



**Country report: (3) Transposition**

**Takeover Directive: Its Implementation in Malta**

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### **1. From scratch**

Takeover legislation in Malta has been practically nonexistent. Thus the implementation of Directive 2004/25/EC required the introduction of a statutory framework.

### **2. MFSA**

The institution entrusted with drafting the legislation on financial matters is the Malta Financial Service Authority (MFSA). The draft has been sent for approval to the Minister of Finance. Once it is passed in Parliament it will be included in the Listing Rules of the Authority.

### **3. Draft rule**

The draft Listing Rule was drawn up following consultation with the Financial Services Consultative Council and company secretaries of listed companies. Listed companies were invited to make their comments on the draft.

### **4. Coming into force**

The listing rule came into force on 19 June 2006 as Chapter 18 of the Listing Rules. This chapter applies to takeover bids when all or some of the securities of the offeree company are admitted on a regulated market.

### **5. Supervisory body**

The Listing Authority is the regulatory body supervising takeover bids.

### **6. Information and consultation rights**

Article 8 of the Directive, which gives employee representatives the right to be informed when there is a takeover bid, was fully transposed.

#### **(a) Employee representatives to be informed on the announcement of a**

**bid**

18.8 As soon as the bid has been announced the board of directors of the offeree company and the offeror shall inform the representatives of their respective employees or, where there are no such representatives, the employees themselves.

**(b) The offer document to be communicated to employee representatives**

18.20 When the offer document is published, the board of directors of the offeree company and of the offeror shall communicate the offer document to the representatives of their respective employees or, where there are no such representatives, to the employees themselves.

**(c) Opinion of the Board to be communicated to employee representatives (ERs)**

18.29 The board of directors of the offeree company shall draw up and make available to the public a document setting out its opinion of the bid and the reasons on which it is based.

18.30 The board of directors of the offeree company shall at the same time communicate that opinion to the representatives of its employees or, where there are no such representatives, to the employees themselves.

**(d) Opinion of employee representatives to be appended to the document**

18.31 Where the board of directors of the offeree company receives in good time a separate opinion from the representatives of its employees on the effects of the bid on employment, that opinion shall be appended to the document.

**7. Approval by GM**

Article 9 (4) of the Directive gives member states the option to adopt rules allowing a general meeting of shareholders at short notice to decide on the

merits of takeover bids.

The Maltese legislation adopted this option.

18.36 For the purpose of obtaining the prior authorisation, approval or confirmation of the shareholders referred to in Listing Rules 18.32 and 18.35 a general meeting can be convened at shorter notice than that stipulated in the Memorandum or Articles of Association provided that the meeting does not take place within two weeks of notification.

### **Profile of MFSA**

MFSA is the single regulator for financial services in Malta. It regulates and supervises credit and financial institutions, trust and insurance business and also houses Malta's Company Registry.

It was established in 2002 and is a fully autonomous public institution which reports directly to Parliament. It manages the Registry of Companies and has also taken over responsibility as the Listing Authority.