

MFSA has determined that Maltese Cross Financial Services Limited is unable to repay money owed to or belonging to investors and held on their behalf in connection with licensed business; or return to investors any instruments belonging to them and held, administered or managed on their behalf in connection with licensed business.

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Clients of Maltese Cross Financial Services Limited are likely to have had their investments registered either:

1. *in their own name*: The Firm may have purchased the investment in the name of its client. Where this has been the case, and particularly for investments listed on the Malta Stock Exchange ("MSE"), the investor may wish to confirm that such investments are correctly registered in his name by making an enquiry with the Central Securities Depository of the MSE. If this is the case, you may administer your holdings through another licensed financial intermediary.
2. *under nominee*: The Firm may have purchased investments in its own name for the benefit of the investor.

For both these scenarios, the MFSA is currently investigating whether the Firm has properly executed its clients' instructions.

### **3) What is the Investor Compensation Scheme?**

The Investor Compensation Scheme is a rescue fund for customers of failed investment firms which are licensed by the MFSA. The Investor Compensation Scheme Regulations determine the conditions for eligibility to such compensation. The maximum compensation that may be payable by the Scheme amounts to €20,000, or ninety per cent of an investor's eligible claims, whichever is the lower. By paying compensation, the Scheme will be subrogated to the claimant's rights against Maltese Cross Financial Services Limited – this means that, when applying to recover any money from Maltese Cross Financial Services Limited, the Scheme will 'step in the shoes' of the claimant's rights up to the amount of compensation paid.

The investor's rights in regard to any other amount for which he has not received payment from the Scheme will neither be transferred to the Scheme nor prejudiced in any manner. This applies even for those investments which the investor chooses not to include in his claim for compensation. It is therefore advisable that the investor should seek legal advice to assert his rights at law.

The Scheme is based on the EU Directive 97/9 on investor-compensation schemes.

### **4) Will all investors of the Firm be eligible to receive compensation from the Scheme?**

Generally, all retail investors are eligible for compensation.

However, there are a number of investors who are not entitled for compensation. These are listed hereunder:

1. Persons carrying on investment services within the meaning of the Investment Services Act, or equivalent or similar foreign legislation;

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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. Professional and institutional investors.

If you are an investor using the Firm's services and do not fall under any one of the categories listed above, then you can lodge a claim with the Scheme.

#### **5) *How do I make a claim against Maltese Cross Financial Services Limited with the ICS?***

The Investor Compensation Scheme has published notices in all major newspapers informing eligible investors on how they may apply for compensation from the Scheme.

You must fill in the application form if you want to claim compensation. The application form asks the claimant to set out key information to support his/her claim, such as details

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and evidence of the investments. The claimant will also be asked to send further evidence to support their claim, such as:

1. Original versions of documentation relating to the investment(s) (e.g. a contract note, investment certificate, or statement) plus a bank statement detailing the sum invested in the investment(s);
2. Any other information as requested by the Scheme.

The more information you give the Scheme, the easier it will be to deal with your claim. This evidence is required by the Scheme in order to verify the individual's claim against other evidence held by the Scheme.

It is very important to fill in the form fully. If you leave out any of the information we ask for, we will return the form to you. This may delay your application for compensation.

In the eventuality that an investor no longer holds the original contract note relating to the investment/s, because it has been either lost or misplaced or has not as yet been sent by the Firm, the investor shall provide the Scheme with other documentary evidence (such as cheque images, bank statements or a receipt issued by the Firm) which proves that the investment has indeed been made. It will be at the discretion of the Scheme to decide whether the documentary evidence provided is satisfactory and each claim will be dealt with on a case by case basis.

The claim form, duly completed and signed, should be submitted by registered mail or by hand as follows:

**Investor Compensation Scheme  
c/o Malta Financial Services Authority  
Notabile Road  
Attard BKR 3000**

**Re: Claim relating to Maltese Cross Financial Services Limited**

**Those clients of the Firm who have not yet lodged a claim may do so by not later than 31 January 2015. The right of an investor to obtain compensation from the Scheme will be forfeited if the claim is not made within this prescribed time-limit.**

**6) *Do I have to pay anything to have my claim considered by the ICS?***

No. The Scheme does not charge investors for using its service.

**7) *Does the Scheme cover companies as well as individuals?***

Most retail investors are covered whether they are individuals or companies. Our answer to Question 4 lists some categories of investors who are not covered. However, companies

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which are permitted to draw up abridged balance sheets in terms of the Companies Act are also covered by the Scheme.

### **8) *How will the ICS determine whether I am eligible for compensation?***

Once the Scheme has received a completed application form, it will proceed to assess the claim to determine whether the claimant is eligible for compensation under the Scheme's rules.

All claims will be considered on a case-by-case basis, based on the information presented in the application form along with any accompanying evidence.

The Scheme will have to check carefully every claim for compensation and ensure that every claim is covered by the regulations before it can process it and issue a refund in terms of the Regulations. If you are not eligible for compensation under the regulations, we will write to you and explain why.

### **9) *How long will it take for my claim to be settled?***

It is advisable that you make your claim at your earliest opportunity. Assuming that you will do so, the Scheme should be able to proceed with the payment of verified claims within three months of the date of the determination.

The Scheme may, in exceptional circumstances, request MFSA to briefly extend this period.

### **10) *What is the level of protection provided by the ICS?***

The maximum compensation that may be payable by the Scheme amounts to €20,000, or ninety per cent of an investor's eligible claims, whichever is the lower. By paying compensation, the Scheme will be subrogated to the claimant's rights against Maltese Cross Financial Services Limited. The amount of payment is regulated by LN368 of 2003.

### **11) *Do I have other available means of redress?***

Investors should seek legal assistance when determining whether to accept compensation from the Scheme and when considering whether they have other available means of redress.

### **12) *What if an investment is held in joint names or a trust, or my holdings are held under nominee?***

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Joint accounts are divided equally between account holders where there is no indication of the share of each holder in the account. Each will be covered up to the limits described above, subject to eligibility.

In respect of investments held by a person acting as trustee or nominee for one or more persons, the investment making up the claim shall be deemed to belong to the beneficial owners equally unless there exists specific information which may otherwise determine the beneficial interests of such persons. In this regard, full disclosure of the underlying beneficial owners need to be provided in support of a claim together with supporting documentary evidence.

### **13) How will compensation be paid to me?**

Your application for compensation will be carefully verified to determine its eligibility. Once this is established, the Scheme will write to inform you that payment may be made upon a subrogation of your rights in favour of the Scheme.

The Investor Compensation Scheme will, on paying any compensation, be subrogated in your rights and claims against Maltese Cross Financial Services Limited and against any other party solely with respect to the recovery of the compensation paid to you by the Investor Compensation Scheme. The aforesaid subrogation shall not prejudice any claims that you may have for amounts in excess of the amount paid to you by the Investor Compensation Scheme.

Payment in euro will be made by bank transfer only. You will be able to choose between receiving payment by cheque or bank transfer for other currencies.

The Scheme is obliged to pay eligible investors in the currency of their investment.