



**MCCAA**

MALTA COMPETITION AND  
CONSUMER AFFAIRS AUTHORITY

# Your rights and obligations

when investing your money



## **Government is committed to continue strengthening consumer rights within the financial sector**

As promised in the government's workplan, you will receive two consumer rights charters. This *charter* is related specifically to financial services.

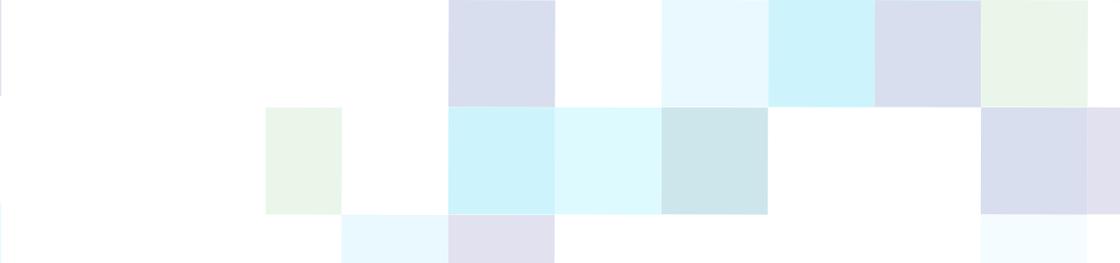
The purpose of this *charter* is to guide small investors who are less experienced or more vulnerable than others, to ensure that their rights are protected when investing their money. In this way, small prospective investors can feel more confident in taking this step after having received all the necessary information. At the same time, the *charter* raises awareness about the risks and costs involved with these types of transactions.

This *charter* will be beneficial to all those consumers interested in having access to financial services.

We are committed to continue working to provide consumers with protection and peace of mind.

### **Dr Helena Dalli**

Minister for Social Dialogue, Consumer Affairs and Civil Liberties



The objective of this *charter* is to highlight the fundamental principles which should serve to help small investors make the right decisions. It provides information to small investors on their rights when purchasing financial instruments in order for them to be better prepared when making investment choices.

This *charter* should also serve to allow financial intermediaries offering investment services to better identify the legitimate expectations of their clients who are small investors.

This *charter* applies to investors and/or prospective investors in financial instruments such as shares, bonds and units in collective investment schemes and does not apply with regards to the purchase or investment in insurance or banking products. For banking services, please refer to the Charter for Banking Services.



## SERVICES AND INFORMATION TO BE PROVIDED

The investor can expect to receive either of one of these two services from a financial intermediary:

### A

#### **Financial advice (personal recommendation)**

When this service is provided, the financial intermediary offers a personal recommendation to the investor, meaning that the intermediary indicates financial products suitable to the particular investor's circumstances. To offer such recommendation, the financial intermediary is obliged to ask the investor all the necessary questions to gain a better understanding of the investor's expectations from the investment being considered, his/her financial position and his/her knowledge on financial products and instruments.

### B

#### **Purchase of a financial product without advice**

Through this service, the intermediary does not offer a personal recommendation to the investor. However, in the case of complex financial instruments<sup>1</sup>, the intermediary is obliged to ask the investor questions in order to establish whether the latter possesses sufficient knowledge and experience concerning investments in similar products so as to be able to understand the risks associated with such products.

Should the investor fail to convince the intermediary that he/she possesses sufficient knowledge and experience to purchase complex products, the intermediary should clearly advise the investor that such products are not appropriate for him/her.

The intermediary is not obliged to ask the abovementioned questions and may proceed to execute the client's order to purchase particular products, if the latter are not complex and if certain other conditions (derived from regulations binding the financial intermediary) are fulfilled. In such case, the investor should be informed that for such service to be provided, the intermediary is not bound to ascertain whether the relevant product is appropriate for the client's circumstances.

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<sup>1</sup> Complex financial instruments or products are those having a complex structure which the client cannot always easily understand. It is the intermediary's obligation to classify the products being offered between complex ones and ones that are not according to rules and other applicable criteria and which they are obliged to follow.

