



# Securities Finance

in 18 jurisdictions worldwide

# 2014

Contributing editor: Mark Greene



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**Securities Finance 2014****Contributing editor:****Mark Greene****Cravath, Swaine & Moore LLP**

*Getting the Deal Through* is delighted to publish the eleventh edition of *Securities Finance*, a volume in our series of annual reports, which provide international analysis in key areas of law and policy for corporate counsel, cross-border legal practitioners and business people.

Following the format adopted throughout the series, the same key questions are answered by leading practitioners in each of the 18 jurisdictions featured.

Every effort has been made to ensure that matters of concern to readers are covered. However, specific legal advice should always be sought from experienced local advisers. *Getting the Deal Through* publications are updated annually in print. Please ensure you are referring to the latest print edition or to the online version at [www.gettingthedealthrough.com](http://www.gettingthedealthrough.com).

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**Getting the Deal Through**

London

April 2014

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**Publisher**Gideon Robertson  
[gideon.roberton@lbresearch.com](mailto:gideon.roberton@lbresearch.com)**Subscriptions**Rachel Nurse  
[subscriptions@gettingthedealthrough.com](mailto:subscriptions@gettingthedealthrough.com)**Business development managers**George Ingledew  
[george.ingledew@lbresearch.com](mailto:george.ingledew@lbresearch.com)Alan Lee  
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# Malta

**Roderick Zammit Pace, Alessandra Camilleri and Christina Sillato Warrington**

Refalo & Zammit Pace Advocates

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## Statutes and regulations

- 1 What are the relevant statutes and regulations governing securities offerings? Which regulatory authority is primarily responsible for the administration of those rules?

The Financial Markets Act (chapter 345 of the Laws of Malta) is the statute that sets out the framework for the regulation of financial markets. It is also the act in terms of which the Listing Authority is established and is endowed with the functions of, inter alia, authorising the admissibility of financial instruments to regulated markets, to promulgate the Listing Rules for the operation of such regulated markets and to ensure compliance of listed financial instruments with the Listing Rules. The act also sets out the terms under which a central securities depository may be operated in, or from, Malta.

The Companies Act (chapter 386) defines the notion of a public offering in terms of Maltese law, and sets out rules relating to capital issues by public companies.

The Investment Services Act (chapter 370) is the act that sets out the licensing and regulatory framework in respect of collective investment schemes operating in or from Malta and firms providing investment services in or from Malta, including the reception, transmission and execution of orders in investment instruments and the underwriting of instruments.

Related statutes include the Prevention of Financial Markets Abuse Act (chapter 476) (see question 17), the Prevention of Money Laundering Act (chapter 373) and the Malta Financial Services Authority Act (chapter 330), which is the act establishing a Malta Financial Services Authority, which, in turn, is the designated competent authority for ensuring compliance with, and the administration of, the Financial Markets Act, the Investment Services Act and other related legislation.

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## Public offerings

- 2 What regulatory or stock exchange filings must be made in connection with a public offering of securities? What information must be included in such filings or made available to potential investors?

### Admissibility to trading – debt and equity

An application for admissibility to trading is made to the Listing Authority. Applications must be submitted together with, inter alia, the relevant application fee, the prospectus and any supplements, audited accounts for the three financial years preceding application, corporate documentation and corporate authorities. The Listing Authority reserves discretion to request any additional documentation.

### Admission to trading – debt and equity

An application for admission to trading is made to a regulated market. At present, there are two regulated markets. The Malta Stock Exchange is set up in terms of the Financial Markets Act. The by-laws of the Malta Stock Exchange (MSE) set out the supporting

documentation that is required to be submitted together with such an application. The said supporting documentation includes, a copy of the listing particulars or equivalent offering document, certified copies of corporate authorities authorising the issue of securities and the issue of the listing particulars or equivalent offering document and copies of the constitutive documents of the company.

