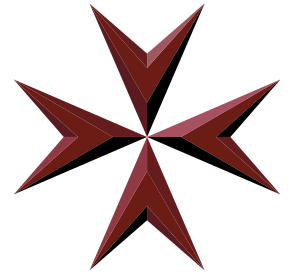




MFSA

ANNUAL
REPORT
2002



MFSA

ANNUAL
REPORT
2002

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Contents

Chairman's Statement	2
MFSA Structure	6
Regulation and Supervision	10
Operations Review 2002	24
Legislative Developments	32

Annual Report ● 2002

Delivering better value for money to consumers, the finance industry and the nation



The Malta Financial Services Authority is pleased to present its report for the year 2002. This is the first report of the MFSA, which came into existence on October 1, 2002. Consequently, this report includes the final nine months of MFSC operations.

The people who run the MFSA come from three different organisations, each with its own unique culture. Such circumstances can often make for discord and disharmony. However, the reverse has happened and not only do we have a well-run operation, but also a place where people are happy to come to work in.

It is worth taking a moment to review why Malta has moved to a single regulatory authority and the benefits that this development aims to bring.

The Malta Financial Services Authority is the single regulator for all banking, savings, investment and insurance business in Malta. The MFSA, which also houses Malta's Companies Registry, has assumed the regulatory and supervisory responsibilities previously shared between the Malta Financial Services Centre, the Central Bank of Malta and the Malta Stock Exchange.

Over the past twenty years the long-established lines of demarcation between different disciplines of the financial services industry have been progressively disappearing.

It was of incalculable importance that the transition from these three regulatory bodies to a single regulator was achieved quickly and efficiently. The Authority's job – the job it carries out on behalf of Maltese and international investors, the industry and the nation's global reputation – is to focus on the good supervision of our finance industry.

This great evolution is the product of more open and competitive regional and global markets, a revolution in IT and telecommunications and a sustained period of corporate mergers and acquisitions, which created very large, multi-product and multi-territory financial services groups.

Consequently the old model of regulation by market sector became increasingly bureaucratic, expensive and complex and often inconsistent in approach and decision-making.

It gives me great pleasure to report that the organisation functioned as a single, coherent and efficient unit from day one.

Moving towards a single regulatory authority is in line with global best practice and Malta is in the first wave of nations to adopt the single regulator approach. Our new regime, embodied in the MFSA,

“ Moving towards a single regulatory authority is in line with global best practice and Malta is in the first wave of nations to adopt the single regulator approach. Our new regime, embodied in the MFSA, is already delivering significant improvements on the old system. ”

is already delivering significant improvements on the old system.

We have been able to greatly expand our consumer information and education activities. The amount of paperwork the industry has to deal with has been markedly reduced and our inspections are more accurate and efficient because inspectors are able to look across a company's product range and at all relevant processes and procedures. A common and unified approach to regulation also helps to improve operating standards across the industry, as old anomalies are removed and everyone becomes familiar with the requirements of the single regulatory authority.

The simple fact that all the nation's regulators dealing with banking, investments and insurance are now under one roof means a great pooling of skills and experience and greater consistency in decision-making.

The MFSA's Board of Governors will continue to put strategies into place to ensure that the Authority delivers good value for money to the country, maintains its duty to help protect investor and consumer interests and helps keep the finance industry dynamic, alert to new opportunities and consistently improving its standards.

I am particularly delighted to report that the EU Peer Review process (which every EU country and many non-EU countries take part in) found Malta's

standard of supervision very high. The review also praised the quality of MFSA's staff and endorsed the Authority's working procedures.

An event that further confirmed Malta as a mainstream finance centre was the country becoming a full member of the International Organisation of Securities Commissions (IOSCO) during 2002.

The MFSA is committed in every way possible to helping the industry operate to the highest standards, just as the Authority itself is committed to the constant improvement of its own standards, whether in operational efficiency or in the continuous career and professional development of its staff.

Regulation is, however, becoming a more costly item to all national economies. As the world becomes more complex, there is greater need to try to protect consumers and responsible investors from everything, ranging from corporate incompetence to financial crime.

It is a fact of modern life that well resourced and well-trained financial regulators are now essential bastions in support of economic stability and the physical security of peoples across the world. Satisfying the legitimate expectations of consumers, the finance industry, the international regulatory bodies and the global community requires more people and more training, faster and more efficient IT and the ability to maintain an international network of regulatory, intelligence and media contacts.

For financial regulators worldwide 2002 was a year of unrest. US financial and corporate governance failures reverberated across the globe, terrorist atrocities reminded the industry of the importance of constant anti-money laundering vigilance, stock markets had a roller-coaster year and the global economy remained in the doldrums. Business activity slowed up dramatically in the great centres of London, Frankfurt and New York, leading to tens of thousands of finance industry job losses. Overshadowing all of this is the great uncertainty of the position over Iraq.

To a greater or lesser extent Malta was affected by all of these events, but once again the underlying strength of the Maltese economy and the management skills of the finance sector paid national dividends.

The number of jobs in finance was almost static – something of an achievement in itself – and while business and trading volumes remained low, we recorded no significant business failures in the finance sector.

Indeed the industry remained buoyant, confident and energetic. With the participation of the MFSA, industry representatives took part in information and networking events in Austria, Canada, Czech Republic, Switzerland, Luxembourg, United States, London, Birmingham and Wales. Senior practitioners from a great variety of firms also contributed to the international positioning of Malta by granting

interviews to leading business and finance journalists visiting Malta. The Authority hosted visits in 2002 from print and broadcast organisations that brought Malta to the attention of people worldwide. Most notable were visits from CNBC, France Soir, The Observer, Le Monde and the Washington Post and top ranking professional publications such as The Lawyer, Portfolio International and International Financial Adviser.

In developing a stimulating range of consumer information materials – particularly those for young people – the MFSA is putting Malta on the level of many EU countries. The Authority's rationale is quite simple – the more educated the next generation of financial services consumers are, the greater the wealth which is likely to be generated and the more competitive and efficient our finance industry will be.

The Authority is grateful to those practitioners who have provided input to the creation of materials produced by the MFSA and targeted at first time investors and young people.

As was noted earlier, continuing education also makes sense for the industry, so the Authority was pleased to reach an agreement in March 2002 with the University of London's Institute of Advanced Legal Studies to provide training programmes to the industry. The industry response has been noteworthy, with over 300 Maltese attending this training programme.

On the legislative side the most significant developments have been the enactment of the Bill governing the establishment and powers of the MFSA itself, the passing of the Special Funds (Regulation) Act, which will help attract “second pillar” pension activity and the updating of the Malta Stock Exchange Act which has been renamed as the Financial Markets Act and the Insider Dealing Act now renamed the Insider dealing and Market Abuse Offences Act. Amendments to define better the functions of the regulator were also made to the Banking Act, the Financial Institutions Act and the Investment Services Act.

Addressing legal anomalies, evaluating the need for new legislation and creating rules and regulations that work in practice is a never-ending exercise. We are fortunate in Malta that the Consultation Council made of industry representatives and regulators works well and efficiently. Eight meetings were held during 2002.

It is important to note that the Act governing the MFSA ensures its independence from government, whilst assuring its accountability to Parliament. Malta’s international standing is also influenced by global bodies such as the OECD, the FATF, the World Bank and the IMF. Malta is committed to working with international and supranational regulatory bodies to help maintain high standards of integrity and competence, domestically and internationally.

Feedback obtained by the MFSA also indicates that Malta’s reputation as a transparent and trusted jurisdiction is continuously being strengthened and that this is in turn facilitating international business between Malta and other reputable jurisdictions.

2002 was a year of organisational change and regulatory consolidation. Throughout the year the staff of the Authority responded with professionalism, dedication and enthusiasm. In thanking my fellow Governors for their invaluable contribution to the MFSA’s first year, I know I also speak for them in expressing my gratitude to all the staff of the MFSA.



J.V. Bannister



Clockwise: Prof. Joseph V. Bannister, Prof. Charles J. Farrugia, Frank Xerri de Caro, Joseph V. Laspina, Dr. Anton Felice, Michael Bonello, Dr. David Fabri. (Frank Xerri de Caro replaced Joseph Gatt as from January 1, 2003).

Board of Governors as from October 1, 2002

Chairman

Prof. Joseph V. Bannister, B.Sc., M.Sc., D. Phil (Oxon)

Members

Mr. Michael C. Bonello, M.A. (Oxon), FCIB

Dr. Anton Felice, LL.D.

Mr. Joseph V. Laspina

Mr. Joseph Gatt, B.A. (Hons.) Econ., ACIB

Prof. Charles J. Farrugia, Ph.D (Lond.)

