

## **INVESTMENT SERVICES RULES FOR ALTERNATIVE INVESTMENT FUNDS**

### **PART B: STANDARD LICENCE CONDITIONS**

#### **Appendix 7 Remuneration Policy**

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##### **1 Introduction**

- 1.01 The SLCs prescribed in this Appendix are applicable to Alternative Investment Funds which are self-managed in terms of Part B of these Investment Services Rules.
- 1.02 For the purposes of this Appendix, the term “AIF” shall be understood as referring to a “self-managed AIF”.

##### **2 Remuneration Policy**

- 2.01 In terms of SLC 8.71 of Part B of these Investment Services Rules, an AIF shall have remuneration policies and practices for those categories of staff, including senior management, risk takers, control functions, and any employees receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on the risk profile of the AIF, that are consistent with and promote sound and effective risk management and do not encourage risk taking which is inconsistent with the risk profiles, fund rules, prospectus or offering documents of the AIF.
- 2.02 When establishing and applying the total remuneration policies, inclusive of salaries and discretionary pension benefits, for those categories of staff, including senior management, risk takers, control functions and any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on the risk profile of the AIF, the AIF shall comply with the following principles in a way and to the extent that is appropriate to its size, internal organisation and the nature, scope and complexity of its activities:
- (a) The remuneration policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking which is inconsistent with the risk profiles, Constitutional Documents and/or Offering Document of the AIFs it manages;

- (b) The remuneration policy is in line with the business strategy, the objectives, values and interests of the AIF or the investors of such AIF, and includes measures to avoid conflicts of interest;
- (c) The management body of the AIF, in its supervisory function, adopts and periodically reviews the general principles of the remuneration policy and is responsible for its implementation;
- (d) The implementation of the remuneration policy is, at least annually, subject to central and independent internal review for compliance with policies and procedures for remuneration adopted by the management body in its supervisory function;
- (e) Staff engaged in control functions are compensated in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control;
- (f) The remuneration of the senior officers in the risk management and compliance functions is directly overseen by the remuneration committee;
- (g) Where remuneration is performance related, the total amount of remuneration is based on a combination of the assessment of the performance of the individual and of the business unit or AIF concerned and of the overall results thereof, and when assessing individual performance, financial as well as non-financial criteria are taken into account;
- (h) The assessment of performance is set in a multi-year framework appropriate to the life-cycle of the AIF in order to ensure that the assessment process is based on longer term performance and that the actual payment of performance-based components of remuneration is spread over a period which takes account of the redemption policy of the AIF and its investment risks;
- (i) Guaranteed variable remuneration is exceptional, occurs only in the context of hiring new staff and is limited to the first year;
- (j) Fixed and variable components of total remuneration are appropriately balanced and the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy, on variable remuneration components, including the possibility to pay no variable remuneration component;
- (k) Payments related to the early termination of a contract reflect performance achieved over time and are designed in a way that does not reward failure;

- (l) The measurement of performance used to calculate variable remuneration components or pools of variable remuneration components includes a comprehensive adjustment mechanism to integrate all relevant types of current and future risks;
- (m) Subject to the legal structure of the AIF, and Constitutional Documents and/or Offering Document, a substantial portion, and in any event at least 50% of any variable remuneration consists of units or shares of the AIF concerned, or equivalent ownership interests, or share-linked instruments or equivalent non-cash instruments.

The instruments referred to in this point shall be subject to an appropriate retention policy designed to align incentives with the interests of the AIF and the investors thereof. The MFSA may restrict the types and designs of those instruments or ban certain instruments as appropriate. This point shall be applied to both the portion of the variable remuneration component deferred in line with point [n] and the portion of the variable remuneration component not deferred;

- (n) A substantial portion, and in any event at least 40% of the variable remuneration component, is deferred over a period which is appropriate in view of the life cycle and redemption policy of the AIF concerned and is correctly aligned with the nature of the risks of the AIF in question.

The period referred to in this point shall be at least three to five years unless the life cycle of the AIF concerned is shorter; remuneration payable under deferral arrangements vests no faster than on a pro-rata basis; in the case of a variable remuneration component of a particularly high amount, at least 60% of the amount is deferred;

- (o) The variable remuneration including the deferred portion, is paid or vests only if it is sustainable according to the financial situation of the AIF as a whole, and justified according to the performance of the business unit, the AIF and the individual concerned.

The total variable remuneration shall generally be considerably contracted where subdued or negative financial performance of the AIF concerned occurs, taking into account both current compensation and reduction in payouts of amounts previously earned, including through malus or clawback arrangements;

- (p) The pension policy is in line with the business strategy, objectives, values and long-term interests of the AIF.

If the employees leave the AIF before retirement, discretionary pension benefits shall be held by the AIF for a period of 5 years in the form of instruments defined in point [m]. In the case of an employee reaching retirement, discretionary pension benefits shall be paid to the employee in the form of instruments defined in point [m], subject to a 5 year retention period;

- (q) Staff are required to undertake not to use personal hedging strategies or remuneration – and liability-related insurance to undermine the risk alignment effects embedded in their remuneration arrangements;
- (r) Variable remuneration is not paid through vehicles or methods that facilitate the avoidance of the requirements prescribed in these Investment Services Rules.

2.03 The principles stipulated in SLC 2.02 above, shall apply to remuneration of any type paid by the AIF, to any amount paid directly by the AIF itself, including carried interest, and to any transfer of units or shares of the AIF, made to the benefits of those categories of staff, including senior management, risk takers, control functions and any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on their risk profile or the risk profiles of the AIF.

2.04 An AIF that is significant in terms of its size, its internal organisation and the nature, the scope and the complexity of its activities shall establish a remuneration committee. The remuneration committee shall be constituted in a way that enables it to exercise competent and independent judgement on remuneration policies and practices and the incentives created for managing risk.

2.05 The remuneration committee shall be responsible for the preparation of decisions regarding remuneration, including those which have implications for the risk and risk management of the AIF concerned and which are to be taken by the management body in its supervisory function. The remuneration committee shall be chaired by a member of the management body who does not perform any executive functions in the AIF concerned. The members of the remuneration committee shall be members of the management body who do not perform any executive functions in the AIF concerned.

2.06 The AIF shall also refer to and comply with the provisions of Appendix 12 to Part B of the Investment Services Rules for Investment Services Providers transposing the Guidelines issued by ESMA on Remuneration Policies.