### Other regulatory filings – equity

All companies making an allotment of shares are required to submit a return of the allotments to the Registry of Companies on the prescribed form within one month. Information that is to be included in the return of allotments includes the number of shares allotted, the nominal amount of the shares, names and addresses of allottees, amounts paid and amounts due payable on each share, whether on account of the nominal value of shares, or as a premium.

In the case of public offerings of shares, the return of allotments is required to be accompanied by a declaration confirming compliance with the requirement of article 97 of the Companies Act. Article 97 stipulates that no offering may be made unless the minimum amount, which in the opinion of the directors would have been raised through issue in order to provide for preliminary expense, purchase of property, and working capital, as stated in the prospectus, is subscribed and paid in cash and the capital is subscribed in full (whether or not in cash) or where the offer is not fully subscribed, the conditions stated in the offer of allotment are satisfied.

- 3 What are the steps of the registration and filing process? May an offering commence while regulatory review is in progress? How long does it typically take for the review process to be completed?

A two-fold process is envisaged by the Maltese framework in order to be able to successfully bring a public offering of securities. Firstly, an application for admissibility to listing must be made to the Listing Authority, which will approve the application if it is satisfied that all the requirements set out by the Listing Rules have been complied with. Upon approval of the application for admissibility, the issuer would then be required to apply to the regulated market, typically the Malta Stock Exchange, for admission to trading. Offerings may not commence prior to approval of applications for admissibility to listing.

### Admissibility to trading

As a preliminary, an issuer must notify the Listing Authority of its intention to submit an application for admissibility to listing, at least one month prior to submission, following which, an application must then be submitted to the Listing Authority together with all necessary supporting documentation.

Applicants applying for a primary listing of securities are required to appoint a sponsor. The sponsor acts as an intermediary between the applicant and the Listing Authority. It must be independent of

the applicant and must be in possession of an investment services licence in terms of the Investment Services Act. Although the responsibilities of a sponsor are owed solely to the Listing Authority, the role of the sponsor is to give impartial advice to the applicant in connection with the admissibility to listing.

Prospectuses that are being considered for admissibility to listing may not be published unless and until they are approved by the Listing Authority. The process of approval or refusal of the prospectus will be carried out by the Listing Authority within 10 working days from the submission of the draft prospectus. This period of time may be extended to 20 working days in the cases of offers that involve an issuer that does not have any other securities admitted to listing on a regulated market, and which has not previously offered securities to the public. Once approved, the prospectus must be filed with the Listing Authority, in terms of the Listing Rules and delivered to the Registry of Companies for registration, in terms of the Companies Act. Prospectuses must be made available to the public by the issuer at least six working days before the securities are actually admitted to listing and in any event no allotment of securities may be made and no proceedings may be taken on applications made in pursuance of the prospectus until at least the beginning of the sixth working day after the publication in a daily newspaper circulated wholly or mainly in Malta of a notice stating that the prospectus has been issued indicating where a paper copy of the full prospectus is available free of charge.

The Listing Authority will approve an application for admissibility to listing if it is satisfied that the requirements of chapter 3 (conditions for admissibility) and chapter 4 (application for admissibility to listing) of the Listing Rules have been complied with. Authorisation is effective from the formal notification of the sponsor, or if no sponsor is required, of the applicant.

#### Admission to trading on the MSE

The granting of admission to listing on any of the recognised lists of the MSE and trading is considered by the board of the MSE. The issuer's sponsor maintains its intermediary role even at this second stage. Admission may be granted conditionally or unconditionally. Approval of admissibility by the Listing Authority does not translate itself into an automatic grant of admission to listing and trading, and compliance with MSE by-laws must be proven for successful admission of the financial instruments to listing and trading.

In terms of the MSE by-laws, the sponsor is responsible for filing an application for admission and must ensure that the proper procedures for filing have been followed by the issuer, including the production of all documentation that is required to accompany the application.