Secretary

Dr. David Fabri, LL.D.

Supervisory Council (Constituted October 1, 2002)

Chairman

Dr. Andre Camilleri, LL.D.

Director General

Members

Mr. John P. Bonett

Director – Insurance

Ms. Cristina Parlato Trigona, B.A. (Hons.) Accty; MSc. (Reading); CPA; SIAff.

Director – Investment Services

Mr. Paul Vella, B.A. (Hons.) Bs. Mgt.

A/Director – Banking

Dr. Anton Bartolo, LL.D.

Director – Company Compliance & Company Registrar

Secretary

Mr. Kevin Vella, B.A. (Hons.) Accty., M.A. (Fin. Serv.), MIA, CPAA

Board of Management & Resources (Constituted October 1, 2002)

Chairman

Mr. Joseph Demanuele, FCCA, FIA, CPA

Chief Operations Officer

Members

Mr. Charles Zammit, D.B.A., M.B.I.M

Director – Administration

Dr. Michael Xuereb, LL.D., M.A. (Fin Serv)

Director - Business Development

Mr. Charles Theuma, B.A. (Hons.) Bs. Mgt., BSc MCL, B.Comm.

Director – IT & Communications

Secretary

Ms. Alexandra Magri, B.Com. (Hons.) Banking & Finance

**Outgoing MFSC Board of Governors between January 1, 2002
up to September 30, 2002**

Chairman and President of the Centre
Prof. Joseph V. Bannister, B.Sc., M.Sc., D. Phil (Oxon)

Members

Mr. Edward Carbone, C.P.A.A., F.I.A.

Chief Executive

Mr. Michael C. Bonello, M.A. (Oxon), FCIB

Governor of the Central Bank of Malta

Dr. Anton Felice, LL.D.

Mr. Joseph V. Laspina

Dr. Andrew Muscat, LL.D., LL.M (Lond), M.Litt (Oxon), Ph.D. (Lond)

Secretary

Dr. David Fabri, LL.D.

**Outgoing Executive Committee between January 1, 2002
up to September 30, 2002**

Mr. Edward Carbone, C.P.A.A., F.I.A.

Chief Executive

Dr. Anton Bartolo, LL.D.

Director – International Business and Registry of Companies

Mr. John P. Bonett

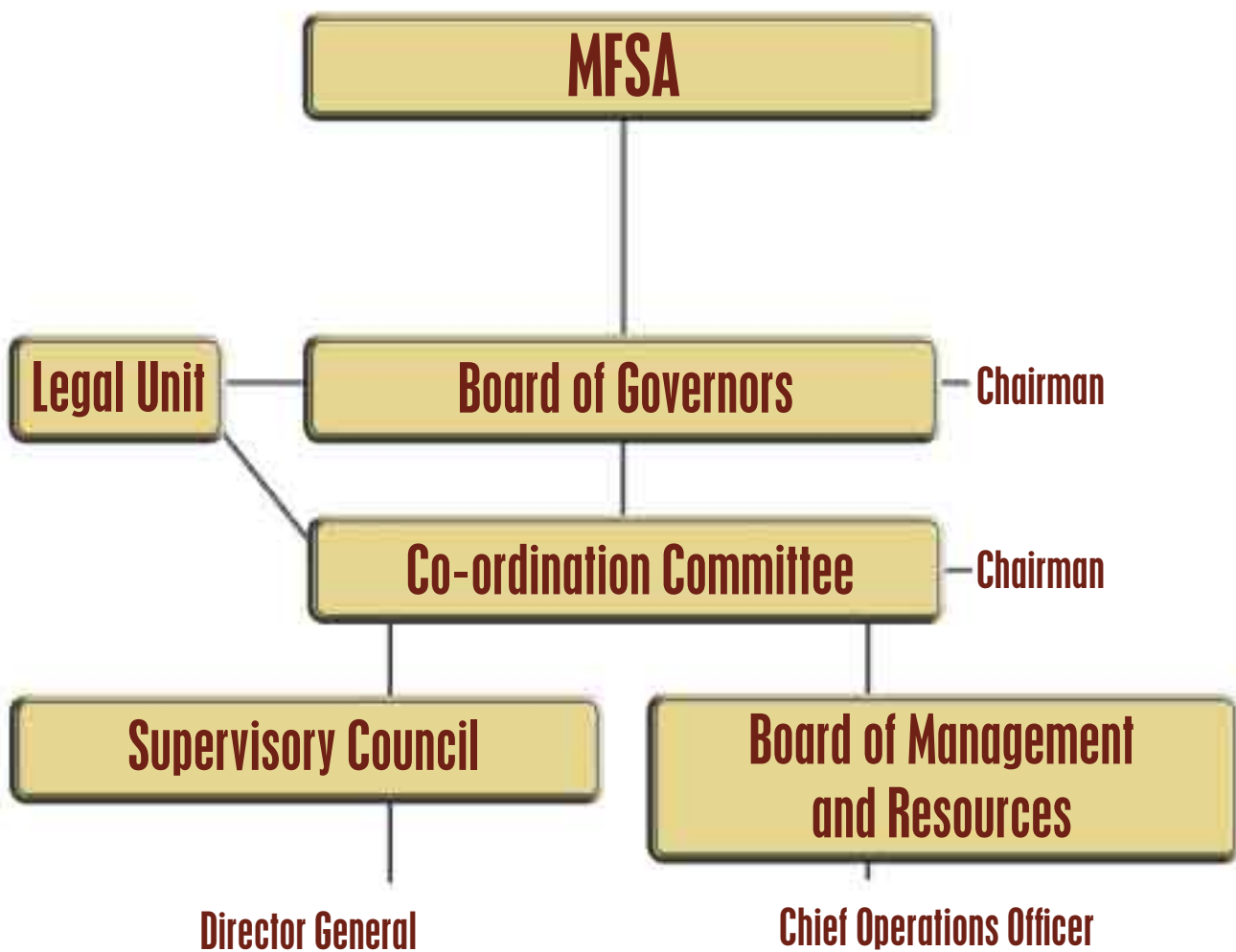
Director – Insurance

Ms. Cristina Parlato Trigona, B.A. (Hons) Accty; MSc. (Reading); CPA; SIAff.

Director – Banking and Investment Services

Secretary

Mr. Charles Zammit, D.B.A., M.B.I.M.



The MFSA adopts a rigorous process of analysing companies prior to granting a licence. This is carried out on the basis of international criteria that ensure that Malta remains an international financial services centre of repute. The Authority analyses all the applications it receives including information about the directors and other persons involved in the management of the company.

Regulation involves monitoring and supervision of existing licence holders through analysis of financial returns and reports, ad-hoc meetings, review meetings and most importantly, on-site compliance visits. Regulatory and supervisory work also includes processing new licence applications, due diligence enquiries on directors and senior managers nominated by licence holders and new applications and reviewing of Professional Indemnity Insurance and Money Policies.

Banking Regulation and Compliance

The Banking Unit was set up in January 2002 following the transfer of the banking supervisory function from the Central Bank of Malta to the Malta Financial Services Authority.

The Unit comprises three mutually dependent sections that reflect the MFSA's obligations as the appointed regulator of licence holders in terms of the Banking Act and the Financial Institutions Act. The Banking Regulation and Compliance Section is responsible for policy issues and all the background

work that is necessary in relation to the periodic updating of legislation, related directives and policy documents. The Section also handles general licensing and compliance matters, applications for new licences and upgrading of present ones.

The Off-Site Supervision and Methodology Section analyses monthly and quarterly statutory financial information submitted by licence holders and compiles periodic risk rating reports on the key players within the banking industry.

The On-Site Supervision Section undertakes on-site supervision exercises on the premises of licence holders in accordance with annual programmes. These take into consideration the on-site supervisory cycles applicable to the different categories of licence holders falling within the competence of the Unit.

Off-Site Supervision

During 2002, the off-site supervision section introduced procedures to ensure continuity in the monitoring of licence holders and the drawing up of regular reports.

These reports evaluate the performance of licence holders on the basis of five factors, namely Capital, Assets/Liabilities, Management, Earnings and Liquidity (CAMEL). Responsibilities in this area of supervision took on a more comprehensive role through the full operation of the Methodology aspect. This function specialises in the drawing



MFSA Corporate Building

up of risk rating reports on licence holders on the basis of information originating from the periodic off-site reports, on-site inspection reports and the annual reports published by licence holders. Other sources also include information of a regulatory nature that may be available within the Unit from time to time. Like the monthly and quarterly off-site reports, Risk Rating Reports also adopt the CAMEL factors with the addition of evaluations based on sensitivity to market risk and performance of licence holders in relation to business activities they undertake with the Central Bank of Malta.

