

Nru. 105

8. 11. 2019

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Edward Scicluna, M.P., Ministru għall-Finanzi, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Novembru 2019.

A BILL introduced by the Honourable Edward Scicluna, M.P., Minister for Finance, and read the First time at the Sitting of the 5th November 2019.

ATT biex jemenda l-Att kontra *Money Laundering*, Kap. 373.

AN ACT to amend the *Prevention of Money Laundering Act*, Cap. 373.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT biex jemenda l-Att kontra Money Laundering, Kap. 373.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2019 li jemenda l-Att kontra *Money Laundering*, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att kontra *Money Laundering*, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

Kap. 373.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' b'avviż fil-Gazzetta jstabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

2. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 12 tal-Att prinċipali.

(a) is-subartikolu (5) tiegħu għandu jiġi enumerat mill-gdid bħala s-subartikolu (6); u

(b) minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied is-subartikolu gdid li ġej:

"(5) Il-Ministru għandu, fuq parir tal-kumitat imsemmi fl-artikolu 12A, jippreskrivi, b'ordni ppublikat fil-Gazetta, dawk il-funzjonijiet pubbliċi f'Malta u dawk fi hdan organizzazzjonijiet internazzjonali akkreditati f'Malta li għandhom jitqiesu bħala funzjonijiet pubbliċi prominenti għall-iskop ta' regolamenti magħmula taħt dan l-Att, u din il-lista ta' dawn il-funzjonijiet għandha tiġi riveduta u aġġornata minn żmien għal żmien:

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Iżda kull ordni maħruġ skont dan is-subartikolu għandu jkun disponibbli għall-Kummissjoni Ewropea hekk kif jiġi pubblikat fil-Gazzetta."

Emenda tal-artikolu 13B tal-Att prinċipali.

3. Fis-subartikolu (2) tal-artikolu 13B tal-Att prinċipali, il-kliem "dak l-appell jiġi deċiż, deżert jew irtirat" għandhom jiġu sostitwiti bil-kliem "dik il-piena tiġi sussegwentement ikkonfermata fl-intier tagħha jew f'parti minnha,".

Sostituzzjoni tal-artikolu 13Ċ tal-Att prinċipali.

4. L-artikolu 13Ċ tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Pubblikazzjoni ta' pjeni amministrattivi.

13Ċ. (1) Kull piena amministrattiva li tiġi imposta mill-Korp kif jingħad fir-regoli u regolamenti magħmula taħt l-artikolu 13, li teċċedi ħamsin elf euro (€50,000), għandha tiġi pubblikata fuq is-sit elettroniku uffiċjali tal-Korp, flimkien ma' kwalunkwe miżura amministrattiva imposta mill-Korp flimkien ma' dik il-piena amministrattiva u l-pubblikazzjoni għandha ssir fi żmien ħamest ijiem tax-xogħol mid-data tan-notifika tal-piena amministrattiva lill-persuna sugġetta:

Iżda meta jkun sar appell kontra l-piena amministrattiva skont id-dispożizzjonijiet tal-artikolu 13A, il-Korp għandu, mingħajr ebda dewmien, jippubblika informazzjoni dwar l-appell u fuq l-istatus tal-appell u l-eżitu tiegħu, inkluż informazzjoni dwar kwalunkwe deċiżjoni tal-Qorti tal-Appell (Kompetenza Inferjuri) li timmodifika jew tirrevoka l-piena amministrattiva in kwistjoni fl-intier tagħha jew f'parti minnha.

(2) Il-Korp għandu jippubblika fuq bażi anonima s-segwent miżuri u pjeni imposti mill-Korp skont id-dispożizzjonijiet ta' regoli u regolamenti magħmulin taħt l-artikolu 13:

(a) pjeni amministrattivi li ma jeċċedux ħamsin elf euro (€50,000); u

(b) miżuri amministrattivi imposti mill-Korp, esklużi dawk previsti taħt is-subartikolu (1).

(3) Minkejja d-dispożizzjonijiet tas-subartikoli (1) u (2), fejn il-Korp jikkunsidra li l-pubblikazzjoni ta' miżura jew piena amministrattiva tista' tippregudika l-istabbiltà ta' swieq finanzjarji jew tista' tippregudika xi xogħol ta' sorveljanza, ta' analiżi jew ta' investigazzjoni li jkun għaddej, jew iqis li hija sproporzjonata, il-Korp jista', konformement mal-politika u l-proċeduri stabbiliti mill-Bord ta' Gvernaturi skont is-subartikolu (4), jiddeċiedi li jittardja l-pubblikazzjoni, jew li jippubblika dik il-miżura jew piena amministrattiva fuq bażi anonima, jew li ma jippubblikax dik il-miżura jew piena amministrattiva.