The board of the MSE will approve or reject an application for admission to trading within five days from receipt of confirmation of admissibility to trading from the Listing Authority. In the case of an initial public offering, the timetable for admission must be agreed with the MSE upon submission of the application.

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- 4** What publicity restrictions apply to a public offering of securities? Are there any restrictions on the ability of the underwriters to issue research reports?

Applicants and issuers must ensure that any advertising is not misleading and does not contain any unverifiable claims. Any advertising must be factual, accurate and consistent with the information contained in the prospectus. Hidden, surreptitious and other indirect forms of advertising are also prohibited.

The Listing Rules impose a prohibition on publicity, whether direct or indirect, from the date of the notification of an intention to submit an application for admissibility to listing (which must be given at least one month before submitting the application) until a final written notice of approval of admissibility to listing is given by the Listing Authority.

Advertisements issued for the purpose of announcing admissibility to listing must contain a statement indicating that a prospectus has, or will be, published, and the times during which copies of the prospectus will be made available to the public.

The MFSA has been known to impose administrative penalties on sponsors, which allowed a prospectus to be circulated, including through online media, before approval by the Listing Authority.

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- 5** Are there any special rules that differentiate between primary and secondary offerings? What are the liability issues for the seller of securities in a secondary offering?

Pre-emption rights arise in respect of issues or allotments of equity securities (including securities that are convertible into shares) for a consideration in cash. In such cases, the equity securities must first be offered to existing holders of equity securities in proportion to the securities already held by them. This obligation arises in terms of the Listing Rules as well as the Companies Act. Shares may not be offered to on a pre-emptive basis to the issuer itself. As pre-emption rights apply exclusively in respect of issues and allotments, they do not arise in the case of secondary offerings by selling shareholders.

It is possible for pre-emption rights to be restricted or withdrawn. Pre-emption rights in respect of particular allotments may be restricted or withdrawn by extraordinary resolution during a general meeting, which must be notified to the registrar of companies. Alternatively, the memorandum and articles of the issuer may empower its directors to restrict or withdraw pre-emption rights in the same manner.

As such, the provisions of the Companies Act imposing civil liability for misstatements in a prospectus apply to all persons who are responsible for, or who have authorised the issue of, that prospectus, which would include the seller of securities in a secondary offering. Further, the Companies Act provisions dealing with the allotment of shares to be listed on a regulated market (relating, inter alia, to the consequences of failure to apply for permission or of the refusal of permission for the securities to be listed and the segregation of application monies until allotment) are made to apply also to a prospectus whereby shares are offered for sale in a secondary offering.

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- 6** What is the typical settlement process for sales of securities in a public offering?

The MSE operates a system known as Maltaclear for clearing and settlement of transactions in financial instruments admitted to any recognised list of the MSE and traded on the Malta Automated Trading System (MATS) and any other transactions in financial instruments that have been specifically agreed upon by the MSE and the transacting parties. Transfers of Maltaclear transactions are carried out on a delivery versus payment (DVP) basis, with final settlement of financial instruments occurring upon final settlement of funds. All Maltaclear transactions are settled on a rolling settlement cycle not exceeding T+3 (ie, the trading day, and three normal working days following the trading day for settlement). Shorter settlement periods may be effected by agreement between the transacting party and the MSE.

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#### Private placings

- 7** Are there specific rules for the private placing of securities? What procedures must be implemented to effect a valid private placing?

Private placings are defined by default in terms of the Companies Act, which includes an exhaustive list of offers that do not constitute an 'offer of securities to the public'. Offers that would not be categorised as offers of securities to the public include:

- offers of securities made only to 'qualified investors', namely, professional clients or eligible counterparties in terms of the MiFID Directive;

- offers made to less than 150 persons in each EU or EEA state (excluding 'qualified investors');
- offers where the minimum consideration that may be paid in respect of any one, separate offer is €100,000;
- offers where the nominal consideration of each security amounts to a minimum of €100,000; and
- offers where the total consideration for the securities offered in an EU or EEA state does not exceed €75 million over a period of 12 months.

