

A large, abstract graphic of a network or sphere made of interconnected blue nodes and lines, positioned in the upper right background of the page.

Malta

Accounting

FUNDS AND FUND MANAGEMENT 2009

1.1 Requirement to prepare financial statements

Requirement to maintain the books and records in the local jurisdiction

The Companies Act 1995 requires the accounting records to be kept at the registered office of the company or partnership or such other place as the directors deem appropriate. The Investment Services Rules (the Rules) specifically require that in the case of a recognized private scheme, it must ensure that proper accounting and other records are at all times retained at its premises.

There is also the general requirement for retail schemes that accounting records should be retained for a minimum period of 10 years, during the first two years of which they are to be kept in a place from which they can be produced within two working days of request. After the first two years they have to be capable of being produced within five working days.

Production of financial statements by collective investment schemes

In accordance with the provisions of the Companies Act 1995, all limited liability companies registered in Malta are required to prepare financial statements in line with International Financial Reporting Standards as adopted by the EU. retail collective investment schemes, whether listed or non-listed are required to prepare annual and half-yearly financial statements. This requirement arises from the Rules and the Listing Rules issued by the Malta Financial Services Authority (MFSA) in respect of listed schemes. Recognized private schemes and professional investor funds are required by the Rules to present financial statements to the regulator, as a minimum, on an annual basis only.

For corporate vehicles, the board of directors is responsible for the preparation of the financial statements and two directors are required to sign the balance sheet of the annual financial statements. The general partner in a limited partnership is responsible for the drawing up of the accounts.

There is no requirement for the manager to sign the financial statements.

Choice of period/year-end for collective investment schemes

Licensed collective investment schemes (schemes) may give notice in the prescribed form to the registrar of companies specifying a date in the calendar year as being its accounting reference date subject to approval by the regulator (MFSA). Prior approval from the MFSA has to be obtained by licensed funds before any subsequent change is made to the accounting reference date. The accounting year-end is to be disclosed in a scheme's prospectus.

The first accounting period must be for a period not less than six months and not exceeding 18 months from the date of registration of the company. Retail schemes are required to provide monthly returns and half-yearly and annual reports to the MFSA.

Requirement for comparatives

Comparatives must be presented as required by the Companies Act 1995 and International Financial Reporting Standards issued by the IASB. Furthermore, the Rules provide that, at the end of the financial period, retail collective investment schemes are to provide a comparative table covering the last three financial years, disclosing the total net asset value, and the net asset value per unit.

Restrictions on the currency under which financial statements must be prepared

An investment company with variable share capital, including a multi-class company having its share capital denominated in different currencies (base currency of a class of share), shall draw up its (combined) annual accounts in any one of such currencies. The conversion from the base currency of a class of shares into the currency in which the financial statements are to be drawn up shall be in accordance with International Financial Reporting Standards. The reporting currency is generally specified in the prospectus of the fund.

Accounting publications specific to the funds industry (as issued by accounting bodies or the regulators)

There are no accounting publications specific to the funds industry issued by the accounting bodies or regulator in Malta. The Rules set out the broad content of annual and semiannual accounts for retail collective investment schemes. Corporate entities must comply with Chapter X and Chapter XI of the Companies Act and the relevant schedules to the Companies Act. Listed funds must also comply with minimum disclosure requirements contained within the MFSA Listing Rules. In any case, financial statements are to comply with the requirements of International Financial Reporting Standards as adopted by the EU.

Use of short form accounts

The relevant legislation does not provide guidance with regards to abridged accounts for collective investment schemes.

Umbrella schemes

Information on each sub-fund should be included within the company's accounts. There is no requirement to prepare separate financial statements for each sub-fund.

The MFSA Listing Rules state that listed schemes operating as an umbrella company are to prepare consolidated annual reports, unless otherwise authorized by the listing authority. Where consolidated annual reports are issued, the accounts shall distinguish between the financial results and affairs of each fund individually. This is particularly important in view of the Companies Act (Investment Companies with Variable Share Capital) Regulations 2006, that allow the sub-funds of a scheme to be set up as constituting separate patrimonies, thereby removing the risk of contagion, which is the risk that creditors of one sub-fund may make claims on the assets of other sub-funds in the case of a particular sub-fund's insolvency.

Classes of shares

Licensed collective investment schemes are to provide the necessary disclosures with regards to all the classes of shares within the financial statements.