(4) Il-Bord ta' Gvernaturi msemmi fl-artikolu 18 għandu jstabbilixxi u jippubblika politika u proċeduri biex jirregola ulterjorament il-pubblikazzjoni ta' miżuri u pieni amministrattivi."

5. Fis-subartikolu (2) tal-artikolu 15 tal-Att prinċipali, minnufih wara l-kliem "memoranda ta' intendiment jew kull ftehim ieħor" għandha tiżdied il-kelma "fosthom".

Emenda tal-artikolu 15 tal-Att prinċipali.

6. L-artikolu 16 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 16 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem "tixrid ta' informazzjoni bil-għan li" għandhom jiżdiedu l-kliem "jipprevjeni, jinkixef u b'mod effettiv";

(ii) fis-subparagrafu (i) tal-paragrafu (k) minnufih wara l-kliem "fil-paragrafi (a) u (b)" għandhom jiżdiedu l-kliem "irrispettivament min-natura jew l-istatus tagħhom";

(iii) fis-subparagrafu (ii) tal-paragrafu (k) il-kliem "jew ma' kull awtorità sorveljanti barra minn Malta li huwa jikkonsidra bħala li jkollha funzjonijiet ekwivalenti jew simili għal awtorità sorveljanti f'Malta, u" għandhom jiġu sostitwiti bil-kliem "jew ma' kull awtorità oħra jew korp ieħor li jkollhom funzjonijiet ta' sorveljanza jew regolatorji barra minn Malta, meta l-Korp ikun tal-opinjoni li tali koperazzjoni u skambju ta' informazzjoni jassisti fil-monitoraġġ tal-osservanza minn persuni suġġetti jew persuni oħra li jwettqu attivitajiet ekwivalenti barra minn Malta, ta' obbligi kontra *money laundering* u kontra finanzjar ta' terroriżmu jew ta' leġiżlazzjoni oħra speċifika għall-attivitajiet jew servizzi tagħhom, jew biex jiġi żgurat li s-settur finanzjarju u setturi jew professjonijiet rilevanti

oħra ma jiġux użati għal għanijiet kriminali, jew biex tiġi salvagwardjata l-integrità tagħhom;"

(iv) fil-paragrafu (l) il-kliem "filwaqt li tkun qed twettaq xi waħda mill-funzjonijiet tagħha." għandhom jiġu sostitwiti bil-kliem "filwaqt li tkun qed twettaq xi waħda mill-funzjonijiet tagħha;" u minnufih wara għandhom jiżdiedu l-paragrafi godda li ġejjin:

"(m) li jossorvelja konformità ma' restrizzjonijiet fuq ħlas bi flus kontanti li jistgħu jiġu introdotti minn żmien għal żmien taħt dan l-Att; u

(n) li jistabbilixxi, jiġġestixxi u jamministra mekkaniżmi awtomatizzati ċentralizzati li jippermettu l-għbir ta' data u informazzjoni dwar kull persuna li jkollha jew tikkontrolla kontijiet ta' ħlas jew bankarji, u dwar kull persuna li tagħmel użu minn servizzi ta' kustodja fis-sigurtà pprovduti minn xi bank.";

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3); u

(ċ) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied is-subartikolu (2) ġdid li ġej:

"(2) Għall-finijiet tat-twettiq ta' kwalunkwe mill-funzjonijiet tiegħu taħt dan l-Att jew regolamenti oħra maħruġin taħtu, il-Korp ikollu s-setgħa li jimponi miżati u ħlasijiet, inkluż miżati u ħlasijiet li jkopru l-ispejjeż tal-Korp sabiex jingagħġa xi espert hekk kif previst fl-artikolu 26A.".

Emenda tal-artikolu 19 tal-Att prinċipali.