Private placings are beyond the scope of the Listing Rules and would be regulated by the Companies Act, Investment Services Act and general principles of law.

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- 8** What information must be made available to potential investors in connection with a private placing of securities?

Applications for shares or debentures are exempt from the obligation to issue a prospectus when such applications do not constitute an 'offer of securities to the public' in terms of the Companies Act. The Companies Act does not set out any specific disclosure requirements that would arise in the case of private placements. Nevertheless, issuers involved in a private placement would typically provide potential investors with a detailed set of terms and conditions regulating the placement, a private placement memorandum or a term sheet, or both, detailing certain key information in respect of the issue, as well as a subscription agreement.

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- 9** Do restrictions apply to the transferability of securities acquired in a private placing? And are any mechanisms used to enhance the liquidity of securities sold in a private placing?

As such, no restrictions relating to the transferability of securities apply by reason of the securities in question being acquired in a private placing (although restrictions may apply in terms of the memorandum and articles if the company is a private company). No mechanisms are usually used to enhance the liquidity of securities sold in a private placing.

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### Offshore offerings

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- 10** What specific domestic rules apply to offerings of securities outside your jurisdiction made by an issuer domiciled in your jurisdiction?

In respect of issuers enjoying admission to listing in an EU or EEA state (other than Malta), whose home member state is Malta, the Listing Rules provide that the approval granted by the Listing Authority in respect of a prospectus is valid in any number of host EU or EEA states. In cases where passport rights are being so used, the European Securities and Markets Authority (ESMA) and the regulatory authority of the host state are required to be notified in accordance with the relevant procedures under the Prospectus Directive regime.

If, in the interim period between the approval of the prospectus by the Listing Authority and the use of passport rights, significant new factors, mistakes or inaccuracies arise, the Listing Authority will additionally request that approval be sought in respect of the publication of a supplement to the prospectus.

Upon the request of the issuer, the Listing Authority will provide the regulatory authority of the host EU or EEA state with the appropriate certificate indicating the approval of the prospectus within a maximum of three working days from the request. The Listing Authority is also responsible for the notification of the same to ESMA. The certificate of approval that is issued by the Listing Authority confirms compliance of the prospectus with the Prospectus Directive and the approval of the prospectus by the Listing Authority in terms of the same directive.

Moreover, the obligation contained in the Companies Act to deliver a prospectus to the Registrar of Companies for registration is not restricted by the territory in which the prospectus is published and continues to apply in respect of companies incorporated in Malta seeking to offer their securities outside Malta.

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### Particular financings

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- 11** What special considerations apply to offerings of exchangeable or convertible securities, warrants or depositary shares or rights offerings?

#### Exchangeable and convertible securities

Securities that may be exchanged or converted into another class of securities may only become admissible to listing if that other class of securities is itself, or will become at the same time, admissible to listing. The Listing Authority, however, retains discretion to grant admissibility to listing in other circumstances, where it is satisfied that enough information is available to grant the holders of securities the possibility to form an opinion concerning the value of the underlying securities to which the securities in question relate.

#### Warrants

Unless sanctioned by reference to exceptional circumstances, the issue of warrants to subscribe for shares must be limited to an amount equalling 10 per cent of the issued share capital of the issuer at the time when the warrants are so issued.

#### Depositary shares

There are no special considerations relating to depositary shares.

#### Rights offerings

The Listing Authority will not authorise rights issues in which the rights are non-transferable, in whole or in part, in favour of a third party, at the option of the entitled shareholder.

Typically, a decision of the board of directors of the company is required in order to evidence the intention to proceed with a rights issue. Notification to the Listing Authority will also be required to be made in respect of the issue price and principal terms of the issue and the results of the issue.

Where existing holders do not take up their rights to subscribe to securities in a rights offering, the issuer will then be bound to ensure that the securities to which the offering relates are offered for subscription or purchase on a regulated market.

