



Electronic Money Institutions

Introduction

Financial Institutions are entities licensed to operate under the Financial Institutions Act (Cap. 376 of the Laws of Malta) (the “**Act**”) and means a person who regularly and habitually undertakes the carrying out of the activity listed in the First Schedule thereof.

Such Financial Institutions can include such Electronic Money Institutions (“**EMIs**”) that are defined under the Third Schedule as undertaking payment services and/or the issuance of electronic money.

Electronic money (“**e-money**”) itself defined as:

“electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions ... and which is accepted by a natural or legal person other than the financial institutions that issued the electronic money”.

Electronic money typically manifests as being either card/device based (using an eWallet or an eCard), or the more recently popular server-based e-money solutions being developed.

With 27 EMIs being currently operating, Malta one of the most popular jurisdictions for those looking to set up and offer services from Malta.

Malta itself is a leading jurisdiction in emerging technical markets – including those related to cryptocurrency, distributed ledger technology, and iGaming. As such, there is strong local demand for increased EMI coverage – along with a strong local network of experienced service providers, highly-educated English-speaking workforce, clear regulations and an efficient regulator – along with the ability to passport to the other Member States of the European Union.

The regulatory changes brought about in April 2011 that brought EMIs under the Financial Institutions Act and the Regulations related to which (rather than as previously regulated under the Banking Act), as allowed for a more optimal legislative environment – with various measures brought to bear including improved customer protections, whilst allowing for a wider entry into the industry with the reduction of such requirements as relating to minimum initial capital.

EMI Licence

All EMIs operating in Malta are required to apply for and hold a valid EMI Licence issued by the Malta Financial Services Authority (the "MFSA") – which is the regulatory body tasked with the protection of consumers, integrity of financial markets, financial stability and the supervision of all financial services activities.

The MFSA shall not issue an EMI Licence in terms of the Act, unless the EMI meets certain conditions which include, inter alia, the following:

- The initial capital requirements are met;
- There are at least two individuals who will effectively direct the business of the EMI from Malta;
- The company has sound and prudent management and has robust governance arrangements that include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures – and which are comprehensive and proportionate the nature, scale and complexity of the business;
- Shareholders having a qualifying holding, controllers and all persons who will effectively direct the business of the financial institution are suitable persons to ensure its sound and prudent management.

Where legal persons have possession of an Authorisation granted by another EU Member State, then they may exercise their European rights in Malta in accordance with the provisions of the Payment Services Directive and the Electronic Money Directive.

Likewise, a Malta EMI Licence shall enable the holder to operate in all Members States so as to offer such licensable services: either through the establishment of a branch by exercising the right to establishment, or by exercising its right under the freedom to provide such services.

Permitted Activities

EMIs can apply to provide various services as set out at Schedules 2 and 3 of the Act.

Schedule 2 includes the following activities:

- services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;
- services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account;
- execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits;
 - execution of payment transactions through a payment card or a similar device;
 - execution of credit transfers, including standing orders;
- execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - execution of direct debits, including one-off direct debits;
 - execution of payment transactions through a payment card or a similar device;
 - execution of credit transfers, including standing orders;
- issuing of payment instruments and, or acquiring of payment transactions;
- money remittance;
- payment initiation services; and
- account information services.

Schedule 3 includes the following activities:

- the granting of credit related to payment services;
- the provision of operational services and closely related ancillary services in respect of the issuing of electronic money or to the provision of payment services;
- the operation of payment systems; and
- business activities other than the issuance of electronic money.

Submission of Intent

As a first step in the licencing process, prospective Applicants intending to obtain an authorisation from the MFSA shall duly submit their intention in the form of a high-level presentation, which is akin to a detailed business plan, and which should contain, inter alia, the following:

- i. Applicant's identification, formation and contact details, as follows:
 - When formed, the Applicant should state its actual identification and formation details; or
 - When not yet formed, the Applicant should state its proposed identification and formation details;
- ii. Representative's contact details;
- iii. Share Holding Structure, clearly outlining the aggregate percentage holding and/or control of each shareholder, and indicating the ultimate beneficial owner (include diagram);
- iv. Proposed organisational structure, outlining high-level details and including the names of key individuals (include diagram);
- v. Indication of the prospective Applicant's regulatory history, if applicable;
- vi. Identification of the type of authorisation required and the proposed financial service activities that the Prospective Applicant intends to undertake; and
- vii. An outline of the organisation's objectives, long-term strategy, type of clients to be serviced, any planned critical outsourcing activities and internal systems to be used.