These reports also take into consideration licence holders' business strategies. Efforts are also being undertaken to maximise the utility of such reports particularly in sustaining an effective regulatory and supervisory dialogue with licence holders.

The year was also characterised by on-going formal discussions with the Central Bank of Malta with the aim of upgrading the format of the banking directive on statutory financial information. Such upgrading has been rendered necessary following new European Central Bank and International Monetary Fund requirements. The revised reporting schedules are expected to be introduced during the latter half of 2003.

Within the scope of the eventual introduction of the new Basel Capital Accord, off-site supervision activities included the provision of assistance in the periodic analysis of consultative documents issued by the Basle Committee on Banking Supervision and in the coordination of information required as part of the calibration process for the new Accord, better known as Quantitative Impact Study. Representatives of the two major domestic banks are also involved in the submission of the relevant information.

On-Site Supervision

There were seventeen on-site reviews during 2002. These included inspections related to specific risk related aspects, overall "top-down" reviews and compliance visits. The type of inspections that are undertaken depend on the size, activities and possible impact (risk-wise) on the financial system of a particular licence holder. Detailed reports highlighting positive findings, shortcomings and remedial action required were issued and forwarded to licence holders for any action on their part as indicated in the reports themselves.

The areas covered by on-site inspections during the year were the following: Internal Audit; Risk Management Framework; Credit Risk (including compliance with provisioning criteria); Treasury Operations; Verification of Statutory Financial Information submitted for off-site supervision purposes; Specific Elements of Corporate Governance; Compliance with specific licence conditions and Internal Controls in general.

During 2002, Tekstil Bankasi AS voluntarily surrendered its licence to undertake the business of banking from Malta through a branch. In the meantime, Iktisat Bankasi AS completed the process of closing down its Malta branch after its licence was surrendered. During the year, HSBC Overseas Bank (Malta) Limited amalgamated with HSBC Bank Malta p.l.c. after the expiry of its offshore banking licence originally issued in terms of the Malta Financial Services Centre Act.

Volksbank Malta Limited was granted a new licence in terms of the Banking Act 1994 after voluntarily surrendering its original banking licence that had been issued in terms of the Malta Financial Services Centre Act. During the year, an application by Bank of Valletta p.l.c. to open a new representative office in Egypt was also approved.

Following the upgrading of the banking structure on licensing to cover electronic banking activities, the Unit was involved, from the regulatory aspects, in the efforts being undertaken by the two major banks in Malta to upgrade their services in this area.

As at December 31, 2002, there were 14 Credit Institutions licensed under the Banking Act (1994) and 13 Financial Institutions licensed under the Financial Institutions Act (1994), together with one representative office and one offshore bank.

Contingency Planning for Financial Crisis

During 2002, the Banking Unit continued with the process of drawing up a Contingency Plan for financial crisis. Building on the extensive work that had been undertaken when the banking supervisory function was under the responsibility of the Central Bank of Malta, the Unit is currently discussing an updated version of the Contingency Plan with the Central Bank itself and the industry.

During 2002, staff from the Banking Unit were given the opportunity to supplement training undertaken

“on the job” with the attendance of training events organised locally and overseas. The Unit benefited from training programmes organised by the Toronto Centre for Leadership in Banking Supervision, the Financial Stability Institute of the Bank of International Settlements and the International Chamber of Commerce.

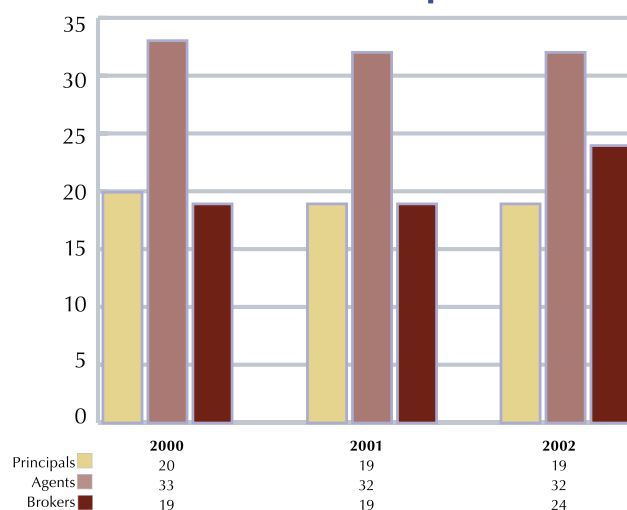
The Banking Unit also benefited from a week’s attachment for two of its members provided by the UK Financial Services Authority. The MFSA was also represented during meetings called by the Groupe de Contact, the European Union as part of the Accession process, and by the Bank for International Settlements in connection with the implementation of the new Basel Capital Accord. The MFSA was also represented during the Bi-Annual International Conference of Banking Supervisors (ICBS).

Insurance Business

The effect of the terrorist attacks in the US on the insurance and reinsurance industry worldwide was also felt in Malta. At the end of 2001 locally licensed insurers, prompted by the inevitable tightening of reinsurance terms and conditions, had to react in a similar manner towards their clients. 2002 therefore witnessed higher premium rates, drastic changes in policy terms and conditions and lower capacity. Insurers have emphasised that such actions were necessary and justified particularly in view of recurring financial losses incurred by the international insurance markets as well as decreasing returns yielded from investments worldwide.

Throughout the year, insurers have stressed that they have chosen to consolidate their position, opting to require stricter underwriting practices and other controls in respect of their intermediaries, arguably in the best ultimate interests of their policyholders and potential policyholders.

Insurance Companies



Insurance Companies

At the end of 2002 there were five local companies and fourteen foreign companies authorised to carry on insurance business in Malta.

The Financial Services Tribunal has approved a scheme to transfer the local long term business portfolio of British American Insurance Company (Mauritius) Limited to British American Insurance Company (Malta) Limited. The approval was subject to an authorisation being granted by the

Authority to British American Insurance Company (Malta) Limited to carry on long term business in Malta by January 31, 2003.

Insurance Agents

There were no changes registered in the number of insurance agents authorised to act on behalf of local insurance companies during 2002. It is however important to mention that during the year 2002, Allied Insurance Agency Limited, Day to Day Insurance Agency Limited and Hayes Insurance Agency Limited have ceased to accept new business on behalf of Middlesea Insurance p.l.c.

An authorisation was granted to NSTS Insurance Agency Limited to act as agent in the classes of general business on behalf of Goudse Schadeverzekeringen NV which is already authorised to carry on insurance business in Malta through another agent. During the year an agent did not renew its binding authority agreement with Lloyds' Underwriters. The number of agents of foreign insurers stood at fifteen at the end of 2002.

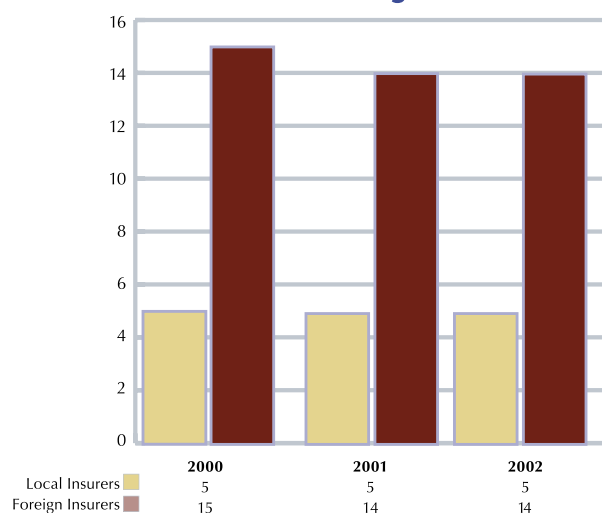
Mutual Associations

During the year, the Insurance Unit also issued a permit to Standard Steamship Owners' Protection and Indemnity Association (Bermuda) Limited, a mutual association, to carry on business of insurance in Malta.