**In any case and irrespective of the service being provided, the investor shall:**

- be informed by the intermediary, in writing, clearly and in simple terms, which type of service is being provided (i.e. advisory or non-advisory service). This declaration shall bear the intermediary's signature and although the investor may be requested to sign as well, it should be formulated in such a way that it is the intermediary who is making the declaration as to which service is being provided.
- expect to be provided with complete information which is clear, fair and not misleading, concerning the investment being proposed to him/her or that in which he/she is showing an interest.
- have the right to check on the reputation of the company in which he/she will be investing by requesting further information on the company from the financial intermediary. Such information can be provided by, for example, a reference to documentation issued (i) by the company in which the investment will be made or (ii) from 'Credit Rating Agencies'.
- be informed on the associated risks of the investment being made or proposed, including the risk of non-repayment of the capital amount, interest or other income on such investment. It should be clearly explained that the greater the potential earnings or interest, the greater the risk for the investor of losing part or all of the sum invested.
- be informed that past successes of the investment being recommended to him/her or in which he/she is showing interest are not guaranteed in the future.
- be clearly provided with information on fees or payments and how these apply to the investment he/she is undertaking. The investor shall be advised every time the fees are changed. The fees to be disclosed include those applicable when:
  - an investment is opened, closed or transferred;
  - the investor adds on/reduces from the existing investment;
  - the financial intermediary's service is being offered with a fee that corresponds (i) to the sum being invested; and/or (ii) to the time dedicated for the financial advice to be given; and/or (iii) for another reason as agreed between the investor and the financial intermediary;
  - there is a clear agreement for the financial intermediary to be responsible for the management of the investment portfolio belonging to the investor - pursuant to guidelines agreed upon beforehand and which reflect the investor's wishes as regards investment yield.



- be informed on the possibility of investing his/her money in the name of the company serving as a financial intermediary on his/her behalf. This service is known as 'Nominee Service'. When the intermediary offers this service, the investor, if investing as a 'Nominee', shall be provided with an explanation on the advantages and disadvantages that will be affecting his/her investment, if he/she invests through a nominee, as well as related fees. If such agreement is made at the beginning of the contract, the investor shall expect the intermediary to provide him/her with updated information on the investment's performance.
- expect that all the information related to an investment product, shall be provided to him/her in writing. This shall include printed paper, email or a clear reference to the place (website) where the most updated information can be found on the internet. The means by which the information shall be provided to the investor shall be agreed on between the investor and the intermediary.
- in the case of a long-term investment, be informed on what will happen with the money invested if he/she is unable to continue with the investment. Any fees applicable in such cases shall be included in the information provided to the investor.
- be given a copy of the investment contract, once signed. Before the contract is concluded, there should be an agreement between the investor and the financial intermediary as to what documents can be sent by email.

## 2

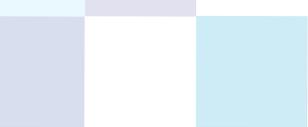
### **When financial advice is being given by means of a personalised recommendation:**

- the intermediary is obliged to perform a detailed analysis which leads to the recommending of the products which are deemed suitable for the investor in his/her circumstances. Therefore, the investor shall not be requested to sign any declaration which may , in any way relieve the intermediary from this obligation;
- the investor shall expect the intermediary to guide him/her in investing those monies he/she does not need on a daily basis and warn him/her not to invest all the monies available for investment in one instrument so as to spread the risk inherent in every investment.

## 3

When a Nominee or portfolio management service is being provided, the investor shall expect to periodically receive from the intermediary, a statement on the value of the investments' held in the investor's name by the intermediary. In the case of portfolio management services, this statement shall be sent to the investor at least every six months.





## INVESTOR'S OBLIGATIONS

The investor also has various obligations when considering or buying an investment. These include that he/she:

- obtains information on different investments from various intermediaries licensed by the MFSA to inform him/herself on what is available in the market.
- asks the intermediary for further details or explanations as necessary. The investor should not make decisions related to investments with haste. He/she should ask for all the necessary explanations, reflect on all the information provided, ask any further questions to clear any doubts and decide calmly.
- answers truthfully all the questions asked by the intermediary so that the latter will be able to obtain sufficient information to give a personalised recommendation (advice) to the investor on the investments suitable for him/her in his/her circumstances.
- follow the course of his/her investment, not least by making an appointment from time to time as agreed with the intermediary to revise the investments made.

If the investor feels that the service provided fell short of his/her expectations or that his/her rights were not respected, the investor has the right to complain with who had given him/her the financial service. If the investor remains unsatisfied with the reply provided by the financial intermediary, he/she has the right to complain with the Office of the Arbiter for Financial Services.



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