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### Underwriting arrangements

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- 12** What types of underwriting arrangements are commonly used?

In the main, underwriting agreements in Malta follow a somewhat standardised approach, with the main distinction being one between full and partial underwriting. In the event of a partial underwriting, this is generally conditional upon being subscribed to a minimum number of securities.

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- 13** What does the underwriting agreement typically provide with respect to indemnity, force majeure clauses, success fees and over-allotment options?

#### Indemnity

Indemnity clauses typically state that the issuer will indemnify and hold harmless the underwriter in respect of all and any losses, damages, costs, claims and liabilities sustained. The scope of indemnity is usually limited to losses and damages that arise in respect of any misstatement or omission contained or omitted in the prospectus. In terms of such an indemnity clause, the underwriter can expect to be fully reimbursed for any expenses (including those of a legal nature) that were incurred in the investigation or defence against any such loss, cost, claim, damage, liability or action. As a rule, contractual

indemnities are stated to apply in addition, and without prejudice, to any other rights of the underwriter arising at law.

#### Success fees

Most underwriting arrangements provide for an unconditional fee connected with the underwriting commitment and payable upon the underwriting arrangement. In addition, a sales commission is typically also established, which may be calculated as a percentage of the nominal value of the securities that are subscribed by the underwriter.

#### Over-allotment

Typically, securities subject to an over-allotment option are not covered by underwriting. The issuer would normally only avail itself of an over-allotment option to satisfy surplus applications.

#### Force majeure

Force majeure clauses typically protect the underwriter from losses arising from the underwriter's failure to fulfil its duties where such failure is due to events beyond the control of the underwriter. Specific provision may also be contained with underwriting arrangements in respect of market disruption events.

#### 14 What additional regulations apply to underwriting arrangements?

Underwriting is regulated by the Investment Services Act (ISA) as a licensable activity. The first Schedule of the Act, which lists the licensable activities under the ISA, includes the 'underwriting of instruments and, or, placing of instruments on a firm commitment basis' as one such activity. This activity is described within the same Schedule as arising when the underwriter 'assumes the risk of bringing a new securities issue to the market by buying the issue from the issuer and thereby guaranteeing the sale of a certain number of shares to investors'. As a result, no underwriting activity can be provided in, or from within, Malta, unless the underwriter is in possession of a valid investment services licence.

#### Ongoing reporting obligations

#### 15 In which instances does an issuer of securities become subject to ongoing reporting obligations?

In terms of the Listing Rules, once the issuer's securities have been authorised as admissible to listing on a regulated market in Malta, the issuer shall then be considered responsible for ensuring compliance with the continuing obligations contained in the Listing Rules.

Certain exemptions are contemplated by the Listing Rules. Issuers of, exclusively, debt securities, having a minimum denomination per unit of €100,000 or the equivalent, are exempt from drawing up and publishing the annual and half-yearly reports and interim directors' statements described in question 16. Moreover, the obligation of drawing up and publishing half-yearly financial reports is not applicable in respect of credit institutions whose shares are not admitted to trading, and that have only issued debt securities (provided that the total nominal amount of securities remains below €100 million) and that no prospectus has been published in terms of the Prospectus Directive and issuers of debt securities guaranteed by the home member state or any other local authority, exclusively, already existing at the date of entry into force of the Prospectus Directive.

#### 16 What information is a reporting company required to make available to the public?

The Listing Rules contain a number of reporting obligations incumbent upon listed companies. Additionally, both listed and non-listed companies are subject to the obligations of the Companies Act in terms of which all companies are required to keep proper

accounting records, publish annual financial statements and submit annual returns.

Chapter 5 of the Listing Rules provides a set of continuing obligations that all companies whose securities are admitted to trading must comply with as follows.