Insurance Brokers

Four new companies were enrolled on the Brokers List during the year, namely, Risk Insurance Brokers Limited, Central Insurance Brokers Limited, Trident Insurance Brokers Limited and Allcare Insurance Brokers Limited. International Insurance Brokers Limited,

Local and Foreign Insurers

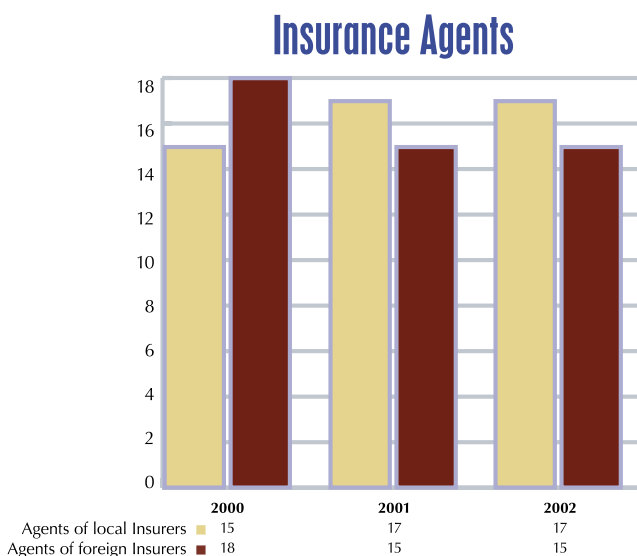


a company which had voluntarily ceased to carry on insurance broking business during 2001, submitted a fresh application and was also granted enrolment on the Brokers' List during the year under review. Therefore, the number of companies operating as brokers increased to twenty-four at the end of 2002.

During 2002, the Unit also registered ten individuals on the Brokers Register whereas four individuals voluntarily requested to be struck off. Consequently, the number of individuals registered on the Brokers' Register at the end of 2002 stood at forty-three.

Insurance Sub-agents

At the end of the year the Unit also had 571 sub-agents enrolled in the Sub-agents List.



Authorised Insurance Companies

	31 Dec 2000	31 Dec 2001	31 Dec 2002
Local Insurers	5	5	5
Foreign Insurers	15	14	14
Recognised Insurance Body	1	1	1
Affiliated Insurance Companies	1	1	1
Insurance Managers	3	3	1
Agents of: Local Insurers	15	17	17
Foreign Insurers	18	15	15
Insurance Brokers – Companies	19	19	24
Insurance Brokers – Individuals	40	37	43
Insurance Salesmen/Sub-Agents	554	578	571

Source: Insurance Unit – Malta Financial Services Authority

New Licences issued during 2002

Insurance Agents
NSTS insurance Agency Limited was granted authorisation to act as insurance agent of Goudse Schadeverzekeringen NV
Insurance Brokers (Companies)
Risk Insurance Brokers Limited Central Insurance Brokers Limited Trident Insurance Brokers Limited International Insurance Brokers Limited Allcare Insurance Brokers Limited
Insurance Brokers (Individuals)
10 persons were registered in the Brokers register during 2002
Permit to carry on business of insurance as a Protection and Indemnity Club
The Standard Steamship Owners' Protection and Indemnity Association (Bermuda) Limited
Insurance Salesmen/sub-agents
96 new insurance sub-agents were enrolled in the Sub-agents List during the year 2002.

Since the start of on-site compliance visits in February 2000, the Insurance Unit has visited all its authorised local insurance companies, agents and brokers. It is currently conducting on-going follow up visits to licence holders. The Unit puts heavy reliance on these on-site inspections and to this effect has strengthened its team of compliance officers. During the year the Unit has conducted both routine inspections as well as inspections targeted at assessing particular concerns identified through off-site monitoring of licence holders. The visits have proved to be fruitful both to the Insurance Unit as well as to the insurance market.

Legislative amendments which came into effect

in October provided for the Authority to carry on compliance visits to insurance sub-agents. The Insurance Unit commenced a compliance visit programme for these intermediaries in the last quarter of the year and has plans for an intensive programme during 2003.

The MFSA, through the Insurance Unit, is an active member of the International Association of Insurance Supervisors (IAIS) Technical Committee as well as various other Sub-Committees including the Accounting Sub-Committee and the Laws and Regulations Sub-Committee. Staff members from the Insurance Unit, also attended the ninth annual conference of the IAIS held in Santiago, Chile whose

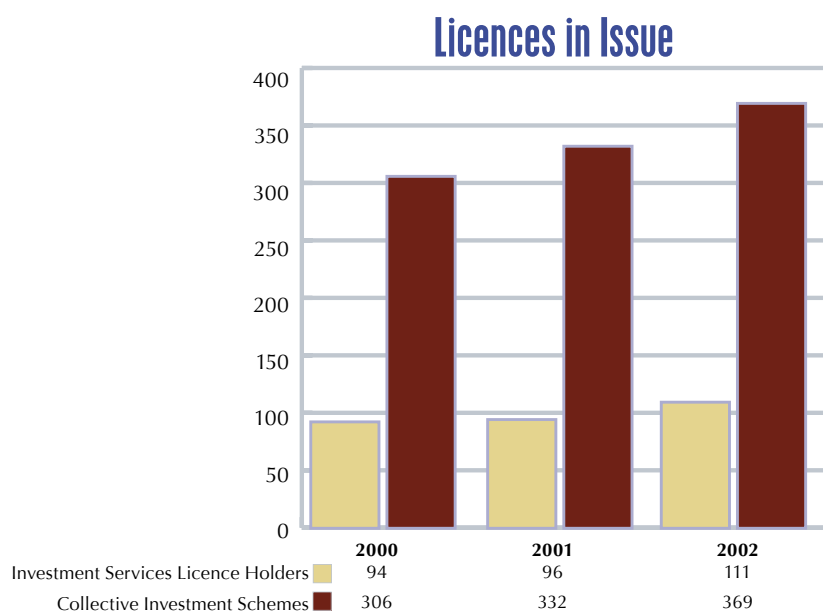
purpose was to encourage multilateral discussions on topical issues for insurance supervisors and other insurance professionals.

During the year, staff members of the insurance unit also participated in the following international fora: The Luxembourg Rendezvous – conference aimed at discussing the captive insurance market as well as a workshop in London on the same subject; a regional workshop on Insurance Supervision in Central and Eastern European Markets at the Joint Vienna Institute, Vienna; a seminar on the establishment of out-of-court redress schemes for Financial Services in Candidate Countries organised by the Technical Assistance Information Exchange Office in cooperation with the DG Internal Market as well as participation in the Lloyd’s International Regulator Programme, which was a seminar to mark the importance of the relationship between Lloyd’s and regulators worldwide.

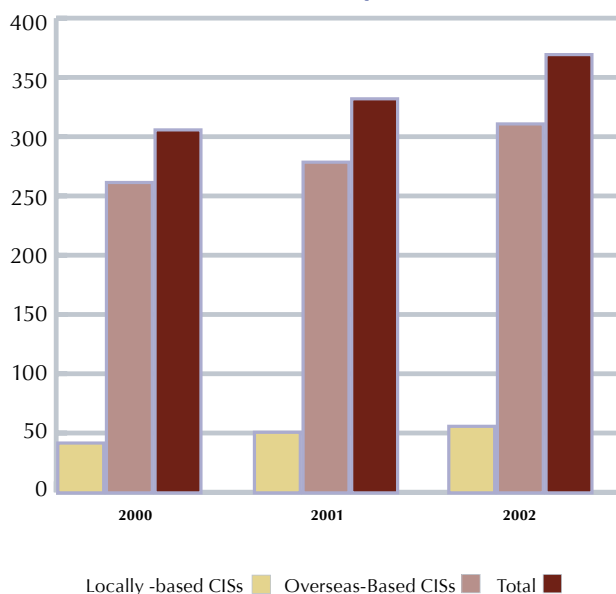
Investment Services

The Investment Services Unit is responsible for the issue of two types of licences – Investment Services (IS) Licences and Collective Investment Scheme (CIS) Licences. During 2002, the Unit was assigned the responsibility for the regulation of stockbrokers, Recognised Investment Exchanges and the capital market in general, as well as the regulation of Retirement Schemes Funds and their service-providers in terms of the Special Funds (Regulation) Act, 2002.

The number of IS licences increased from 96 at the end of 2001 to 111 at the end of 2002, while CIS licences increased from 332 as at the end of 2001 to 369 as at December 2002. The chart below illustrates the number of licences currently in issue and shows a comparison for 2000, 2001 and 2002.



Overseas and Locally based CISs



The chart above illustrates a three-year comparative table of overseas and locally based licensed CISs.

During the year, eight new Investment Services Licences were issued together with twenty temporary Category 5 Investment Services licences issued to Stockbrokers. During the year, fifty Collective Investment Scheme Licences were also issued. During 2002, a professional investor fund licence was issued to Garanti Professional Investor Fund SICAV p.l.c.

The Authority constantly monitors and supervises existing licence holders by means of on-site and off-site compliance tests and through ad hoc meetings with licence holders. During the year, the Investment

Services Unit conducted sixty-two on-site visits to licence holders. These visits are considered as being an effective means of monitoring how closely licence holders' operational activity adheres to the relevant requirements.