7. L-artikolu 19 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, il-kliem "erba' membri li jinħatru" għandhom jiġu sostitwiti bil-kliem "ħames membri li jinħatru"; u

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) Il-Ministru għandu jahtar il-ħames membri msemmija fis-subartikolu (1)(a) billi jagħżel membru wieħed minn kull waħda minn ħames listi, b'kull lista jkun fiha mill-inqas tliet persuni nominati rispettivament mill-Gvernatur tal-Bank Ċentrali ta' Malta, miċ-*Chairman* tal-

Awtorità għas-Servizzi Finanzjarji ta' Malta, miċ-*Chairperson* tal-Awtorità ta' Malta dwar il-Logħob, mill-Kummissarju tal-Pulizija u mill-Kummissarju tat-Taxxi."

8. L-artikolu 23 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 23 tal-Att prinċipali.

"Il-persunal eżekuttiv u dak ieħor tal-Korp.

23. (1) Id-Direttur tal-Korp għandu jinħatar mill-Bord, skont dawk il-proċeduri u b'dawk il-pattijiet u l-kondizzjonijiet li l-Bord jista' jistabbilixxi, wara sejha pubblika għal applikazzjonijiet.

(2) L-uffiċjali l-oħra u l-persunal tal-Korp għandhom jiġu magħżula mid-Direttur tal-Korp skont dawk il-proċeduri u taħt dawk il-pattijiet u kondizzjonijiet u f'tali numru kif il-Bord jista' jistabbilixxi.

(3) Id-Direttur u l-uffiċjali u persunal kollha tal-Korp għandhom ikunu persuni ta' integrità u mgħiba tajba."

9. L-artikolu 26 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 26 tal-Att prinċipali.

(a) il-paragrafu (a) tas-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(a) jawtorizza lil kwalunkwe mill-uffiċjali, impjegati jew aġenti tiegħu, wara li juru prova tal-awtorità li jkollhom, jeħtieġ li persuna suġġetta tipprovdilu minnufih dik l-informazzjoni jew dawk id-dokumenti kif jistgħu jkunu meħtieġa sabiex tiġi sorveljata l-konformità mad-dispożizzjonijiet ta' dan l-Att u tar-regolamenti li jsiru taħtu u li jwieġeb għal kull domanda li l-Korp jista' raġonevolment ikun jeħtieġ għat-twettieq tal-funzjonijiet tiegħu taħt is-subartikolu (1) u kull uffiċjal, impjegat jew aġent jista' jesigi aċċess għal kull *data*, informazzjoni jew dokumentazzjoni, tkun fejn tkun u tkun kif tkun maħżuna jew miżmuma, li l-Korp jidhirlu li hi rilevanti sabiex jissorvelja l-konformità, u jista' jagħmel kopji ta' tali *data*, informazzjoni jew dokumentazzjoni, kemm diġitali jew mod ieħor;"

(b) il-paragrafu (ċ) tas-subartikolu (2) tiegħu, għandu jiġi sostitwit b'dan li ġej:

"(ċ) iwettaq eżamijiet fuq il-post fuq persuni suġġetti bil-għan li tiġi sorveljata l-konformità mad-dispożizzjonijiet ta' dan l-Att u kull regolament magħmul

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taħtu;"

(ċ) minnufih wara l-paragrafu (ċ) tas-subartikolu (2) tiegħu, għandu jiżdied il-paragrafu ġdid li ġej:

"(d) jagħmel noti, jieħu kopji jew reġistrazzjonijiet, kemm diġitali jew mod ieħor, ta' kull *data*, informazzjoni jew dokumentazzjoni miksuba jew li sar aċċess għaliha mill-Korp, jew ta' kull twegiba għal mistoqsijiet magħmula mill-Korp fit-twettiq tas-setgħat tiegħu taħt dan is-subartikolu.";

(d) is-subartikolu (4) tiegħu għandu jiġi mħassar u s-subartikolu (5) u s-subartikolu (6) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikolu (4) u s-subartikolu (5) rispettivament; u

(e) is-subartikolu (4) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(4) Meta *d-data*, informazzjoni jew dokumentazzjoni meħtieġa, imfittex l-aċċess għalihom, jew mitluba taħt is-subartikolu (2) ma jiġux provduti, il-Korp jista' jitlob lill-persuna suġġetta li tiddikjara, bil-miktub, għaliex dawk *id-data*, informazzjoni jew dokumentazzjoni jew l-aċċess għalihom ma setgħux jiġu provduti.".

Emenda tal-
artikolu 27 tal-
Att prinċipali.

