The formal guidelines issued by the MFSA give advice to fund promoters on how the current funds regime, regulated by the Investment Services Act, applies to funds established under Sharia rules and clarifies a number of related issues for the benefit of fund promoters.

The principal categories of collective investment schemes that can be set up under this common framework are the following:

**Retail Investment Schemes** - which are in turn divided into:
- UCITS
- Non-UCITS

**Professional Investor Funds** - which are in turn divided into:
- Experienced Investor Funds
- Qualifying Investor Funds
- Extraordinary Investor Funds

The regulatory standards that underpin the regime as applied to the different types of funds relies mainly on the principles of disclosure and transparency as means of protecting investors’ interests as well as on the investor’s understanding of risk as a key motive for applying regulation in a proportionate manner. The regime is applied to a large variety of conventional and alternative investment funds.

**MFSA Licensing Framework**

As a general rule Sharia-compliant funds may be set up as Retail Investment Schemes and Professional Investor Funds, although the nature of the investment and the methods used may have a determining effect on the fund category under which the fund may be licensed:

**Sharia-compliant equity funds:** can be set up as Maltese UCITS Schemes, Maltese non-UCITS Schemes or Professional Investor Funds (PIF)

**Ijarah Funds:** which generally invest in non-conventional asset classes, may only be licensed in Malta under the Professional Investor Funds regime (PIF)

**Commodity Funds:** which generally invest in non-conventional asset classes similar to Ijarah Funds, can only be licensed in Malta under the Professional Investor Funds (PIF) regime

**Murabaha Funds:** can only be licensed in Malta under the Professional Investor Funds (PIF) regime. Sharia compliant funds shall abide by the Standard Licence Conditions that are applicable to funds established under the Act.

Due to the particular nature of Sharia funds, or certain types of Sharia funds, note should be taken of the following principles:

Sharia compliant funds will be expected to follow the risk-spreading principle except when this can be waived in terms of the proviso to the definition of ‘collective investment scheme’ in the Investment Services Act.

The managing body of a Sharia fund (Board of Directors in the case of a corporate fund), will be responsible for ensuring that the fund satisfies the relevant Sharia principles and requirements as disclosed in the fund’s prospectus and other investor information documentation.

Except for the applicability of this Guidance Note, Sharia funds set up as retail funds (UCITS or non-UCITS), or Professional Investor Funds (PIF), will be regulated in the same manner as non-Sharia compliant funds falling under the same category.

The selected extra-financial criteria (Sharia Guidelines which the fund will adopt) must comply with all prevailing regulatory and statutory requirements. No specific difficulties arise provided that the extra-financial criteria do not infringe regulatory principles.