Regulation of Stockbrokers and Recognised Investment Exchanges

During the year, the Investment Services Unit was involved in numerous discussions with the Malta Stock Exchange (MSE) both in respect of the transfer of regulatory responsibility over stockbrokers, to ensure a smooth transition of the regulation from the Exchange to the MFSA, as well as in respect of the regulation of Recognised Investment Exchanges (RIEs). The Unit, together with external legal advisors, was also entrusted with the task of developing appropriate Regulations and Directives for the proper oversight of the MSE as a RIE in terms of the new Financial Markets Act which replaced the Malta Stock Exchange Act. As at the end of 2002, RIE (Recognition Requirements) Regulations, as well as Directives for RIEs setting out Notification Requirements and Financial Resources and Reporting Requirements were drafted. These regulations were published and brought into force on January 3, 2003. The above-mentioned Directives will be published in the near future.

As part of an on-going training programme, the Unit's staff attended the following conferences and seminars during the year: a three-week programme for emerging market regulators organised by the

United States Securities and Exchange Commission in Washington which was followed by a three-day internship in New York hosted by Stock Exchanges and brokerage/investment management firms; a workshop in Brussels on the EU UCITS Directive, which was organised by the EU Commission for candidate countries and the FSA's Internal Regulators Seminar held at the FSA's headquarters.

IOSCO Membership

During the year the MFSA was admitted as a full member of the International Organisation of Securities Commission (IOSCO). The Investment Services Unit has started receiving regular communications from the various IOSCO Working Groups, including requests for feedback on various issues.

New Licences issued during 2002

Collective Investment Schemes

Additional Licences issued to:

- La Valette Funds SICAV p.l.c. in respect of 3 sub-funds
- Fidelity Funds SIVAC in respect of 5 sub-funds
- HSBC Capital Protected Index Funds SICAV p.l.c. in respect of 1 sub-fund
- Royal and SunAlliance Global Investment Portfolio in respect of 1 sub-fund
- HSBC International Capital Secured Growth Fund in respect of 28 sub-funds
- HSBC Malta Funds SICAV p.l.c. in respect of 1 sub-fund
- Lazard Active Funds p.l.c. in respect of 4 sub-funds
- Privilege Portfolio SICAV in respect of 1 sub-fund
- Aberdeen Global SICAV in respect of 2 sub-funds

New Licences issued to:

- Thames River Traditional Funds p.l.c. in respect of 3 sub-funds
- Garanti Professional Investor Fund SICAV p.l.c. in respect of 1 sub-fund

Investment Services Licences

Category 1 Licence issued to:

- ROCS Services Limited

Category 2 Licences issued to:

- BOV Stockbroking Limited
- Jesmond Mizzi Financial Services Limited
- Volksbank Malta Limited
- Sparkasse Bank Malta Limited
- HSBC Investment Services (Malta) Limited
- Globe Financial Management Limited
- Temporary/transitional Licences issued to stockbrokers

Category 5 Licence issued to:

- Unipol Services Limited

Registry of Companies

The total number of new commercial partnerships registered during the year 2002 was 1,705 broken down as shown in the table below. Out of these companies registered during the year, four are public limited companies. The total number of companies registered in Malta since 1965 up to 31 December, 2002 is 30,740. The number of companies involved in mergers during the year 2002 was of 200; while forty-one companies were involved in divisions in the same year. During the year 2002, 682 companies were placed into dissolution and 396 companies were struck off the Register.

The Registry website hosts the electronic company database and provides easy access to the public of company data and all registered documents, including annual financial statements. The number of registered users of the site increased to over 1800 by the end of the year.

Company Compliance Unit

The Company Compliance Unit is responsible for the supervision of the last remaining “offshore” companies until their complete phasing out in 2004. The Unit is also responsible for the licensing and supervision of nominees until their eventual phasing out together with the licensing and supervision of trustees and eventually managing their transition under the new proposed regime. The Unit also ensures compliance by companies with the provisions of the Companies Act, 1995 and encourage and monitor the implementation of corporate governance standards in companies. The MFSA also examines complaints related to companies and their officers and carries out investigations of companies. The Unit is also responsible for money laundering and economic crime matters.

With the launch of the new regulatory framework for financial services in 1994, Malta’s financial

New Company Registration

	Companies (Local)	Companies (Shipping)	Companies (ITC/IHCs)	Partnerships	Total
Qtr 1 2002	231	78	130	29	468
Qtr 2 2002	188	79	130	12	409
Qtr 3 2002	171	58	118	6	353
Qtr 4 2002	213	107	148	7	475
	803	322	526	54	1705

Source: Registry of Companies – Malta Financial Services Authority

services laws and regulations were all reformed along EU lines. No offshore companies could be registered after 1994 and the registered offshore companies were given a 10-year period to convert to onshore or forfeit their registration. To this effect, the offshore sector has been decreasing at a rapid pace since 1994. The number of offshore companies remaining on the register as at the end of December 2002 stood at 275 down from 417 at the end of December 2001. These consist of one banking company, eighty-six general trading companies and 188 non-trading companies. During the year 142 companies ceased operating as offshore companies. Of these nine per cent were dissolved by MFSA due to non-payment of fees, forty-one per cent were converted to onshore companies, nineteen per cent were dissolved by shareholders, twenty-two per cent were dissolved due to the expiry of the 10-year guarantee given by law, nine per cent were companies which changed their status or merged. Licences of offshore companies will expire in 2004.

There were twenty-three new trusts registered during the year under review and four trusts were terminated. This brings the total number of Trusts on the register as at the end of December 2002 to 176.

The unit is responsible for the licensing and supervision of nominees. In this respect the Unit carries out due diligence checks on directors, officers and shareholders of licensed nominee companies and approves applications for licences.

On-site visits were carried out to all nominees during 2002. The total number of companies holding a warrant authorising them to act as nominee in respect of offshore companies and as trustees of trusts adopting the law of Malta amounted to 41 as at the end of the year under review. Four new companies were licensed by the Authority to act as licensed nominees and trustees of foreign trusts registered in Malta during the year under review. This brings the total number of licensed nominees as at the end of the year up to seventy-four.

During the year, staff members of the Company Compliance Unit attended a money laundering typologies meeting organised by the Council of Europe (Committee PC-R-EV) and the annual meeting of the Egmont Group of Financial Intelligence Units in Monte Carlo; a conference organised by the International Corporate Governance Network and hosted by the Italian Stock Exchange in Milan with the subject *"Companies as Citizens – the role of Corporate Governance"*; a one-week international symposium held in Cambridge on financial and other types of white-collar crime and a training seminar in Cyprus for evaluators identified for the Council of Europe GRECO committee (Group of States against Corruption).

Prevention of Money Laundering

The Company Compliance Unit within the MFSA is responsible for Prevention of Money Laundering issues. One of the managers within the Unit acts as the Authority's Prevention of Money Laundering

Reporting Officer. The Authority is also represented at the meetings of the Prevention of Money Laundering Joint Committee as well as the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures which meets bi-annually in Strasbourg. The Director of the Company Compliance Unit was appointed by the Minister of Finance as a member of the governing board of the Financial Intelligence Analysis Unit (FIAU).

All the regulatory units within the MFSA also monitor prevention of money laundering measures adopted by licence holders. In line with the relevant provisions included in the Prevention of Money Laundering Guidance Notes applicable to licence holders, the regulatory units continued to receive, for regulatory purposes, copies of suspicious transaction reports periodically submitted by licence holders to the FIAU.

In January 2002, the MFSA was evaluated for the second time by the Council of Europe – Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (Committee PC-R-EV). The report of the evaluation is expected to be presented for discussion and adoption by the plenary of the Committee in Strasbourg in April 2003.

Administrative Penalties imposed on Licence Holders

In line with its regulatory powers, the Authority through the Supervisory Council, took regulatory action against licence holders who failed to comply with any of the legislation or their licence conditions.

During the year a number of administrative penalties were levied on investment services and insurance licence holders. A number of criteria including seriousness of the breach and openness of the licence holder in reporting the breach are taken into consideration in determining the appropriate action.

Penalties imposed on investment services licence holders were mainly due to breaches of investment services licence conditions, late submission of documents, issuance of unauthorised adverts and deficits incurred in financial resources.

The penalties related to insurance business were mainly imposed for failure of companies to enrol and register sub-agents on their Sub-agents Company Register, failure of companies to submit their audited financial statements on time and failure of companies to have at all times a professional indemnity policy in their favour. In four instances the Authority considered the breaches serious enough to warrant immediate revocation of the licence or authorisation concerned. Where such actions were of a serious nature, the Authority also gave publicity to the matter in the interest of policyholders concerned.