#### Company announcements

Issuers are required to publish company announcements to bring useful and relevant facts to the attention of the market. Company announcements must be clear, precise and truthful, may be in English or Maltese and must be published without delay through a regulated market. Information that must be disclosed by means of a company announcement includes:

- price-sensitive facts arising in the issuer's sphere of activity and that are not public knowledge, as well as any information concerning the issuer or its subsidiaries necessary to avoid the establishment of a false market in its securities;
- decisions of the board of directors in connection with dividends or other distributions;
- mergers, divisions and acquisitions or realisations of assets or any transactions;
- material changes in the company's capital structure; and
- issues of any new debt or equity securities.

Companies subject to reporting requirements may seek an exemption from the publication of a company announcement from the Listing Authority should such company consider that disclosure of the information required to be made public may prejudice its legitimate interests.

#### Periodic financial reporting

##### Annual financial report

This must include financial statements, a directors' report, the auditors' report and a report by directors and auditors confirming compliance with the Code of Principles for Good Corporate Governance.

Issuers are required to ensure that the annual financial report is made available to the public immediately following approval by the board of directors. Approval and publication must not occur later than four months following the end of the financial year, and must remain publicly available for a period of at least five years.

Annual financial statements, if required to be consolidated, must be prepared in accordance with accounting standards adopted EU-wide, and otherwise, in accordance with the national law in which the issuer is registered or incorporated.

The directors' report, in the case of issuers incorporated as limited liability companies whose securities carry voting rights, must indicate, inter alia, the capital structure of the issuer, any restrictions on the transfer of securities, any direct or indirect shareholding in excess of 5 per cent, restrictions on voting rights, shareholders' agreements known to the company that may result in the restriction of share transfers, the powers of directors and any material agreements to which the company is a party.

##### Half-yearly report

Issuers of debt or equity securities are required to publish a half-yearly financial report, in respect of the first six months of each financial year. The half-yearly report is required to contain a condensed set of financial statements, an interim directors' report, a statement attesting to the proper preparation of financial statements and an auditors' report, or, where no audit or review has been carried out in respect of the half-yearly financial statements, a statement to that effect.

An interim directors' report is required to include an indication of the salient events that have occurred in the first six months of the company's financial year, as well as an analysis of the effect of such events on the condensed financial statements. The report must also contain disclosure of any major related party transactions.

**Interim directors' statements**

Issuers, whose shares are admitted to trading, are further required to publish a statement by its directors during the first six-month period of the financial year and the second six-month period of the financial year, which statement should include an explanation of material events and transactions occurring in that six-month period prior to the statement, the effect of such events and transactions on the company's financial position, as well as a general description of the financial performance of the issuer during that period.

**Anti-manipulation rules**

**17** What are the main rules prohibiting manipulative practices in securities offerings and secondary market transactions?

The primary source of rules is the Prevention of Financial Markets Abuse Act (PFMAA), which is the statutory vehicle by means of which the Market Abuse Directive, Directive 2003/6/EC, as amended, was transposed into the Maltese framework. The PFMAA is further enhanced by subsidiary legislation including, the Disclosure and Notification Regulations. Also of note are the Financial Markets Act (Transparency) Regulations, which set out the transparency requirements that must be satisfied on a continuing and ongoing basis by regulated markets.

**Insider dealing**

The PFMAA prohibits the use of inside information in order to trade in any financial instruments admitted to trading, or in any way dispose of or acquire any such financial instrument, whether for one's own account or for the account of a third party, if such information came to that person's knowledge by virtue of the person's role in the management or administration of the issuer, the holding of shares in the capital of the issuer, criminal activities or the exercise of one's employment or profession.

**Market manipulation**

In terms of the PFMAA, the manipulation of a regulated market through the dissemination of false, exaggerated or misleading information, as well as the spreading of false rumours, is prohibited. There is a similar prohibition in respect of the putting into effect of simulated or artificial operations, transactions or orders.