10. L-artikolu 27 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Mingħajr preġudizzju għal kull restrizzjoni li l-Korp jista' jkun soġġett għaliha, il-Korp għandu, fuq talba jew fuq inizjattiva tiegħu stess, jikkopera u jiskambja informazzjoni ma' kull awtorità ta' sorveljanza f'Malta jew ma' kull awtorità oħra jew korp ieħor li għandhom funzjonijiet regolatorji jew ta' sorveljanza barra minn Malta, meta l-Korp ikun tal-opinjoni li tali koperazzjoni u skambju ta' informazzjoni jassistu fil-monitoraġġ tal-osservanza, minn persuni suġġetti jew persuni oħra li jwettqu attivitajiet ekwivalenti barra minn Malta, ta' ligijiet kontra *money laundering* u kontra finanzjar ta' terroriżmu jew ligijiet oħra speċifiċi għall-attivitajiet jew servizzi tagħhom, jew biex jiġi żgurat li s-settur finanzjarju u setturi jew professjonijiet rilevanti oħra ma jiġux użati għal għanijiet kriminali, jew biex tiġi salvagwardjata l-integrità tagħhom:

Iżda l-iskambju ta' informazzjoni jkun soġġett għal:

(a) garanzija minn dik l-awtorità jew korp li tirċievi tali informazzjoni li għandha fis-sehħ regoli u proċeduri adegwati li jirregolaw il-kunfidenzjalità u s-sigurtà tal-informazzjoni;

(b) kondizzjoni li l-informazzjoni jew id-dokumenti skambjati ser jintużaw mill-awtorità jew mill-korp riċeventi għall-għan biss tat-twettiq tal-funzjonijiet ta' sorveljanza u regolatorji tagħhom;

(ċ) kondizzjoni li l-informazzjoni skambjata mhux ser tiġi wżata għal għanijiet oħra ħlief dawk li għalihom ssir referenza fil-paragrafu (b), u li l-anqas ma sejra tixxerred lil xi persuna, korp, awtorità jew aġenzija oħra mingħajr il-kunsens espress minn qabel tal-Korp; u

(d) kull kondizzjoni jew restrizzjoni oħra li l-Korp jista' jiddetermina, inkluż l-iffirmar minn qabel, jekk il-Korp jidhirlu li jkun meħtieġ, ta' xi memorandum ta' intendiment jew ftehim ieħor biex jiġi regolat tali skambju ta' informazzjoni:

Iżda wkoll fejn il-Korp jiskambja xi informazzjoni ma' awtorità ta' sorveljanza f' Malta, dik l-awtorità ta' sorveljanza għandha tipprovdi lill-Korp meta tintalab tagħmel dan u b'mod tempestiv, informazzjoni dwar l-użu magħmul mill-informazzjoni skambjata u dwar kull eżitu ta' kull spezzjoni jew azzjoni regolatorja oħra li tkun ittiegħdet abbażi ta' dik l-informazzjoni."

(b) fil-paragrafu (b) tas-subartikolu (3) tiegħu, il-kliem "bil-għan li jistabbilixxu li dik il-persuna tkun qegħda tikkonforma ruħha" għandhom jiġu sostitwiti bil-kliem "bil-għan li tiġi sorveljata il-konformità ta' dik il-persuna"; u

(ċ) minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) Għall-finijiet tas-subartikolu (1) il-frazi awtorità ta' sorveljanza għandha tinkludi wkoll kull awtorità, korp jew kumitat responsabbli għall-awtorizzazzjoni, liċenzjar, reġistrazzjoni, jew ir-regolamentazzjoni ta', jew l-għoti, is-sospensjoni jew ir-revoka ta' *warrant* lil persuni suġġetti."

Emenda tal-artikolu 27A tal-Att prinċipali.

11. L-artikolu 27A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minnufih wara l-kliem "jew finanzjament tat-terroriżmu u l-persuni li jkunu involuti" għandhom jiżdiedu l-kliem "irrispettivament mit-tip ta' attività kriminali sottostanti, u anke meta ma tkunx magħrufa l-attività kriminali sottostanti fiż-żmien tal-iskambju";

(b) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "mill-Korp mingħajr dewmien" għandhom jiżdiedu l-kliem "irrispettivament mit-tip ta' attività kriminali sottostanti";

(ii) fil-paragrafu (a) tiegħu, minnufih wara l-kliem "investigazzjoni kriminali;" għandha tiżdied il-kelma "jew"; u

(iii) il-paragrafu (b) tiegħu għandu jiġi mħassar u l-paragrafu (ċ) għandu jiġi enumerat mill-ġdid bħala l-paragrafu (b).