Financial Services Tribunal: Cases 2002

The Financial Services Tribunal has exclusive jurisdiction to review the administrative correctness of regulatory measures taken by the Authority against licence holders. The members are paid out of the

“ The EU Peer Review team concluded that the standard of supervision of financial services is very high in Malta and also that members of the regulatory staff are of a high professional standard as well as that the working procedures are proficient. ”

Consolidated Fund. Appeals from Tribunal awards on points of law may be made to the Court of Appeal. During the year under review, three cases were heard by the Tribunal. Following the Authority's decision to impose on Galea Insurance Broking Limited and on Fenici Insurance Agency Limited, administrative penalties for various regulatory shortcomings, the licence holders concerned lodged an appeal to the Financial Services Tribunal. The Tribunal upheld the Authority's decision in both cases. The third case involving Shields Services Limited was withdrawn by the licence holder.

EU Peer Review

During May of 2002, the MFSA was subject to the EU Peer Review which involved an evaluation of the Authority's regulatory standards in the securities field, insurance business and banking. The main purpose of the visit was to assess the supervision of financial services in Malta and in particular ascertain the extent to which existing supervisory structures and systems are sufficient to deal with the requirements of the internal market structure. It also ratified the transposition of the financial services acquis in the Maltese legislation.

The EU Peer Review team concluded that the standard of supervision of financial services is very high in Malta and also that members of the regulatory staff are of a high professional standard as well as that the working procedures are proficient.

No major difficulties or hindrances were highlighted with regards to the regulatory and supervisory environment in Malta in view of the enforcement of European Union Standards.

IMF Financial Sector Assessment Programme (FSAP)

The MFSA participated in an IMF Financial Sector Assessment Programme in October, which included the completion of an extensive questionnaire which was submitted to the IMF representative prior to their visit. Staff members from the regulatory units were subject to interviews with IMF representatives. The mission primarily focused on evaluating Malta's compliance with a number of international standards and codes.

2002 was a year of multi-faceted development for the MFSA. New regulatory functions were taken over by the Authority while regulatory standards and systems underwent a series of in-depth review.

On October 1, MFSA effectively became the country's single regulator for all banking, investment and insurance business.

Legislative amendments that came into force during the year opened up new areas of opportunity for financial services business. The MFSA was also actively involved in a number of regulatory and networking meetings and events at international level.

The new organizational structure of the MFSA ensures that the regulatory and operational functions of the Authority are exercised within strict legal demarcations. The Board of Governors, presided by the Chairman, sets policy; the Supervisory Council, headed by the Director General, is exclusively responsible for issuing licences and regulations; and management and administration fall under the responsibility of the Chief Operations Officer. Co-ordination between these three organs will be ensured through these three officials sitting on a new purposely constituted committee.

Business Development

The Business Development Unit acts as an interface between the Authority and the industry providing

the latter with information resources and back-up in facilitating business and resolving administrative issues. The Unit also handles enquiry services, media relations and communications.

Through its research section, the Unit continued with its efforts to build up information resources for easy access by professionals, financial companies and the specialised media. This section is also responsible for research requirements related to publications and produces the MFSA monthly newsletter which is distributed worldwide.

A new, more user-friendly, web site was launched during the year. The main objective of the web site is to disseminate information and research related to the services provided by the Authority.



During the year the Unit handled an average of fifty enquiries per month ranging from requests for general information of different types of financial services activity to more specific questions by companies interested in investing or doing business in Malta.

Following an updating of policy regarding the issue of work permits to expatriates working for licensed financial services companies, the MFSA and the Department for Citizenship and Expatriate Affairs also finalised a policy whereby persons employed with companies that changed their status from offshore to onshore would not have to file a full work permit application.

Local Activity

In May, the Authority in collaboration with Europa Research and Consultancy Services, organised a one day seminar on Consumer Protection in Financial Services. The seminar included presentations by officials from the MFSA, the European Commission, White & Case (Brussels) and Euroshareholders.

During the year the MFSA also reached an agreement with the Institute of Advanced Legal Studies of the University of London to provide a series of training programmes for employees and practitioners in the financial services sector. The first programme entitled *Old Issues, New Challenges: Regulating the Financial Services Sector of the New Millennium* was delivered in four week-long modules during

June and July. The modules covered general issues of regulation; international and cross-border issues; market abuse and financial crime. All modules were very well attended with over 300 industry practitioners participating.

During December, the Chamber of Advocates in collaboration with the MFSA organised a one day conference on *Important Developments in Financial Services and Company Legislation*. Dr. David Fabri, Director Legal and EU Affairs at the MFSA, delivered a talk focusing on cases decided by the various financial services tribunals. Other speakers who tackled issues ranging from the recent changes in financial services laws to tax and money laundering issues, included Dr. Louis Degabriele from Camilleri Preziosi Advocates, Dr. Neville Gatt



Training programme for local financial services practitioners organised by the MFSA and Institute of Advanced Legal Studies of the University of London

from PriceWaterhouseCoopers, Dr. Arthur Galea Salamone from Galea Salamone & Associates, Mr. Chris Curmi from the Institute of Financial Services Practitioners (IFSP) and Dr. Max Ganado of Ganado & Associates.

During 2002, the Consultation Council met eight times to discuss various issues related to the industry such as proposed changes in legislation, industry training and other matters. The Council is composed of representatives of the MFSA, the Malta Investment Funds Association, the Association of Insurance Brokers, the Malta Insurance Association, the Malta Bankers' Association, the Insurance Trade Section of the Chamber of Commerce, the Malta Stock Exchange, the Association of Licensed Foreign Exchange Dealers, the Institute of Financial Services Practitioners, and the Financial Services Trade Section of the Chamber of Commerce.

A high level Chinese delegation visited the MFSA in May. Mr. Zhu Yeying, Deputy Executive Mayor of Changchun led the talks with MFSA Chairman, regarding Malta's opportunities for Chinese banks and financial services companies. The delegation included representatives from the All China Federation of Industry & Commerce, the Venture Capital Department of the Huyu Guanggu Corporation as well as other trade associations and private companies.

Another delegation led by the Minister of Finance of Libya also visited the MFSA's offices for talks with the MFSA Chairman in December.

International Activity

Malta's role as an international finance centre was given exposure at a number of overseas events that included the participation of the MFSA. These included networking events organized by the Swiss Maltese Chamber of Commerce in Lugano and Innsbruck in April and October. Both these events were well attended and generated a healthy discussion between Maltese practitioners present and their counterparts from Switzerland, Austria and Northern Italy.

A seminar organised by the Banque Centrale du Luxembourg was held in Luxembourg in June. The event was addressed by Mr. Michael Bonello,



MFSA – Institute of Export (Wales) Seminar, Wales, November 2002

Governor of the Central Bank and Prof. J.V. Bannister. This event took place on the same day as the Ministers of Finance of the two countries were meeting for talks.

In May, the MFSA Chairman chaired one of the panel discussions at the 8th Luxembourg Risk Management and Risk Financing Conference. The panel, which included representatives of the Guernsey Financial Services Commission and the Luxembourg Insurance Commission, dealt with captive insurance business, tax harmonization and hostile tax legislation. The event was attended by over 100 delegates from twenty jurisdictions.

In October, the MFSA participated at meetings for international financial services practitioners and intermediaries including banks, financial consultants, regulators and investment houses in Boston and Toronto. The meeting held at the Regency Club Boston was hosted by His Excellency George Saliba, Ambassador of Malta and focused on Malta as an international financial services and e-money centre. In Toronto, a seminar organised by Bank of Valletta was also addressed by the Minister of Finance, the MFSA Chairman, the Governor of the Central Bank of Malta and the Deputy Chairman of the Malta Stock Exchange.

The MFSA Chairman, Prof. Bannister was also invited to speak on the legislative framework for international trading and service companies at seminars held in the UK in June and November. The seminars held

in London, Birmingham and in Wales, focused on Malta's role as a gateway to Mediterranean markets and were organised by the Institute of Export (UK) and the Malta High Commission. The events were also addressed by the Hon. John Dalli, Minister of Finance, the Malta High Commissioner George Bonello Dupuis, the British High Commissioner Howard Pearce, IFSP President Kevin Valenzia and other speakers from the UK. Speakers from HSBC (UK) also spoke on the Bank's experience of international business in Malta.

In October, the MFSA Chairman was also the keynote speaker at a conference for Czech Exporting Companies held in Prague by Raffeisenbank Group, in October.

On the regulatory front, Malta's supervisory infrastructure for financial services business and its position in the light of regulatory initiatives by the FATF, OECD and other international organizations was the subject of discussions with financial regulators in overseas jurisdictions including London, Switzerland and Luxembourg. These discussions serve to strengthen relations and exchange ideas between the regulators and facilitate the flow of business between the respective jurisdictions.

