

THE FINANCIAL SERVICES TRIBUNAL

Pierre Lofaro LL.D. – Chairman
Joseph Azzopardi FCCA, FIA, CPA, MBA (Warwick) – Member
Ivan Sammut Dip. Bus. Law & Acc., Adv. Trib. Eccl (Melit.), M.A. (Fin. Serv.), LL.D. – Member

FST 05/2018

Portmann Capital Management Ltd
(C 51740)

-vs-

Malta Financial Services Authority

Today, the 16th day of October 2019

The Tribunal,

Handwritten note:
2' D'igniet magħta fir-13 ta' Novembru d-dotta 16th giet mibdelu f' "23rd".

Having seen the appeal filed by Portmann Capital Management Ltd (hereinafter referred to as 'the Appellant'), whereby for the reasons stated therein it requested '.....this Tribunal (1) to preliminary decide that the MFSA's Decision of 24 (sic. 22) August 2018 is tantamount to a cancellation of Appellant's licence and is consequently inoperative until this appeal is finally determined or abandoned and (2) to revoke MFSA's Decision of 24 (sic. 22) August 2018 in its entirety and order that any notice carried on MFSA website publishing the same Decision be removed forthwith'.

Having seen the Malta Financial Services Authority's (hereinafter referred to as 'the Authority') reply whereby for the reasons therein stated it requested this Tribunal to reject the Appellant's appeal.

Having seen the Tribunal's decree dated the 7th of November 2018 whereby the Tribunal decided that it will determine the Appellant's first request and subsequently deal with the Appellant's second request at a later stage.

Having seen the minutes of all the sittings.

Having seen the transcripts of all the evidence tendered by the parties, the documents filed by them and their notes of submissions.

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Having seen all the other acts of the proceedings.

Having seen that the case was adjourned for today for the determination of the Appellant's first request.

Considers

That the Appellant is licenced by the Authority as a category 2 licence-holder authorised to provide certain investment services in terms of the Investment Services Act, Chapter 370 of the Laws of Malta; hereinafter referred to as 'the ISA Act'.

That by means of a letter dated the 22nd of August 2018 the Authority directed, with immediate effect, the Appellant to

- ' i. cease the on boarding of new clients; and*
- ii. cease any outgoing transactions from all clients' accounts held by Portmann. This restriction shall also apply to intra clients accounts'.*

The Authority added that

'It should be noted that in terms of Article 16(8) of the Malta Financial Services Authority Act, and as part of the Authority's standard enforcement policy, the Authority will publish, on its website and in such other medium as may be deemed warranted, contents of the directive imposed on Portmann Capital Management Limited'.

In this letter the Authority stated that it was taking its action in terms of its powers under Article 6(2)(a) and Article 15 of the ISA Act as a result of:

- (a) The Appellant's association with serious money laundering charges;
- (b) The serious findings referred to in a letter sent by the FIAU to the Appellant and copied to the Authority dated the 20th of April 2018 *'in relation to the potential serious and extensive breaches by Portmann of the Prevention of Money Laundering and Funding of Terrorism Regulations 2008 ('PMLFTR') and the Implementing Procedures Part I issued thereunder'*; and
- (c) The Authority's *'decision of the 14 August 2018 in relation to the Company unauthorised provision of payment services.'*

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The Appellant felt aggrieved by the Authority's decision and lodged this appeal stating that the Authority's decision constitutes an abuse of authority and is manifestly unfair. After giving its reasons, the Appellant asked the Tribunal

- (1) To preliminary decide that the Authority's decision of the 22nd of August 2018 (hereinafter referred to as 'the Decision') is tantamount to a cancellation of Appellant's licence and is consequently inoperative until this appeal is finally determined or abandoned; and
- (2) To revoke the Decision in its entirety and order that any notice carried on the Authority's website publishing the same decision be removed forthwith.

The Tribunal will now proceed to decide the Appellant's first request.

The Appellant maintains that the Authority's Decision in reality means that it cannot carry on any effective business pursuant to its licence and that, therefore, the Decision is tantamount to a cancellation of its licence.

The Appellant argues that the Authority purposely couched its decision in the way it did rather than cancelling its licence because had it cancelled its licence the Decision would not have become operative until the expiration period within which an appeal therefrom to this Tribunal could be entered and if an appeal was entered the licence would have remained operative until the Tribunal dismissed the appeal or on the date the appeal was abandoned. A decision, other than the cancellation of a licence, such as the Decision in this case, is not suspended until the matter is determined by this Tribunal or the appeal is abandoned.