Emenda tal-artikolu 27B tal-Att prinċipali.

12. L-artikolu 27B tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "jekk iqis li jkun hekk meħtieġ jew

spedjenti, u" għandhom jiġu mħassra; u l-kliem "lill-awtorità kompetenti rilevanti." għandhom jiġu sostitwiti bil-kliem "lill-awtorità kompetenti rilevanti:"

(b) minnufih wara l-artikolu 27B għandu jiżdied il-proviso li ġej:

"Iżda t-tixrid ta' informazzjoni għandu jkun soġġett għal:

(a) garanzija minn dik l-awtorità kompetenti li tirċievi tali informazzjoni, li għandha fis-seħh regoli u proċeduri adegwati li jirregolaw il-kunfidenzjalità u s-sigurtà tal-informazzjoni;

(b) kondizzjoni li l-informazzjoni jew id-dokumenti skambjati ser jintużaw mill-awtorità kompetenti riċeventi għall-għan biss tat-twettiq tal-funzjonijiet tagħha skont il-liġi;

(ċ) il-kondizzjoni li l-informazzjoni mibgħuta mhux ser tiġi wżata għal għanijiet oħra ħlief dawk li għalihom ssir referenza fil-paragrafu (b), u l-anqas ma sejra tixxerred lil xi persuna, korp, awtorità jew aġenzija oħra mingħajr il-kunsens espress minn qabel tal-Korp; u

(d) kull kondizzjoni jew restrizzjoni oħra li l-Korp jista' jiddetermina, inkluż l-iffirmar minn qabel, jekk il-Korp jidhirlu li jkun meħtieġ, ta' xi memorandum ta' intendiment jew ftehim ieħor biex jiġi regolat tali tixrid ta' informazzjoni."

13. L-artikolu 30B u l-artikolu 30Ċ tal-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikolu 30Ċ u l-artikolu 30D rispettivament.

Enumerazzjoni mill-ġdid tal-artikolu 30B u l-artikolu 30Ċ tal-Att prinċipali.

14. Minnufih wara l-artikolu 30A tiegħu, għandu jiżdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid fl-Att prinċipali.

"Informazzjoni mitluba jew miksuba mill-Korp.

30B. Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 27A, kull informazzjoni mitluba jew miksuba mill-Korp skont id-dispożizzjonijiet ta' dan l-Att u regolamenti maħruġa tahtu tista' tintuża mill-Korp għat-twettiq ta' kwalunkwe waħda mill-funzjonijiet tiegħu taht l-artikolu 16 kif iquis rilevanti u meħtieġ."

Emenda tal-
artikolu 34 tal-
Att prinċipali.

15. L-artikolu 34 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Il-Korp, u l-uffiċjali, l-impjegati u l-agenti tiegħu, sew jekk ikunu għadhom fis-servizz tal-Korp sew jekk le, għandhom jittrattaw kull informazzjoni u dokument li huma jiksibu fit-twettiq ta' dmirijietom jew fl-eżerċizzju tal-funzjonijiet tagħhom taht dan l-Att bhala kunfidenzjali, u ma għandhom jikxfu ebda informazzjoni jew dokument li jkollhom x'jaqsmu mal-affarijiet tal-Korp jew ta' xi persuna, li huma jkunu kisbu fit-twettiq ta' dmirijietom jew fl-eżerċizzju tal-funzjonijiet tagħhom taht dan l-Att hlief:

(a) meta jkunu awtorizzati jagħmlu dan taht xi waħda mid-dispożizzjonijiet ta' dan l-Att;

(b) għall-fini tal-qadi ta' dmirijietom jew fl-eżerċizzju tal-funzjonijiet tagħhom taht dan l-Att;

(ċ) quddiem xi qorti jew tribunal kompetenti fi proċedimenti ta' appell li jkunu saru skont id-dispożizzjonijiet tal-artikolu 13A, jew fi proċedimenti li l-Korp ikun parti fihom għall-fini tal-infurzar ta' xi piena imposta mill-Korp taht dan l-Att; u

(d) fil-forma ta' gabra ta' data jew informazzjoni statistika oħra, li fl-opinjoni tal-Korp ma twassalx għall-identifikazzjoni ta' xi persuna speċifika u li ma tippregudika ebda analisi jew investigazzjoni.";