International Media Coverage

The financial services sector in Malta was given extensive coverage in the international media. Special features on the sector were carried in a



number of newspapers and industry publications including: Le Monde, The Observer, International Investment, Portfolio International, The Banker, Finance Today, Finance Dublin, The Lawyer and www.countryprofiler.com. Legislative developments in 2002, including the set up of the MFSA itself, were given extensive coverage in a special supplement carried in FT Mandate magazine while TV channels France Soir and CNBC both carried features dedicated to financial services activity in Malta.

Consumer Protection

The Office of the Consumer Complaints Manager was formally established on October 1, 2002 with the coming into force of amendments to the Malta Financial Services Authority Act. The Complaints Manager's primary function is that of investigating

complaints on financial services transactions from private customers. The Complaints Manager is also responsible for consumer education and awareness and for handling enquires from consumers.

The MFSA's consumer awareness campaign kicked off with the publication of a guide for better investing "*Invest wisely! It's your money!*" This booklet was made available to the public free of charge from over 150 outlets including banks, public institutions and local councils. Throughout 2002 the Guide was continually advertised in the media and promoted during educational spots on local TV and radio stations. The Malta Book Fair in November brought the Office of the Complaints Manager closer to the public and new educational material including a CD, video and leaflets on savings and investment aimed at parents and the

younger generation were launched. The MFSA's consumer web site (www.mfsa.com.mt/consumer) offers the downloading of such educational material and provides information on how a complaint on a financial services transaction can be made.

Issues addressed through dedicated press releases or circulars throughout the year ranged from emerging market investments, including the particular economic and political conditions in Argentina and Brazil, to advanced fee fraud and letter scams.

The Complaints Manager handled sixty-one formal complaints over the year – twenty-seven Investment Services related, another twenty-seven related to Insurance Business and seven concerned Banking. Banking-related complaints mainly dealt with charges and tariffs. Complaints on Investment

Services ranged from charges to quality of service and advice. Insurance-related complaints mainly concerned surrender values of life policies, delays in payment of motor claims, difficulties encountered in insuring motor vehicles, market value of motor vehicles, and the lengthy liquidation process of Independent Insurance (UK).

The majority of complaints were resolved to the satisfaction of the parties concerned. The disputes were normally settled after the intermediary concerned complied with the recommendations given by the MFSA. There were also a number of complaints which were found not to be justified. At the end of the year there were a total of nine complaints still being dealt with.

The Office of the Complaints Manager is planning new initiatives to continue with its efforts to educate and inform consumers about financial services. A mailing campaign set to reach 65,000 shareholders in Malta and Gozo and announcing a new consumer helpline was prepared for launching at the beginning of 2003. A guide on insurance in Malta is also being planned for dissemination in electronic and print format.

Legal and EU Affairs

The Legal and EU Affairs Unit is responsible for the overall legal affairs within the Authority, to provide legal advice and assistance to the Board of Governors and the other organs of the Authority,



to co-ordinate all matters relating to the European Union, the World Trade Organisation, international sanctions and memoranda of understanding with overseas regulatory bodies.

The Director of the Unit represented the Maltese Government in meetings and discussions held at the WTO and the EU Commission on financial services.

During the year, the Unit completed the revision and drafting of a number of amendments to laws, regulations and legal notices connected with the functions of the Authority. The Unit was also involved in on-going discussions and exchange of correspondence relating to EU matters with the Maltese Embassy in Brussels, the EU Directorate and the Ministry of Finance.

Memoranda of Understanding

The Legal and EU Affairs Unit also exchanged correspondence with officials from the Ispettorato per il Credito e le Valute of San Marino, the Financial Services Commission of Mauritius, the Bermuda Monetary Authority, the Guernsey Financial Services Commission, the Commissione Nazionale per le Società e la Borsa (CONSOB), the Isle of Man Financial Supervision Commission and the Cayman Islands Monetary Authority on the proposals for the signing of Memoranda of Understanding. A number of the proposed Memoranda are currently under review.



Signing of Memorandum of Understanding with the Capital Markets Board of Turkey

The MFSA concluded a Memorandum of Understanding with the Capital Markets Board of Turkey and the signing ceremony took place at the MFSA on April 4, 2002.

During the year, the Legal and EU Affairs Unit was also involved in the finalisation of a draft Memorandum of Understanding between the MFSA and the Central Bank of Malta, which was signed on February 6, 2003.

International Sanctions

During the year the Legal and EU Affairs Unit was also involved in the issue of circulars to all MFSA licence holders in connection with anti-terrorist measures adopted by the EU and adhered to by the Maltese Government and on Malta's alignment with EU restrictive measures against Zimbabwe. The lists of persons and entities against whom sanctions

have been imposed by the EU and the UN, are being posted on the Authority's web site to facilitate matters for easier access to licence holders.

The Unit was also involved in the drafting of a proposal for a provision in the National Interest (Enabling Powers) Act to cater for the identification of funds or assets and allowing the possibility of the freezing of funds.

During the year there was an overhaul of financial services legislation. The Special Funds (Regulation) Act [Act XVII] was published on September 10, 2002, and most of its provisions came into force on October 1, 2002. The 250-page law is made up of 16 parts, three of which constitute the brand new legislation regulating retirement funds, and the rest introduce further updates to the financial services laws which were enacted or last amended in 1994 and 1998.

Retirement Funds

The Special Funds (Regulation) Act provides the tools for regulating Retirement Schemes and Retirement Funds deriving mainly from employer pension schemes and private savings. During the last two decades, many countries have departed from the reliance on a pay-as-you-go system for pensions (commonly known as the “first pillar” of retirement income), and have introduced (or re-introduced) various forms of private funding. The new law will help in attracting funded retirement benefit arrangements between an employer and his employees (“second pillar” of retirement income) as well as arrangements that involve a contributor and a beneficiary.

The Malta Financial Services Authority (MFSA)

Act XVII has changed the Maltese financial services landscape in many ways. The law establishes the Malta Financial Services Authority (MFSA) as the regulator for financial services in Malta. The

Authority is the successor to the MFSC, and has assumed all its functions plus new responsibilities as the regulator of investment exchanges and stockbroking firms.

The law also provides for the eventual repeal of any remaining distinctions in the treatment of offshore and onshore entities, in the final phase of a process which began in 1994.

The Stock Exchange

Since its setting up in 1990, the Malta Stock Exchange has performed a wide variety of functions, ranging from those connected to the grant of a listing on the Exchange to the promotion of a wider spread of securities ownership.

The legislation regulating trading in securities has been renamed as the Financial Markets Act, and it clearly distinguishes between the functions of the Listing Authority, and those of recognised investment exchanges (RIEs). The Malta Stock Exchange is now a RIE while the MFSA is the Listing Authority.

Amendments to the Investment Services Act and the Investment Services Guidelines

The Investment Services Act, 1994 has been revised and amended to bring it more in line with EU and WTO standards. The main changes include the introduction of a licensing requirement for stockbroking activities; administration services have

been deleted from Schedule 1 of the Act – however providers of administration services offered to collective investment schemes are required to obtain recognition (rather than a licence) from the MFSA; the MFSA is now bound to reply to applicants for a licence within six months, as to whether or not a licence will be issued; MFSA's power to impose administrative penalties has been extended and a right of appeal before the Financial Services Tribunal (FST) has been granted to persons/licence holders objecting to the imposition of such penalties; the concept of 'close links' has been introduced in line with the requirements of the post-BCCI EU Directive; adverts issued by licence holders are no longer subject to approval by MFSA before publication; reporting responsibilities of auditors of licence holders have been extended and the sections dealing with information sharing and confidentiality have been amended to further facilitate co-operation with both local and overseas regulators.

As a result of the above-mentioned legislative amendments as well as following regulatory developments in other areas, it was necessary to amend most of the existing Regulations issued in terms of Section 12 of the ISA, as well as issue new ones. The following Regulations were published in December, 2002:

- Investment Services Act (Exemption) (Amendment) Regulations, 2002 – LN 351 of 2002;
- Investment Services Act (Licence Fees) (Amendment) Regulations, 2002 – LN 352 of

2002;

- Investment Services Act (Recognition of Private Collective Investment Schemes) Regulations, 2002 – LN 353 of 2002;
- Investment Services Act (Linked Long Term Contracts of Insurance Statutory Notice) Regulations, 2002 – LN 354 of 2002;
- Investment Services Act (Investment Advertisements and Prospectus Exemption) Regulations, 2002 – LN 355 of 2002;
- Companies Act (Investment Companies with Variable Share Capital) (Amendment) Regulations, 2002 – LN 356 of 2002.

