

ANNUAL REPORT 2021

INVESTOR COMPENSATION SCHEME

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Introduction

Pursuant to Regulation 8 of the Investor Compensation Scheme Regulations (“the Regulations”), S.L. 370.09, the Management Committee of the Investor Compensation Scheme (“the Scheme”) hereby presents its report on the discharge of functions and operation of the Scheme for the year 2021.

The Scheme’s audited financial statements as at 31 December 2021 are attached.

Management Committee

In accordance with regulation 3 of the Regulations, the Scheme is managed and administered by a Management Committee (“the Committee”), appointed by the Malta Financial Services Authority. The members of the Committee during 2021 were:

Chairman

Mr Robert Caruana

Members

Mr George Farrugia

Mr Kenneth Farrugia

Mr Silvio Galea

Mr Karol Gabarretta

Dr Edmond Zammit Laferla

Dr Mauro Magro

Secretary

Mr Aldo Giordano

Meetings of the Committee

The Committee held twelve meetings during 2021.

Participants

Subject to provisos specified in Regulation 11 of the Regulations, every licence holder in possession of a Category 2 or Category 3 licence shall participate in and contribute to the Scheme.

List of participants in 2021:

ALB Ltd

Alpha Value Management Ltd

AKFX Financial Services Ltd

APS Bank Ltd

AQA Capital Ltd

Atlington Capital Management Ltd (licence surrendered 26 April 2021)

Bank of Valletta plc

Binary Investments (Europe) Ltd

Blue Suisse Ltd

Calamatta Cuschieri Investment Services Ltd

Citco Custody Ltd

CiliaFormosa Financial Advisors

Close Cross (Malta) Ltd

Curmi & Partners Ltd

Diaman Partners Ltd

Dolfin Asset Services Ltd

D.B.R. Investments Ltd

FABAR Wealth Management Ltd (Licence surrendered 1st September 2021)

Fexserv Investment Services (Malta) Ltd

Financial Planning Services Ltd

Finco Trust Group of Companies

Framont & Partners Management Ltd

FCS Asset Management Ltd

FX-CAM Consulting and Advertisement Ltd
FXDD Ltd
Gamma Capital Markets Ltd
Gamma Capital Trader Ltd
Global Capital Financial Management Ltd
Global Shares Execution Services Ltd
Growth Investments Ltd
Heptagon Capital Ltd
Hogg Capital Investments Ltd
HSBC Bank (Malta) plc
Integra Private Wealth Ltd
Jesmond Mizzi Financial Advisors Ltd
LL Capital & Partners Ltd
Lombard Bank Malta plc
Manentia Wealth Consulting Group Ltd
Medina Asset Management Ltd
MeDirect Bank (Malta) plc
Michael Grech Financial Investment Services Ltd
MZ Investments Ltd
NBG Bank Malta Ltd Nextmarkets Trading Ltd
Nemea Bank plc (licence surrendered 21 May 2021)
Nextmarkets Trading Ltd
NSFX Ltd
Pilatus Bank Ltd
Rigsave Capital Ltd
Rizzo, Farrugia & Co. (Stockbrokers) Ltd

Sparkasse Bank Malta plc

Tendall Capital Markets Ltd

Timberland Fund Management Ltd

Van Sterling Capital Ltd

Vatas Asset Management Ltd

Zarattini International Ltd

Zenith Finance Ltd

Financial Statements as at 31 December 2021.

The Scheme registered a deficit of €34,274 in 2021 compared to a surplus of €14,015 registered in 2020. Income amounted to €49,393 (2020: €49,168) while Management and administration expenses amounted to €83,667 (2020: €35,153). This increase mainly pertains to legal fees in relation to cases that are currently in dispute.

Accumulated funds and reserves amounted to €3,048,739 (2020: €2,872,745). Of the funds and reserves, the sum of €147,913 (2020: €125,526) is held on deposit as part of the variable contributions (see explanation below) of licence holders. A further €99,173 (2020: €92,495) is held by participants in the Investor Compensation Scheme Reserve, which is pledged to the Scheme and may be availed of should the Scheme's funds become inadequate.

Objective and functions of the Scheme

As specified in Directive 97/9/EC on Investor Compensation Schemes, the purpose of the Scheme is the protection of investors and the maintenance of confidence in the financial system. This is achieved through a harmonised minimum level of protection, afforded by the Scheme, should an investment firm be unable to meet its obligations to its investor clients.

Cover by the Scheme is provided for claims arising out of an investment firm's inability either to repay money owed to or belonging to investors and held on their behalf in connection with investment business or return to investors any instruments belonging to them and held, administered or managed on their behalf in connection with investment business.

Once it appears to the Competent Authority that an investment firm participant to the Scheme is unable for the time being, to meet its obligations arising from claims by its investors and to have no early or foreseeable prospect of being able to do so, or, in respect of a participant which has its head office in Malta, an order has been made by the Courts in Malta for its winding-up or liquidation under the laws of Malta, the Competent Authority shall, as soon as practicable make a determination to that effect.

On being informed by the Competent Authority that a determination has been made, the Committee shall publish a notice in at least two local newspapers, informing investors of the licence holder concerned of such determination and of the manner in which claims supported by documentary evidence are to be submitted.