**Price stabilisation**

**18** What measures are permitted in your jurisdiction to support the price of securities in connection with an offering?

The Maltese legislative and regulatory framework does not contain any provisions in relation to the price of securities in connection with an offering. Price stabilisation will, however, be acceptable if carried out within the safe harbour provisions of Commission Regulation (EC) No. 2273/2003. Stabilisation will only be permitted

for a limited period of time, and is subject to disclosure and reporting conditions incumbent upon 'issuers, offerors, or entities undertaking the stabilisation'.

**Liabilities and enforcement**

**19** What are the most common bases of liability for a securities transaction?

**Companies Act**

Article 94 of the Companies Act provides for civil liability in the case of misstatements contained in a prospectus. In terms of this article, persons who are 'responsible for' or who have 'authorised the issue of' a prospectus, will be liable for any damage sustained by a person subscribing to securities as a result of reliance on that prospectus, by reason of any statement included in that prospectus that is untrue.

Additionally, the Companies Act also contemplates liability for failure to comply with articles 89 and 90 of the Companies Act, which prescribe the obligation of publishing a prospectus and the contents of prospectuses, respectively.

**Financial Markets Act**

Principally, two types of offences emerge from the Financial Markets Act (FMA):

- persons contravening any provisions of the FMA, may be liable to an administrative penalty not exceeding €150,000 imposed by the MFSA without recourse to a court (provided that an appeal from any such determination may be lodged before the Financial Services Tribunal); and
- contravention or failure to furnish the MFSA with any information required in terms of the FMA, compliance with any court order given in terms of the FMA, or, generally, failure to comply with any condition, order, requirement or Listing Rule made in terms of the FMA will constitute an offence under that same act. An offence in terms of the FMA is a criminal offence, and persons convicted may be liable to a maximum fine of €466,000 or to a term of imprisonment not exceeding four years, or both.

**General principles of law and private law**

Issuers remain bound by general principles of law and private law. Thus, even if certain activities fall outside the scope of specific statutes or regulations, civil law norms regulating standards of conduct remain applicable.

**20** What are the main mechanisms for seeking remedies and sanctions for improper securities activities?

Civil litigation is the principal manner in which private rights may be enforced within the Maltese judicial system. A civil claim can be based on contract or tort or on both. The Maltese law of torts is not based on a system of nominate torts, but a general concept of fault and duty of care.

# Refalo & Zammit Pace

ADVOCATES

**Roderick Zammit Pace**  
**Christina Sillato Warrington**

**roderick.zammitpace@bar.com.mt**  
**christina.sillatowarrington@bar.com.mt**

61 Saint Paul's Street  
Valletta VLT 1212  
Malta

Tel: +356 2122 6268  
Fax: +356 2124 1170  
www.bar.com.mt

Appeals from administrative decisions in the context of improper securities activities are conducted before the Financial Services Tribunal (FST). The FST has competence to hear appeals in those circumstances set out under the law by persons aggrieved by certain decisions and determinations of the MFSA, the Listing Authority or a regulated market in relations to their powers granted by the FMA, the Investment Services Act, the Prevention of Financial Markets Abuse Act and the Malta Financial Services Authority Act.

In respect of those offences that are deemed to constitute a criminal offence, persons responsible may be prosecuted criminally, in addition to any civil claim to which they may be subject in respect of the same activities.

Additionally, the Prevention of Financial Markets Abuse Act affords a number of preventive measures to aid investigations into market abuse. The attorney general may, in the course of investigations carried out pursuant to the Prevention of Financial Markets Abuse Act, request the criminal court to issue an attachment order, attaching in the hands of garnishees all monies and other movable property of the suspects. Moreover, where a person has been charged, either criminally or administratively, with a breach in terms of the Prevention of Financial Markets Abuse Act, the attorney general may request that the criminal court issues a freezing order in respect of all monies and other movable property of the person charged. Assets under a freezing order may be paid out to satisfy debts due by the person charged.



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