(b) is-subartikolu (2) tiegħu għandu jiġi emendat hekk kif ġej:

(i) il-paragrafu (a) tiegħu, għandu jiġi sostitwit b'dan li ġej:

"(a) fil-fehma tiegħu dak il-kxif ikun jista' jimpedixxi inkjesta, investigazzjoni jew proċedura oħra li tkun għaddejja f'Malta; jew";

(ii) il-paragrafu (b) u l-paragrafu (ċ) tiegħu għandhom jiġu enumerati mill-ġdid bhala l-paragrafu (ċ) u l-paragrafu (d) rispettivament; u

(iii) minnufih wara l-paragrafu (a) tiegħu għandu

j iżdied il-paragrafu ġdid li ġej:

"(b) tali informazzjoni jew dokument ikunu waslu għand il-Korp fil-qadi tal-funzjonijiet tiegħu taħt is-subartikoli 16(1)(a), 16(1)(b) u 16(1)(k) jew li jipprovdi tali informazzjoni jew li jikxef xi informazzjoni jew dokument jkun jista', fil-fehma tal-Korp, jippreġudika xi analisi; jew";

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Il-Korp jista' wkoll jiżvela kull informazzjoni jew dokument msemmi fis-subartikolu (1) lil xi awtorità ġewwa jew barra minn Malta li tkun qed twettaq investigazzjoni kriminali dwar xi att jew ommissjoni li jkunu saru f'Malta u li jkunu jikkostitwixxu, jew jekk isiru barra minn Malta kienu kieku f'ċirkostanzi korrispondenti jikkostitwixxu:

Kap. 101.

(a) xi wiehed mir-reati msemmija fl-artikolu 22(2)(a)(1) tal-Ordinanza dwar il-Mediċini Perikolużi; jew

Kap. 31.

(b) xi wiehed mir-reati msemmija fl-artikolu 120A(2)(a)(1) tal-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha; jew

(ċ) kull reat ta' *money laundering* fi hdan it-tifsira ta' dan l-Att; jew

(d) kull reat ta' finanzjar ta' terroriżmu:

Iżda meta xi informazzjoni jew dokument jiġu żvelati fiċ-ċirkostanzi msemmija f'dan is-subartikolu, il-Korp jista' wkoll jiżvela xi informazzjoni jew dokument li jkollom x'jaqsmu mal-attività kriminali sottostanti."; u

(d) minnufih wara s-subartikolu (3) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(4) Minkejja kull dispożizzjoni ta' dan l-Att jew ta' xi liġi oħra, kull informazzjoni jew dokument żvelat mill-Korp skont is-subartikolu (3) għandu jitqies bħala sigriet u:

(a) għandu jintuża biss għall-iskopijiet tal-investigazzjoni li tkun qiegħda ssir u ma għandu jsir ebda użu ulterjuri jew jiġi żvelat jew imxerred lil xi persuna jew awtorità oħra mingħajr il-kunsens espress minn qabel tal-Korp:

Iżda kwalunkwe użu, żvelar jew tixrid ulterjuri għandu jkun strettament neċessarju għal fini tal-investigazzjoni li tkun qed issir u d-disposizzjonijiet ta' dan is-subartikolu għandhom japplikaw ukoll għal dan l-użu, żvelar jew tixrid ulterjuri;

(b) għandu jitqies bħala *intelligence* għal fini li jgħin fl-investigazzjoni li tkun qed issir u ma għandux jitqies bħala evidenza jew jintuża bħala tali fi proċeduri, kemm jekk għidizzjarji u kemm jekk le, li jistgħu jinbdeu bħala riżultat ta' dik l-investigazzjoni;

(c) ma għandux jingħata taħt għurament;

(d) għandu jiġi reġistrat, miżmum u arkivjat separatament mill-atti tal-investigazzjoni jew tal-proċess verbal u għandu jiġi ssiġillati b'tali mod li tkun żgurata l-kunfidenzjalità u s-segretezza tiegħu;

(e) ma għandux ikun parti minn rapporti jew konkluzjonijiet ppubblikati bħala riżultat tal-investigazzjoni; u

(f) b'ebda mod ma għandu jsir pubbliku.".

Emenda tal-artikolu 42 tal-Att prinċipali.