The Appellant refers to Article 21(17) of the Malta Financial Services Authority Act, Chapter 330 of the laws of Malta (hereinafter referred to as 'the MFSA Act'), which deals with the suspension or otherwise of an Authority's decision during appellate proceedings.

According to the Appellant, the Authority '*consciously circumvented the application of the law by delivering*' the Decision in the format used in its letter dated the 22nd of August 2018 and '*deprived Appellant's legal right under the proviso to article 21(17) of the Act to have such a decision suspended pending this appeal*'.

The Authority stance is that

"..... from an elementary reading, it is crystal clear that the MFSA's Decision only restricts Portmann from [i] on-boarding new clients, and [ii] from executing any outgoing transactions from its clients'

accounts. The Decision is therefore not prohibiting Portmann from conducting all the other activities pertaining to their investment services licence such as, inter alia receiving interest and dividends from the clients' investments in the clients' accounts, sending out statements to clients of monies and assets held by the Company on their behalf and communicating with their clients and related parties. Moreover, the said Decision has not restricted transactions pertaining to the Company's operational accounts, therefore allowing the Company to inter alia settle operational expenses."

Furthermore, in order to further substantiate its contention that the Decision is not a camouflaged cancellation of the Appellant's licence, the Authority quotes Edward Grech's¹ affidavit² as follows:

"Following the issuing of the MFSA's Decision, whereby the company was required inter alia to cease all outgoing transactions from the client accounts including intra client account transfers, the company confirmed that it continued charging management fees on these accounts. In other words, the Company was charging fees for its **portfolio management services which were being offered to its clients**"

"In this respect, ... portfolio management services qualify as an investment service activity which falls under the First Schedule of the ISA and therefore a licence is required in order to provide such a service. Furthermore, in relation to its portfolio management activities, after the Authority's Decision, the company continued holding clients' assets and monies under **nominee** with foreign custodians. Providing nominee services is an investment services activity which falls under the First Schedule of the ISA and therefore a licence is required in order to provide such a service.

... portfolio management and nominee services are both licensable investment services activities which the Company was authorised to provide in terms of the investment services licence granted to it under the ISA (Refer to the attached EG1) and which, as mentioned above, the Company continues to carry out even after the Authority's Decision.

Had Portmann had its investment services licence cancelled by the Authority, as is being alleged by the appellant Company, the said

¹ Deputy Head of the Authority's Enforcement Directorate

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Company would be unable to carry out the abovementioned investment services activities because the said investment services can only be provided by a person who has the necessary investment services licence."

The Authority stated that its decision to restrict the Appellant from on-boarding new clients was taken as a result of the Appellant's weaknesses pertaining to its internal control systems and mechanisms thus ensuring that until the Appellant puts its house in order, the Appellant does not on-board new clients who may be potentially involved in criminal activities nor new legitimate clients who might be adversely affected by the Appellant's poor control structure.

With regard to its decision to order the Appellant to cease any outgoing transactions from all clients' accounts held by Appellant including *intra* clients' accounts, the Authority stated that the intention of its action was to protect the monies and assets of the Appellant's legitimate clients since investments held by the Appellant on behalf of criminal clients may have a real value which is considerably less than the value shown in the client account statements of the Appellant. *"Redemption of any of these assets may result in possible losses for legitimate clients of Portmann. This measure was also taken to ensure market integrity by preventing clients of Portmann suspected of committing a criminal activity from transferring their potential illicit investments on to other investment service licence holders"*.

The Authority also argues that the Decision is not tantamount to a revocation of the Appellant's licence because it is a precautionary measure *"which can therefore be varied, reversed or even withdrawn by the Authority itself and the Company could even eventually be allowed to resume normal operations if the Authority assesses that the regulatory/supervisory concerns identified in relation to the operation of the Company no longer subsist and/or have been properly addressed/remedied"*. On this point the Authority refers to its minded letter dated the 14th of August 2018, which preceded the Decision, whereby the Authority informed the Appellant of its intended decision unless by the 17th of August 2019 the Appellant satisfied the Authority that it should not render its decision final. In its minded letter the Authority informed the Appellant that the intended

'... restrictions and the necessity thereof will be closely monitored and assessed by the Authority to take into account any changing circumstances in relation to the Company which might justify their maintenance, variation or withdrawal thereof.'

