

Notification template for Article 129 and Article 130 of the CRD

Template for notifying the EBA on the intended exemption of small and medium-sized investment firms from the requirement to maintain a capital conservation buffer and the requirement to maintain an institution-specific countercyclical capital buffer.

1. Notifying national authority (If several designated authorities, please mention all of them)	
1.1 Name of the notifying authority	Malta Financial Services Authority (MFSA)
2. Definition and Motivation for the exemption of small and medium-sized investment firms	
2.1. Definition	<p><i>Clearly define which small and medium-sized investment firms are exempted from maintaining a capital conservation buffer and maintaining an institution-specific countercyclical capital buffer?</i></p> <p>Pursuant to Article 128 of Directive 2013/36/EU (the CRD), Chapter 4 of Title VII relating to capital buffers are only applicable to investment firms which deal on own account and provide underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; thus, those investment firms which are subject to an initial capital requirements of EUR 730,000 as per article 28(2) of the CRD.</p> <p>The MFSA, in accordance with Article 129 (2) and Article 130 (2) of the CRD, has decided to apply the derogation and exempt investment firms from <i>the requirement to maintain a capital conservation buffer</i> and <i>requirement to maintain an institution-specific countercyclical capital buffer</i>, provided that the investment firm falls within the definition of an SME in line with Article 2 of the European Commission Recommendation 2003/361/EC.</p> <p>Therefore, in order to qualify for this exemption an investment firm would have to meet the following criteria:</p> <ol style="list-style-type: none">1. employ fewer than 250 persons; <i>and</i>2. have an annual turnover not exceeding EUR 50 million; <i>and/or</i>3. an annual balance sheet total not exceeding EUR 43 million.

<p>2.2. Motivation</p>	<p>1. <i>Why do you believe that small and medium-sized investment firms should be exempted from maintaining a capital conservation buffer and maintaining an institution-specific countercyclical capital buffer?</i></p> <p style="text-align: center;">And</p> <p>2. <i>Does this exemption threaten the stability of the financial system of the Member State? Why not?</i></p> <p>The MFSA supervises eight investment firms with an initial capital requirement of EUR 730,000, which in total amount to approximately EUR 69.5 million in total assets, as at the third quarter of 2015. All these firms qualify as SMEs given the criteria listed above.</p> <p>Using balance sheet size as a crude proxy of inherent risk, when compared to the aggregated balance sheet of the 10 largest credit institutions, the total assets of all the investment firms, falling within scope of this derogation, only amount to an insignificant 0.157%. Hence, it is highly unlikely that such investment firms could exert any systemic risks to the industry as a whole.</p> <p>These requirements have to be also considered within the context of current regulatory obligations which are applicable to such investment firms. In this respect, we believe that the current CRD IV requirements in terms of the Pillar 1, Pillar 3 and particularly the Pillar 2 requirements are already appropriate to cover for any to potential risks posed by such institutions.</p> <p>In addition, given that these investment firms are subject to Directive 2014/59/EU (Bank Recovery and Resolution Directive), should one of these investment firms have to wind-down, their exit and failure should have limited systemic implications to the financial stability of the MS and wider EU economy.</p> <p>Therefore, given these considerations and the principle of proportionality, we believe that these investment firms falling within the scope of these derogations should be exempt from maintaining these additional requirements.</p>
<p>3. Miscellaneous</p>	
<p>3.1. Contact person(s) at notifying authority</p>	<p><i>Mr John Sammut, Deputy Director, Securities and Market Supervision Unit, MSFA; (+356) 254 855 562; JRSammut@mfsa.com.mt</i></p>
<p>3.2. Any other relevant information</p>	<p><i>None.</i></p>