16. Fis-subartikolu (1) tal-artikolu 42 tal-Att prinċipali, il-kelma "Bord" għandha tiġi sostitwita bil-kelma "Korp".

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz hu sabiex jipprovdi għat-transpożizzjoni ta' numru ta' dispożizzjonijiet tad-Direttiva (UE) 2018/843.

**A BILL
entitled**

AN ACT to amend the Prevention of Money Laundering Act, Cap. 373.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. (1) The short title of this Act is the Prevention of Money Laundering (Amendment) Act, 2019, and this Act shall be read and construed as one with the Prevention of Money Laundering Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 373.

(2) The provisions of this Act shall come into force on such date as the Minister responsible for finance may by notice in the Gazette establish, and different dates may be so established for different provisions and different purposes of the Act.

2. Article 12 of the principal Act shall be amended as follows:

Amendment of article 12 of the principal Act.

(a) sub-article (5) thereof shall be renumbered as sub-article (6); and

(b) immediately after sub-article (4) thereof, there shall be added the following new sub-article:

"(5) The Minister shall, acting on the advice of the committee referred to in article 12A, designate, by order in the Gazette, those public functions in Malta and those held within international organisations accredited in Malta, which are to be considered as prominent public functions

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for the purpose of any regulations issued under this Act, and the list of any such functions shall be reviewed and updated from time to time:

Provided that any order issued in terms of this sub-article shall be made available to the European Commission upon publication in the Gazette."

Amendment of article 13B of the principal Act.

3. In sub-article (2) of article 13B of the principal Act, the words "the appeal is decided, deserted or withdrawn," shall be substituted by the words "is subsequently confirmed in whole or in part,".

Substitution of article 13C of the principal Act.

4. Article 13C of the principal Act shall be substituted by the following:

"Publication of administrative penalties.

13C. (1) Any administrative penalty imposed by the Unit in terms of rules and regulations made under article 13, and which exceeds fifty thousand euro (€50,000), shall be subject to publication on the official website of the Unit, together with any other administrative measure imposed by the Unit in conjunction with that administrative penalty and the publication shall take place within five working days from the date of notification of the administrative penalty to the subject person:

Provided further that where the administrative penalty has been appealed in terms of article 13A, the Unit shall, without undue delay, publish information on the appeal, and thereafter on the status of the appeal and the outcome thereof, including information on any decision of the Court of Appeal (Inferior Jurisdiction) which alters or revokes in whole or in part that administrative penalty in question.

(2) The Unit shall publish on an anonymous basis the following administrative measures and penalties imposed by the Unit in terms of rules and regulations made under article 13:

(a) administrative penalties that do not exceed fifty thousand euro (€50,000); and

(b) administrative measures imposed by the Unit, except those envisaged under sub-article (1).

(3) Notwithstanding the provisions of sub-articles (1) and (2), where the Unit considers that the publication of an administrative measure or penalty may jeopardise the stability of financial markets or may jeopardise any on-going supervisory, analytical or investigative work, or it considers it to be disproportionate, the Unit may, in accordance with policies and procedures established by the Board of Governors in terms of sub-article (4), decide to delay the publication, or to publish that administrative measure or penalty on an anonymous basis, or not to publish such an administrative measure or penalty.

(4) The Board of Governors referred to in article 18 shall establish and publish policies and procedures to further regulate the publication of administrative measures and penalties."

5. In sub-article (2) of article 15 of the principal Act, immediately after the words "memoranda of understanding or other agreement" there shall be added the word "including".

Amendment of article 15 of the principal Act.

6. Article 16 of the principal Act shall be amended as follows:

Amendment of article 16 of the principal Act.

(a) in sub-article (1) thereof:

(i) immediately after the words "dissemination of information with a view to" there shall be added the words "preventing, detecting and effectively";

(ii) in sub-paragraph (i) of paragraph (k) immediately after the words "paragraphs (a) and (b)" there shall be added the words "regardless of its nature or status";

(iii) in sub-paragraph (ii) of paragraph (k) the words "or with any authority outside Malta which it considers to have equivalent or analogous functions to a supervisory authority in Malta; and" shall be substituted by the words "or any other authority or body having regulatory or supervisory functions outside Malta, when the Unit is of the view that such co-operation and exchange of information would assist in monitoring compliance by subject persons or other persons undertaking equivalent activities outside Malta, with anti-money laundering and counter-funding of terrorism laws or with other laws specific to their activities or services, or in ensuring that the financial sector and other relevant sectors or

professions are not used for criminal purposes, or to safeguard their integrity;"

(iv) in paragraph (1) thereof, the words "in the course of the discharge of any of its functions at law." shall be substituted by the words "in the course of the discharge of any of its functions at law;" and immediately thereafter there shall be added the following new paragraphs:

"(m) to monitor compliance with any restrictions on payments in cash which may be introduced from time to time under this Act; and

(n) to establish, manage and administer centralised automated mechanisms allowing for the retrieval of data and information on any person holding or controlling payment or bank accounts or any person making use of safe custody services offered by credit institutions."