The Authority further argues that if the measure which it took is a tantamount cancellation of a licence, such a cancellation would be final and irrevocable (unless reversed by this Tribunal) as the Authority does not have the power to

vary or withdraw a cancellation. The Authority simply wanted “to take certain precautionary measures while at the same time leaving open the possibility of a variation/reversal of the said directives in the event of a change in circumstances.”

On its part the Appellant strongly refutes the Authority’s argument that the Authority’s decision does not prohibit it from conducting activities pertaining to investment services under its licence other than those mentioned in the Decision.

The Appellant says that the Decision has left nothing for it to do other than merely putting the Decision into effect. Carrying on some marginal activities doesn’t mask the Decision having the effect of cancelling the Appellant’s licence. The Appellant rebuts the activities which the Authority referred to as evidence that the Appellant’s licence has not been cancelled as follows:

1. Receiving interest and dividends from investments made prior to the Decision does not mean that the Appellant’s licence has not been effectively cancelled. By doing so the Appellant is merely undertaking a book keeping exercise.
2. Sending out statements to clients does not mask an effective cancellation of Appellant’s licence.
3. Nor does communication with clients and other parties since the Appellant, following the Decision, is unable to receive and execute any instructions.
4. Again, paying fees and operational costs such as utility bills, custodian fees, legal fees etc, does not mean that Appellant’s licence has not been effectively cancelled.
5. Nor does withdrawing management fees to pay operation costs detract from the fact that the Appellant’s licence has been cancelled. Without withdrawing management fees, the Appellant will not be in a position to obey the Decision.

The Appellant also laments that, since the date of the Decision, the Authority has done nothing which might lead the Authority to review it and that this inaction on the part of the Authority is seriously prejudicing the Appellant and continues to confirm that the Authority’s decision is tantamount to the cancellation of the Appellant’s licence.

Before proceeding further, the Tribunal considers that it is opportune to reproduce the provisions of the law which in the Tribunal’s opinion (1) are

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relevant to this appeal or (2) are helpful to better understand the respective arguments of the parties.

According to Article 4(1) of the MFSA Act:

Without prejudice to any other power or function conferred to it by this Act or any other law, it shall be the function of the Authority:

- (a) to regulate, monitor and supervise financial services in Malta;
- (b) to promote financial market integrity and the legitimate expectations of consumers of financial services, to promote fair competition practices and consumer choice in financial services and to complement the Central Bank of Malta in its role to ensure the stability of the financial system;
- (c) to monitor and keep under review trading and business practices relating to the supply of financial services to private and other persons, and to provide relevant information and guidance to the public;
- (d) to monitor the working and enforcement of laws that directly or indirectly affect consumer of financial services in Malta, and to undertake or commission such study, research or investigation which it may deem necessary in this regard;
- (e) to advise the Government generally on the formulation of policies in the field of financial services, and to make recommendations to Government on action which in the opinion of the Authority would be expedient in relation to matters falling within the regulatory and supervisory functions of the Authority;
- (f) to investigate allegations of practices and activities detrimental to consumers of financial services, and generally to keep under review trading practices relating to the provision to of financial services and to identify, and take measures to suppress and prevent, any practices which may be unfair, harmful or otherwise detrimental to consumers of financial services;
- (g) to ensure high standards of conduct and management throughout the financial system;
- (gA) to provide and foster further training, knowledge and education on all matters relating to financial services;
- (h) to perform such other functions or duties as may be assigned to it under this Act or any other law.

According to Article 6(2)(a) of the ISA Act, which was specifically referred to by the Authority in the Decision,

In granting a licence the competent authority may subject it to such conditions as it may deem appropriate, and having granted a licence it may, from time to time, vary or revoke any condition so imposed or impose new conditions.

According to Article 7(2) of the ISA Act the Authority may cancel or suspend an investment services licence:-

- (a) if it considers that the holder thereof is not a fit and proper person to provide the investment service he is authorised to provide; or
- (b) if it considers that the holder thereof does not fulfil the requirements of, or has contravened, any of the provisions of this Act or regulations made thereunder or of any applicable Investment Services Rules or Conduct of Business Rules issued by the competent authority, or has failed to satisfy or comply with any obligation or condition to which he or the licence is subject by virtue of or under this Act; or
- (c) if the competent authority has been furnished by or on behalf of the licence holder with information which is false, inaccurate or misleading, or if the licence holder has obtained the licence by making false statements or by any other irregular means; or
- (d) if the licence holder has not commenced to provide the service he has been authorised to provide within the time provided for in the licence or has ceased to provide such service; or
- (e) if it considers it desirable to cancel or suspend the licence for the protection of investors and the general public, and the reputation of Malta taking into account Malta's international commitments; or
- (f) at the request of the licence holder; and
- (g) in any of the circumstances under which the competent authority would have been precluded from issuing the licence under this Act or where under this Act it would have been entitled to refuse the grant of such licence.