The principal changes brought about by the publication of the above Regulations include the introduction of a new classification of Category 1 Investment Services Licences into Category 1a and Category 1b. The Category 1b Investment Services Licence allows the holder to deal as an agent, arrange deals or provide investment advice solely for non-private clients but not to hold or control clients' money/assets or deal on its own account or underwrite. Less onerous regulatory requirements are applicable to Category 1b licence holders as compared to Category 1a licence holders who service Private Clients.

Another change introduced is that Collective Investment Schemes which are considered to be private in nature will no longer be considered to be exempt from the requirement of a CIS licence. Such schemes will be bound to apply for recognition by

the Authority. By virtue of LN 356 of 2002 issued under the Companies Act, 1995, a SICAV may appoint a licensed manager as its sole director. Furthermore, in the case of a multi class company or an umbrella fund, the assets and liabilities of a sub-fund may for all intents and purposes at law, be treated as a separate patrimony – separate from the assets and liabilities of each other sub-fund of the Company.

During 2002, the Investment Services Unit, finalised the revision of the Investment Services Guidelines which include the Standard Licence Conditions for Investment Services licence holders and Licensed Collective Investment Schemes. The updated Guidelines were issued to licence holders and other interested parties on December 4, 2002.

Insurance Business

During 2002, the Insurance Business Act 1998 and the Insurance Brokers and Other Intermediaries Act, 1998 were amended. These amendments, other than amendments relating to affiliated insurance companies, came into force on October 1, 2002. The latter amendments will come into force on April 1, 2003. The most significant amendments include the following:

- The introduction of the concept of 'close links'. This is a prudential measure which requires the Authority to refuse an application or to withdraw an authorisation if it will be difficult or impossible

for an insurance undertaking to be supervised in view of its close links with another undertaking which is not a regulated company.

- A company authorised to carry on life insurance cover will not be authorised to also carry on non-life insurance (other than for personal accident and health insurance and reinsurance business) and vice-versa. This is essential in order to safeguard the interests of the life and non-life policyholders.
- The exchange of information regime whereby the exchange of information will be radically changed into one of co-operation and assistance between regulatory or supervisory authorities. Such arrangements are based on reciprocity provisions.

The MFSA, is currently in the process of drafting various Directives to complement the above legislative amendments.

Amendments to Insurance Directives

During 2002, the Insurance Business Unit also issued amendments to various Insurance Directives and Insurance Intermediaries Directives which amendments were finalised and circulated to the parties concerned in March. (The list of amended directives can be found on page 36). All amendments, with the exception of amendments to Insurance Directive 11 of 1999 and Insurance Intermediaries Directive 14 of 1999, came into

force on May 2, 2002. Amendments relating to Insurance Directive 11 of 1999 and Insurance Intermediaries Directive 14 of 1999 came into force on September 2, 2002.

The Motor Vehicle (Third Party Risk) Ordinance, (Cap 104)

An Inter-Ministerial Joint Committee was established during the first quarter of 2002, and assigned the task of preparing the necessary amendments to the Motor Vehicle (Third Party Risk) Ordinance, Cap 104, to align this legislation with developments in the International Motor Insurance Legislation including the EU Motor Insurance Directives. As a result, Act No. XXX of 2002 amending Cap 104, was passed in Parliament in the last quarter of 2002. This Act includes important amendments which will have significant consequences such as the requirement for an insurance policy relating to a locally registered vehicle to cover any liability arising from motor accidents in a designated state, including European states. It also requires insurance covers of motorcycles to be extended to cover injury caused to pillion riders and also provides a direct right of action to third parties against the insurer of the party causing the accident. The Act has not yet come into force.

Amendments to the Banking Act (Cap 371) and the Financial Institutions Act (Cap 376)

Amendments to the Banking Act and The Financial Institutions Act came into force

during October 2002. Parallel to this development, there was also the publication of a new directive on Electronic Money Institutions issued in terms of the Banking Act and the upgrading of all banking and financial institutions directives that reflected amendments to the main legislation and the role of the MFSA as regulator of banks and financial institutions. The same applied to related banking notices and policy documents. Similar work was also undertaken in relation to the guidelines to prospective applicants for licences in terms of the Banking and Financial Institutions Acts. The following legal notice was issued during December 2002: Legal Notice 357 of 2002 (Fines and Penalties for Offences Regulations, 2002) in terms of the Financial Institutions Act Cap. 376.

Set-off and Netting on Insolvency Bill

The Set-off and Netting on Insolvency Bill was published on November 19, 2002 and was approved by Parliament on February 24, 2003. The main objective of the Bill is to provide for provisions relating to set-off and netting on bankruptcy or insolvency and for the enforcement thereof.

Amendments to the Companies Act (Cap 386)

The amendments to the Companies Act, 1995, which has now been in effect for the past six years, aim to address certain shortcomings of the Act and will also bring the Companies Act fully in line with the relevant EC Directives. A number of

Insurance Directives

Directive 1 of 1999 –	Own Funds of Companies Carrying on Business of Insurance or Acting as Insurance Agents or Insurance Managers
Directive 3 of 1999 –	Information for Policyholders
Directive 6 of 1999 –	Schemes of Operations Relating to Business of Insurance to be carried on in the case of Insurers
Directive 10 of 1999 –	Schemes of Operations Relating to Business of Insurance to be carried on in the case of Insurance Agents and Insurance Managers
Directive 11 of 1999 –	Monies Held in a Fiduciary Capacity
Directive 12 of 1999 –	Business of Insurance Statements
Directive 15 of 1999 –	Appointments and changes of Director, Controller or Manager
Directive 17 of 1999 –	Authorisation to Act as Approved Auditor

Insurance Intermediaries Directives

Directive 1 of 1999 –	Own Funds of companies enrolled in the Brokers List and carrying on business as insurance brokers
Directive 3 of 1999 –	Disclosure of Information for Clients
Directive 5 of 1999 –	Insurance Intermediaries Advertisements and Other Promotional Activities
Directive 7 of 1999 –	Code of Insurance Selling Practice
Directive 10 of 1999 –	Particulars of Companies to be entered in the Brokers List
Directive 12 of 1999 –	Schemes of Operations Relating to Business of Insurance Broking
Directive 13 of 1999 –	Monies held in a Fiduciary Capacity
Directive 14 of 1999 –	Fidelity Bonds
Directive 15 of 1999 –	Business of Insurance Broking Statements
Directive 16 of 1999 –	Particulars of Persons to be entered in the Sub-agents Company Register
Directive 17 of 1999 –	Particulars of Persons to be entered in the Sub-agents List
Directive 18 of 1999 –	Business of Insurance Not subject to Insurance Sub-agency Activities
Directive 19 of 1999 –	Persons Qualified to make use of the word “Insurance”
Directive 21 of 1999 –	Appointments and Changes of Director, Controller or Manager

amendments relate to new requirements arising out of the Eleventh Company Law Directive on disclosure by branches.

The amendments to the Companies Act also seek to redress the lack of provisions dealing with specific issues such as the amendments introducing the Company Recovery Procedure. This procedure applies when a company is unable or imminently likely to become unable to pay its debts. The objective of the procedure is to provide a possibility to companies in financial difficulties to survive in whole or at least in part, whilst taking into account the interests of creditors, shareholders and of the company itself.

Another innovative feature of the amendments is that, for the first time, the law will specify the general duties of company directors. The amendments provide a clear statement on the standard of performance to be expected from directors.

Other new features of the amendments include the introduction of a definition of an offer to the public, the possibility of restoring a company to the register after striking off where the winding up has been vitiated by fraud or illegality of a material nature, and the exemption from the audit requirement for very small private companies.

Market Abuse

The dissemination of false, exaggerated or misleading information, the spreading of false rumours, or the

carrying out of simulated or artificial transactions which are likely to influence the price of securities are some of the new market abuse offences which have been incorporated into the Insider Dealing Act, originally approved in 1994 and which has now been renamed to Insider Dealing and Market Abuse Act.

The Consumer

In stating the main functions of the MFSA, the Act highlights the role of the Authority as the promoter of the general interests and legitimate expectations of consumers of financial services. The Authority may investigate any complaint made by a person having an interest in any financial services matter under any law. The MFSA must also promote fair competition practices and consumer choice within the financial services industry.

The law also enables the setting up of schemes to compensate depositors, investors and policy holders whose claims cannot be satisfied by holders of financial services licences. The Act makes specific reference to the Consumer Complaints Manager at the MFSA whose brief is to investigate complaints from private consumers arising out of any financial services transaction, and to refer such cases, where appropriate, to the Authority's Supervisory Council for its consideration.

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Notabile Road, Attard, BKR14, Malta
Tel: 356 2144 1155 Fax: 356 2144 1189
www.mfsa.com.mt