1.2 Requirement to audit financial statements

The annual financial statements of collective investment schemes must be audited. Audited accounts of licensed schemes must be completed within four months of the financial year-end. Recognized private schemes are required to have the audit completed within six months. There is no requirement to audit the interim financial statements. Annual financial statements must be audited by a registered auditor in Malta who must be approved by the MFSA.

1.3 Publication of financial statements

Non-listed schemes

Licensed schemes are required to publish and submit their annual financial reports to the MFSA within four months from the scheme's financial year-end.

Listed schemes

The scheme shall ensure that the annual financial report remains in public for at least five years. Listed schemes shall issue and send their annual financial report to all unit holders within four months of the end of the financial period to which it relates. A copy of the annual financial report shall be lodged with the listing authority at the earliest opportunity but in any event within four months of the end of the financial period to which they relate. Such report shall contain at least all the information under the MFSA Rules as well as any other significant information necessary to enable investors to make an informed judgment on the progress of the scheme and its results.

A scheme shall publish its semi-annual financial report within two months of the end of the period to which it relates. The scheme shall also sent to all its unitholders the semiannual financial report within two months of the end of the period to which it relates; and shall ensure that this report remains public for at least five years at locations specified in the prospectus. The semiannual financial report shall be lodged with the listing authority at the earliest opportunity, but in any case within two months from the end of the financial period to which it relates.

Corporate unlisted schemes are to send a copy of the financial statements to all the registered unitholders prior to the scheme’s annual general meeting.

1.4 Accounting standards

The Companies Act, the Rules, and the MFSA listing rules require the use of International Financial Reporting Standards as adopted by the EU in the preparation of financial statements for collective investment schemes.

1.5 Contents of financial statements

Requirements for inclusion in annual financial statements:

	Required by law	Required by GAAP(IFRS)	Complied with for Best Practice
A statement which includes all income less expenses plus realized and unrealized gains and losses	Yes	Yes	Yes
A statement which only includes income less expenses	No	No	No
A statement which only includes income less expenses plus realized gains and losses	No	No	No

	Required by law	Required by GAAP(IFRS)	Complied with for Best Practice
Statements of net assets and liabilities	Yes	Yes	Yes
Statement of changes in net assets	Yes*	Yes	Yes
Cash flow statement	Yes*	Yes	Yes
Statement of accounting policies	Yes	Yes	Yes
3-year net asset value table	Yes	No	Yes
5-year net asset value table	No	No	No
Statement of portfolio changes	Yes	No	Yes
Listing of assets	Yes	No	Yes
Summary listing of assets	No	No	No
Related party transactions	Yes*	Yes	Yes
Soft commissions	Yes*	Yes	Yes
Statement of financial preparer's responsibility	No	No	Yes
Investment manager's report	Yes	No	
Custodian's/trustee's report	Yes	No	Yes
Details on the risks of financial instruments used	Yes	Yes	Yes

1.6 Accounting treatments and disclosures

The following items must be included in the annual financial statements:

	Required by law	Required by GAAP(IFRS)	Complied with for Best Practice
Futures are shown on balance sheet using the grossed up notional amount	No	No	No
Futures are shown on the balance sheet based on the margin outstanding	No	No	No
Futures are shown on the balance sheet based on the margin outstanding and the margin paid to date	Yes*	Yes	Yes
Organization costs are written off immediately	Yes*	Yes	Yes

	Required by law	Required by GAAP(IFRS)	Complied with for Best Practice
Organization costs are amortized over one year	No	No	No
Organization costs are amortized over more than one year	No	No	No
Issue costs are charged to the statement of operations	Yes*	Yes	Yes
Issue costs are netted off against creation proceeds	No	No	No
Contingent deferred sales charges are recorded as income	No	No	No
Contingent deferred sales charges are netted off against redemption proceeds	No	No	No
Holdings in other collective investment funds are consolidated if the fund holds > 50% of the underlying collective investment fund's shares	Yes*	Yes	Yes
Methods used in financial statement presentation to measure listed investments are:			
Cost	No	No	No
Market value:			
bid	Yes*	Yes	Yes
mid	No	No	No
offer	No	No	No
close	No	No	No
price at any time during the day	No	No	No
The financial statements distinguish between income and capital	Yes	Yes	Yes

* Requirement for adherence to International Financial Reporting Standards is entrenched in the law.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.