Besides cancelling or suspending a licence the ISA Act confers numerous powers to the Authority to deal with specific situations. For example, Article 15 gives the Authority power to issue directives whilst Article 15A gives various powers to the Authority to protect the public interest.

Article 15 of the ISA Act, referred to by the Authority in its decision as the Article in the ISA Act (together with Article 6(2)(a) quoted above) granting it the power to issue the orders made in the Decision, states:

- (1) Without prejudice to any of the powers conferred on it by articles 13 and 14, the competent authority may, whenever it deems it necessary, and whether upon a report by an inspector appointed under article 14 or not, give, by notice in writing, such directives as it may deem appropriate in the circumstances; and any person to whom or to which the notice is given shall obey, comply with and otherwise give effect to any such directive within the time and in the manner stated in the directive or further directive.

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Provided that the competent authority may give any such directive even where a licence holder, for whatever reason, ceases to hold a licence granted in terms of this Act:

Provided further that any directive given in terms of this article shall, unless the competent authority otherwise directs, continue to apply even when a licence holder, for whatever reason, ceases to hold a licence granted in terms of this Act.

(2) Without prejudice to the generality of the foregoing provisions of this article, a directive under this article may –

- (a) require anything to be done or be omitted to be done, or impose any prohibition, restriction or limitation, or any other requirement, including any requirement emanating from European Union legislation, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;
- (b) require a collective investment scheme and the manager of such a scheme, or his equivalent, and any other person who may issue, redeem, sell or purchase units in the scheme, to cease the issue, redemption, sale, or purchase of units or all or any combination of those activities, as may be specified in the directive or further directive;
- (c) require that any person having functions in relation to the holder of a licence be prohibited, temporarily or otherwise, suspended from carrying out activities licensable under the Act, or removed or removed and replaced by another person acceptable to the competent authority;
- (d) require a collective investment scheme or its directors and shareholders, or the manager or trustee or custodian of a scheme, or their equivalent, to wind it up by such date and in accordance with such procedure and other provisions as may be specified in the directive or further directive;
- (e) require a licence holder or any person who is or was providing, or who appears to be or to have been providing an investment service to cease operations and to wind up its affairs, in accordance with such procedures and directions as may be specified in the directive, which may provide for the appointment of a person to take possession and control of all documents, records, assets and property belonging to or in the possession or control of the licence holder or such other person;
- (f) require a licence holder to submit a financial recovery plan, as may be determined in the Investment Services Rules, if it considers that the interest of investors, consumers, creditors or other interested persons are likely to be prejudiced owing to a deterioration in the financial position of the licence holder;
- (g) require the cessation of any practice that is contrary to the provisions adopted in the implementation of the AIFM Directive, the BRRD, the CRD, the MIFID Directive and the UCITS Directive;

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- (h) require the removal of a financial instrument from trading, on trading arrangements within the meaning of the MIFID, the MiFIR other than on regulated markets in terms of the Financial Markets Act;
- (i) require the suspension of trading in a financial instrument;
- (j) request any person to take steps to reduce the size of the position or exposure;
- (k) limit the ability of any person from entering into a commodity derivative, including by introducing limits on the size of a position any person can hold at all times in accordance with article 57 of MIFID:

Provided that in applying paragraphs (d) and (e), the competent authority may also appoint a competent person to act as liquidator for the purposes of winding up the affairs of a licence holder under this Act; and such person shall be the liquidator of the licence holder for all purposes of law to the exclusion of any other person.

(3) The power to give directives under this article shall include the power to vary, alter, add to or withdraw any directive, as well as the power to issue new or further directives.

(4) Where the competent authority is satisfied that the circumstances so warrant, it may at any time make public any directive it has given under any of the provisions of this article.