The Committee proceeds to pay compensation for verified claims, in accordance with the provisions set out in the Regulations. The limit of compensation paid out to an investor, as provided for in Regulation 17, is the lesser of 90% of all claims which have been made by such investor, or up to a maximum of 20,000 euro.

On a more specific level, the functions of the Scheme, as outlined in Regulation 4 of the Regulations are:

- a) to maintain a fund for the payment of claims for compensation by investors and the payment of other payments or expenses, in accordance with the Regulations;
- b) to place contributions to the fund on deposit or to invest such funds;
- c) to establish and maintain arrangements for the making of payments to investors;
- d) to process claims for compensation by investors as expeditiously as possible and to ensure that compensation is paid out without undue delay;
- e) to advise the Malta Financial Services Authority on matters relating to compensation of investors.

Maintenance of the Funds

The principal source of funding for the Scheme is derived from contributions levied from participants of the Scheme.

- Fixed Contribution

Participants of the Scheme are obliged to pay the Fixed Contribution on an annual basis. The amount, as established in the Second Schedule of the Regulations, is of €2,911.72 for Category 2 Investment Services Licence Holders, and €17,470.30 for Category 3 Investment Services Licence Holders.

The total of Fixed Contributions collected in 2021 amounted to €311,853 (2020: €344,435).

- Variable Contribution

Participants of the Scheme are also obliged to pay a Variable Contribution, accounted for the financial year when the Fixed Contribution is paid. The Variable Contribution is held by the licence holder in a reserve, called the “Investor Compensation Scheme Reserve”, to which the Scheme is acknowledged as pledgee. As specified in Regulation 16 of the Regulations, whenever it appears to the Committee that the funds held by the Scheme for the time being are inadequate for the Committee to exercise its functions, the Committee may require a contribution to be made to the Scheme by licence holders, out of but not exceeding, funds held on reserve by the licence holder.

The minimum amount that may be held as reserve or deposited with the Scheme shall never be less than €698.81. Licence holders shall adjust the variable contribution on an annual basis by applying a percentage rate of 0.1 to the total revenue as at the previous financial year end.

Alternatively, 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 should funds appear to be inadequate.

Protection of Funds

The Committee may place contributions made by licence holders on deposit or may invest such contributions, having regard to the need for prudence.

In carrying out this function, and in line with Regulation 7 of the Regulations, the Committee appointed the Central Bank of Malta for investment management services in 2003 and has retained their services since. As the Investment Portfolio Manager, the Central Bank of Malta is tasked with financial, accounting and reporting services. The Central Bank of Malta is paid €5,015 for these services. Given the nature of the Scheme, the parameters for the investment of funds are primarily safety and liquidity.

Investors' Claims

Following an application for compensation being made to the Committee by an investor, the Committee shall proceed to pay compensation for verified claims within three months of the date of the determination.

On 11 August 2014, the MFSA made a determination to the effect that an Investment Firm was unable to meet its obligations arising from claims by its investors for reasons which are directly related to its financial circumstances. The Scheme paid a total of €2,414,156 to claimants, subsequent to which the Scheme was subrogated into the rights and remedies of that claimant against the licence holder. The Committee continues to pursue recoveries on the basis of such subrogation. During 2021, no new claims were registered pertaining to such case. The Scheme has to recover the funds it forked out in this case and therefore, the Scheme filed a rikors to become a parte civile in another case to be given access to all the documentation to file a civil case of its own for the EUR 2.4 million. The civil case has been filed and the first sitting is due in June 2022.

On 4 October 2017, the MFSA made a determination to the effect that an Investment Firm was unable to meet its obligations arising from claims by its investors for reasons which are directly related to its financial circumstances. The total compensation payable was estimated at €1,253,017 (2020: €1,183,747), out of which €29,270 (2020: €20,000) were unpaid as at 31 December 2020. During 2021, the Scheme continued to accept claims made by investors following decisions by the Arbiter for Financial Services. The Scheme is subrogated into the rights and remedies of claimants against the

licence holder. The Scheme was notified in 2021 with four claims, amounting to EUR 89,270.50. A legal advice was requested to whether the notification of new claims relating to such case were time barred. Following receipt of such legal advice, it was held that the ICS Regulations do not seem to contain a time-limit within which a claim in relation to a judgment falling within the scope of Regulation 19 is to be lodged with the Scheme.

ICS Regulations Amendments

The Investor Compensation Scheme Management is currently in talks with the concerned parties on the amendments of the Investor Compensation Scheme Regulations. These amendments are necessary in order to bring the Regulations more in line with the ICS Directive and compliant with MIFID II and IFRD, and to amend further the regulations and the contributions method in accordance with current developments of the Scheme.

Currently, the Scheme is revising the methodology for the calculation of the Fixed Contributions, with discussions with the Competent Authority are ongoing to ensure that a fair and equitable model is adopted. It is envisaged that the new amendments will be adopted by mid-2022.



Robert Caruana

Chairman

On behalf of the Compensation Schemes Management Committee

24 May 2022

Attachment: Audited Financial Statements of the Investor Compensation Scheme for 2021