

**CONSULTATION PAPER ON  
RAISING THE BAR FOR VFA AGENTS**

MFSA REF: 12-2018

**ISSUED:** 4 SEPTEMBER 2018

**CLOSING DATE:** 11 SEPTEMBER 2018

**MFSA**

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MALTA FINANCIAL SERVICES AUTHORITY

THESE PROPOSALS ARE NOT BINDING AND ARE SUBJECT TO CHANGES AND REVISIONS FOLLOWING REPRESENTATIONS RECEIVED FROM LICENCE HOLDERS AND OTHER INVOLVED PARTIES. IT IS IMPORTANT THAT PERSONS INVOLVED IN THE CONSULTATION BEAR THESE CONSIDERATIONS IN MIND.

## 1 INTRODUCTION

The VFA Agent within the VFA framework is crucial for market integrity. The agent is considered by the Authority as gatekeeper, having the role of preventing persons who are not fit and proper from entering the financial system. The Authority wants to ensure that only persons with the right competences who are appropriately resourced will be eligible for registration as VFA Agents.

It has also become evident that certain industry players are not sufficiently prepared to register as VFA Agents, and the Authority has identified the need to address an existing expectations gap, particularly in view of the inherent risks of this sector.

The Authority is proposing: [i] increasing the initial and on-going capital requirements; [ii] introducing a rigorous competence assessment; [iii] introducing a mandatory requirement for Continuous Professional Education; and [iv] increasing regulatory fees.

The scope of this Consultation is to obtain industry feedback in relation to the Authority's proposals.

## 2 CAPITAL REQUIREMENTS

Reference is made to draft R1-2.1.2.5 of the proposed VFA Rulebook which reads as follows: "A VFA Agent shall be required to have an initial and on-going capital of EUR 50,000".

In view of the risks involved in this sector, the Authority is now considering increasing the initial and on-going capital requirement as follows:

VFA Agent	Capital requirement
VFA Agent registering in terms of Article 7 (VFA Agents which may be appointed with Issuers)	EUR 75,000 + PII (mandatory); or EUR 150,000
VFA Agent registering in terms of Article 14 (VFA Agents which may be appointed with applicants for a VFA Services Licence)	EUR 75,000 + PII (best effort basis)
VFA Agent registering in terms of both Articles 7 and 14	EUR 75,000 + PII (mandatory); or EUR 150,000

It is proposed that the capital is fully paid up.

### 3 A THOROUGH ASSESSMENT OF COMPETENCE

In order to ensure that VFA Agents registered with the Authority are competent, the Authority is proposing the introduction of a rigorous competence assessment for: [i] VFA Agents' designated persons; and [ii] at least one of the VFA Agent's administrators, should none of the designated persons be appointed as administrator within the structure of the VFA Agent. The proposed assessment shall be based on three pillars:

- [i] **Experience and Educational Background** – the Authority will assess applicants' curriculum vitae; taking work experience, education and training attended in relation to the VFA framework, fintech in general, as well as traditional financial services, into consideration.
- [ii] **Written Assessment** – the Authority shall require applicants to sit for a written examination. Such an examination shall be either an official MFSA exam, which shall consist of 100 multiple choice questions with negative marking, or one which is approved by the Authority.
- [iii] **Viva Voce Assessment** – applicants shall be asked to attend for an interview with the Authority whereby a number of questions on the VFA framework and the role of the VFA Agent shall be asked. The Authority shall also be assessing knowledge of the different business models that exist in the field.

In order to be deemed competent, applicants must satisfy all three pillars of the assessment. Should the Authority decide to take up this proposed way forward, detailed guidelines and procedures will be issued by the Authority.

### 4 MANDATORY CONTINUOUS PROFESSIONAL EDUCATION

Given that this particular sector is continuously evolving, the Authority is also considering the introduction of Continuous Professional Education ('CPE') as a mandatory ongoing requirement. It is being proposed that persons subject to the competence assessment shall be required to obtain 40 hours of CPE annually. The aim of this proposal is to encourage persons subject to the competence assessment to keep up to date with developments in the field.

### 5 DESIGNATE PERSONS

The proposed R1-2.1.2.3 states that *"An applicant shall propose two designate persons who shall be responsible for performing the activity of a VFA Agent under the Act as well as a Money Laundering Reporting Officer ('MLRO')."* It has been pointed out that this proposed rule may be interpreted subjectively and therefore it is being suggested that it is reworded as follows: *"An applicant shall*

*propose three designate persons who shall be responsible for performing the activity of a VFA Agent under the Act, one of whom shall also be appointed as the Money Laundering Reporting Officer ('MLRO') for the VFA Agent."*

## 6 FEES

To cover the cost of the proposed enhanced supervision of VFA Agents, the Authority is proposing raising the respective application and supervisory fees for VFA Agents. The proposed VFA regulations currently read as follows:

VFA Agent	Application Fee	Supervisory Fee
Appointed in terms of Article 7 of the Act	EUR 5,000	EUR 5,000
Appointed in terms of Article 14 of the Act	EUR 5,000	EUR 5,000
Appointed in terms of both Article 7 and 14 of the Act	EUR 7,500	EUR 7,500

The Authority is considering revising the application and supervisory fees as follows:

VFA Agent	Application Fee	Supervisory Fee
Appointed in terms of Article 7 of the Act	EUR 12,000	EUR 12,000
Appointed in terms of Article 14 of the Act	EUR 10,000	EUR 10,000
Appointed in terms of both Article 7 and 14 of the Act	EUR 15,000	EUR 15,000

## 7 CONCLUDING REMARKS

The consultation is open to the public from 4 September 2018 until the 11 September 2018. Interested parties are requested to submit their comments and feedback by email on [fintech@mfsa.com.mt](mailto:fintech@mfsa.com.mt) by not later than **11 September 2018**.

Communications Unit  
Malta Financial Services Authority  
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