Article 15A (1) of the ISA Act states

Without prejudice to the powers conferred to the competent authority under this Act, the competent authority may, where it is satisfied that sufficient circumstances exist, proceed to take any one or more of the following measures:

- (a) appoint a person to advise the licence holder in the proper conduct of its business;
- (b) appoint a person to take charge of the assets of the licence holder, or any portion of them, for the purposes of safeguarding the interests of investors, consumers, creditors or, if any, shareholders, of the licence holder;
- (c) appoint a person to assume control of the business of the licence holder, either to carry on that business or to carry out such other function or functions in respect of such business, or part thereof, including to take the necessary action for the licence holder to be dissolved and wound up, as the competent authority may direct;
- (d) fix the remuneration to be paid by the licence holder to any person appointed under article 15 or under this article;
- (e) do such other act as it may deem appropriate in the circumstances to give better effect to the implementation of the provisions of this article,

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and having adopted any one or more of the measures aforesaid, the competent authority may further proceed in any one or more such measures, whether in addition thereto or in substitution therefor.

Article 19(2) of the ISA Act lists the instances where an aggrieved person may appeal to this Tribunal and states that:

The provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to appeals that may be brought before the Tribunal under this article.

According to Article 21(9) of the MFSA Act

The question for the determination of the Tribunal shall be whether, for the reasons adduced by the appellant –

- (a) the competent authority has, in its decision wrongly applied any of the provisions of this Act; or
- (b) the decision of the competent Authority constitutes an abuse of discretion or is manifestly unfair:

Provided that the discretion of the competent authority may not, so long as it has been exercised properly, be queried by the Tribunal:

Provided further that no appeal shall lie from any decision imposing a penalty not exceeding two hundred and thirty-two euro and ninety-four cents (€232.94) and from any reprimand, warning or other similar disciplinary sanction or measure.

According to Article 21(17) of the MFSA Act:

An appeal made under this article shall not suspend the operation of any decision or directive from which the appeal is made:

Provided that a decision to cancel a licence shall not become operative until the expiration of the period within which an appeal lies under this article and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or the date on which the appeal is abandoned.

The Tribunal will now proceed to consider the parties' respective arguments as to whether or not the Decision *'is tantamount to a cancellation of Appellant's licence and is consequently inoperative until this appeal is finally determined or abandoned'*.

The functions conferred on the Authority by the MFSA Act are intended to ensure that the financial services sector in Malta runs and operates in a highly professional manner and that the interests of all those involved

in this sector and/or who benefit from it are protected from harmful acts or omissions howsoever these may occur. For this reason the Authority is granted wide-ranging powers by the laws governing the various fields falling within the sphere of financial services.

However, the powers granted to the Authority and the manner in which it exercises them are subject to the scrutiny of this Tribunal and, on points of law, by a further appeal to the Court of Appeal in its Inferior Jurisdiction, but only in the circumstances envisaged in Article 21 (9) of the MFSA Act, namely:

- (a) when in its decision the Authority wrongly applied any of the provisions of the MFSA Act; or
- (b) when the Authority's decision constitutes an abuse of discretion or is manifestly unfair.

However, the Authority's discretion may not be queried by the Tribunal when it has been exercised properly.

Furthermore, there is no appeal from a decision of the Authority which imposes a penalty not exceeding €232.94 or when the Authority's sanction consists of a reprimand, warning or other similar disciplinary sanction or measure.

The operation of a decision or directive of the Authority pending an appeal therefrom is regulated by Article 21 (17) of the MFSA Act. The rule is that an appeal does not suspend the operation of such a decision or directive. However, there is one exception; namely where the decision cancels a licence. In this circumstance the decision *'shall not become operative until the expiration of the period within which an appeal lies and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or the date on which the appeal is abandoned'*.

The Appellant maintains that the Decision is tantamount to a cancellation of its licence and that, therefore, it is not operative as long as these appellate proceedings are going on. The Appellant argues that the fact that it has been directed (1) to cease the on boarding of new clients and (2) to cease any outgoing transactions from all clients' accounts held by it, including intra clients' accounts, has in practice the same effect as a cancellation of its licence.

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The Tribunal concurs with the Appellant on this matter, subject to the below-mentioned qualifications and directions, and this for the following reasons:

1. Article 21 (17) makes one notable exception to the general rule that an appeal to this Tribunal does not suspend the operation of any decision or directive of the Authority, namely when it cancels a licence. In the Tribunal's opinion such a deviation from the general principal was made for a purpose and that purpose should not be by-passed by the Authority by the issue of directives couched in terms which in effect constitute a cancellation of a licence in disguise.