At this stage, a meeting is typically arranged between the Applicant and the MFSA to meet the individuals involved, discuss the Submission of Intent, and to cover any initial MFSA feedback. The MFSA shall also commence initial basic due diligence on the Applicant's business owners and any other key individuals identified at the outset.

Following the meeting, the MFSA provides formal feedback on the Submission of Intent including any additional requests for submission.

Once all MFSA feedback has been successfully addressed, then the MFSA issues an 'in-principle approval' of the proposal – which opens the application portal opens following which the Applicant has 40-working days to submit the Licence Application

Submission of Licence Application

If the Applicant has not yet incorporated a company in Malta – then this must be carried out as a first step following receipt of 'in-principle approval' – as well as seeking to set up a corporate bank account with an institution able to provide suitable banking facilities for an EMI-licensed entity. Furthermore, the Applicant should look to identify suitable office space in line with MFSA requirements – and which are sufficient when considering the staffing needs for the entity post-licencing.

Concurrent with this, the Applicant should look to identify qualified individuals to fill the key positions identified in the proposed organisational structure, as submitted with the Submission of Intent. Noting substance requirements that necessitate control and operation of the company to emanate from Malta – most of these positions should be held by individuals holding rights of Malta residence. Such individuals shall be subject to MFSA following submission of Personal Questionnaires and the supporting Suitability Assessments.

The application is made up of various forms that must be completed, as follows:

- Application Form (including a business plan and financial projections covering the first 3 years of operations and other attachments as outlined within)
- AX01 – Corporate Questionnaire
- AX02 – Involvement Suitability Assessment
- AX03 – Third Party Outsourcing Assessment
- AX05 – Extended ICT Questionnaire
- AX18 – Trusts and Fiduciaries Additional Questionnaire (where applicable)
- AX26 – Source of Wealth and Source of Funds Self-Declaration Form
- Personal Questionnaire for individuals who are, or are proposing to become Directors, Controllers or Managers.

These forms are the backbone of the application, and are annexed by supporting documentation which includes, inter alia, the following:

- Corporate documentation of the company
- Evidence of initial capital requirements
- Personal supporting documentation for the proposed Directors, Controllers or Managers
- Evidence of sources of funds and wealth of the qualifying shareholders
- Identity (and draft engagement documents) with third party providers, including proposed audit firm
- Draft outsourced arrangements
- Draft Policies & Procedures

Time Frame

Typically, to incorporate a company in Malta take approximately a week to 10 days – and to open a corporate bank account can take an additional 4-5 weeks.

Once the MFSA issues 'in-principle approval' of the proposal submitted during the Submission of Intent, then the Applicant has 40 working days to submit the application.

Once the application has been submitted, the MFSA typically takes approximately 3 months to determine whether or not the application complies with the requirements as prescribed by law – and, otherwise, within an 8-month period from filing of the first draft of the application to date of issuance of the licence.

Following issuance of licence, the MFSA will publish licencing conditions which comprise of both pre-commencement and post-commencement of activities requirements. The MFSA shall supervise the satisfaction of such requirements on an ongoing basis

Cost & Fees

The initial capital requirement for an EMI is at a minimum €350,000. The EMI must ensure that its own funds at no time drops below the required initial capital requirement.

The one-time application fee for an EMI Licence upon submission of the application is €3,500.

EMIs are subject to an annual supervisory fee equivalent to 0.0002% of the total assets as reported by the licence holder in the statutory schedules under applicable Financial Institutions Rules and pertaining to the year immediately before the year when the fee is payable – with the fee being at least €2,500.

Regulatory Enhancements (2024):

Safeguarding of Client Funds: Electronic Money Institutions (EMIs) must maintain segregated accounts for client funds, conduct daily reconciliations, and implement safeguarding mechanisms that are appropriate to the size, complexity, and risk profile of the business. These requirements are supervised by the MFSA under its Financial Institutions Rulebook.

ICT and Operational Resilience: EMIs are expected to establish robust information security frameworks, including Business Continuity Plans (BCPs), penetration testing, and incident response procedures. These ICT governance controls must be proportionate and aligned with the business's critical services.

Governance and Key Roles: The MFSA requires that EMIs appoint dedicated and suitably experienced individuals to key positions including Compliance Officer, MLRO, and Risk Officer. These roles are expected to operate independently, and in most cases, the individuals should be resident in Malta to satisfy substance requirements.

DLT and Crypto Exposure: Where an EMI intends to interact with crypto-assets, DLT platforms, or virtual currencies, these activities must be disclosed during the application process. The MFSA applies enhanced scrutiny to such business models, with a focus on AML/CFT controls, transaction monitoring, and regulatory perimeter risk.

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