2. The Authority's reasoning that the Appellant still carries on licensable activities, rather than supporting its stance that the Appellant's licence has not been cancelled further strengthens the Appellant's argument that the Authority has by its decision effectively cancelled the Appellant's licence. Receiving interest and dividends from investments made prior to the Decision, sending out statements to clients, communicating with clients without being able to execute instructions, paying utility bills and other bills and fees, and withdrawing management fees to pay operation costs are simply acts of administration of a funerary nature relating, in this case, to a dead licence. None of these acts of administration qualify as "Investment Services and Activities" in terms of the First Schedule of the ISA Act, and this also, within the restrictions of Appellant's licence.

3. Indeed the Appellant's licence has long been deceased, as nothing was provided in the Decision to ensure its effective survival. The Authority simply ordered the Appellant (1) to cease the on boarding of new clients and (2) to cease any outgoing transactions from all clients' accounts, including intra clients' accounts without the least hint as to what was to become of the Appellant's business.

4. It is also worth noting that the Authority's intention in its minded letter of the 14th of August 2018 that *'These restrictions and the necessity thereof will be closely monitored and assessed by the Authority to take into account any changing circumstances in relation to the Company which might justify their maintenance, variation or withdrawal thereof'* were not repeated in the Decision. The failure to include this provision in the Decision and moreover the Authority's failure to specify how these restrictions and the necessity thereof were going to be closely monitored and assessed



renders the Decision, in the Tribunal's opinion, abusive and manifestly unfair.

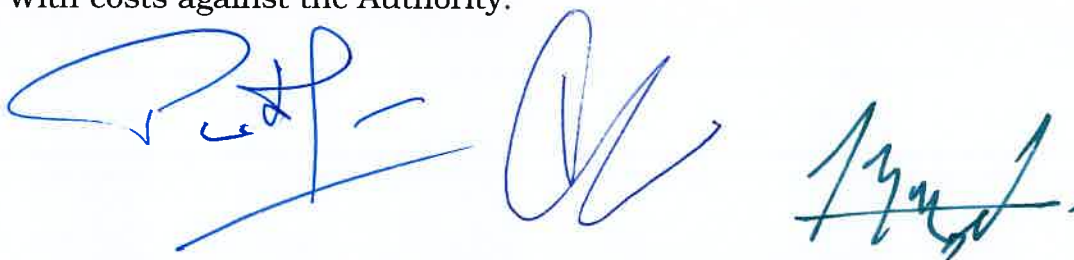
5. The Authority's submission that if the measure which it took is a tantamount cancellation of a licence, such a cancellation would be final and irrevocable (unless reversed by this Tribunal) as the Authority does not have the power to vary or withdraw a cancellation is not a valid argument as a cancellation of a licence need not be specifically called a cancellation if the Authority's decision, notwithstanding that the word cancellation is not used, is effectively a cancellation.

The Tribunal, therefore considers the Authority's Decision as abusive and manifestly unfair since by effectively cancelling the Appellant's licence without calling it such, the Authority by its actions and inactions deprived the Appellant from the benefit it would have enjoyed of a cancelled licence pending appellate proceedings.

For the aforementioned reasons, the Tribunal is hereby partially acceding to the Appellant's first request and declares that the Authority's decision in its letter dated the 22nd of August 2018 is tantamount to a cancellation of Appellant's licence.

So however, in view of the seriousness of the **alleged** circumstances leading to the present proceedings, the Tribunal, in virtue of the powers granted to it by article 21(13)(a) of the MFSA Act, orders the Authority to effect a monitoring and review assessment of Appellant's current internal control mechanisms and arrangements and the adequacy and effectiveness of its systems and corporate governance structure, which assessment is to be completed within three (3) weeks from today, and in the eventuality that the Authority concludes that Appellant's systems, mechanisms, arrangements and structure are inadequate, the Tribunal empowers the Authority to vary the Decision as originally communicated in its minded letter of the 14th of August 2018 specifying in sufficient detail how the restriction and the necessity thereof will be closely monitored and assessed by the Authority to take into account any changing circumstances in relation to the Appellant which might justify their maintenance, variation or withdrawal thereof. Should the Authority fail to do so as it is being directed by the Tribunal within two months from today, the Decision shall be inoperative until this appeal is finally determined or abandoned.

With costs against the Authority.

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