(b) sub-article (2) thereof shall be renumbered as sub-article (3); and

(c) immediately after sub-article (1) thereof, there shall be added the following new sub-article:

"(2) For the purpose of carrying out any of its functions under this Act or other regulations issued thereunder, the Unit shall have the power to impose fees and charges, including fees or charges to cover costs incurred by Unit in engaging any expert as envisaged in article 26A."

Amendment of article 19 of the principal Act.

7. Article 19 of the principal Act shall be amended as follows:

(a) in paragraph (a) of sub-article (1) thereof, the words "four members appointed" shall be substituted by the words "five members appointed"; and

(b) sub-article (2) thereof shall be substituted by the following:

"(2) The Minister shall appoint the five members referred to in sub-article 1(a) by selecting one member from each of five panels, each of at least three persons, nominated respectively by the Governor of the Central Bank of Malta, the Chairman of the Malta Financial Services Authority, the Chairperson of the Malta Gaming

Authority, the Commissioner of Police and the Commissioner for Revenue."

8. Article 23 of the principal Act shall be substituted by the following: Substitution of article 23 of the principal Act.

"The Executive and other staff of the Unit.

23. (1) The Director of the Unit shall be appointed by the Board, according to such procedures and on such terms and conditions as the Board may determine, following a public call for applications

(2) The other officers and staff of the Unit shall be selected by the Director of the Unit according to such procedures and on such terms and conditions and in such numbers as the Board may determine.

(3) The Director and all officers and staff of the Unit shall be persons of integrity and good conduct."

9. Article 26 of the principal Act shall be amended as follows: Amendment of article 26 of the principal Act.

- (a) paragraph (a) of sub-article (2) thereof shall be substituted by the following:

"(a) authorise any of its officers, employees or agents, on producing evidence of his authority, to require any subject person to provide him forthwith with such information or documentations as may be required in order to monitor compliance with the provisions of this Act and any regulation made thereunder and to answer any questions as the Unit may reasonably require for the performance of its functions under sub-article (1) and such officer, employee or agent may demand access to any data, information or documentation, whether or however stored or held, that the Unit considers relevant to monitor compliance, and may take copies of such data, information or documentation whether digital or otherwise;"

- (b) paragraph (c) of sub-article (2) thereof, shall be substituted by the following:

"(c) carry out on-site examination on subject persons with the aim of monitoring compliance with the provisions of this Act and any regulations made thereunder.";

- (c) immediately after paragraph (c) of sub-article (2) thereof there shall be added the following new paragraph:

"(d) make notes, take copies or recordings, whether digital or otherwise, of any data, information or documentation obtained or accessed by the Unit, or of any answers to questions posed by the Unit in the exercise of its powers under this sub-article.";

(d) sub-article (4) thereof shall be deleted and sub-article (5) and sub-article (6) shall be renumbered as sub-articles (4) and (5) respectively; and

(e) sub-article (4) thereof, as renumbered shall be substituted by the following:

"(4) Where the data, information or documentation required, sought to be accessed or demanded under sub-article (2) are not provided, the Unit may require the subject person to state, in writing, why such data, information or documentation, or access, could not be provided.".

Amendment of
article 27 of the
principal Act.

10. Article 27 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following:

"(1) Without prejudice to any restriction that the Unit may be subject to, the Unit shall, upon request or on its own motion, co-operate and exchange information with any supervisory authority in Malta or any other authority or body having regulatory or supervisory functions outside Malta, when the Unit is of the view that such co-operation and exchange of information would assist in monitoring compliance by subject persons or other persons undertaking equivalent activities outside Malta, with anti-money laundering and counter-funding of terrorism laws or other laws specific to their activities or services, or in ensuring that the financial sector and other relevant sectors or professions are not used for criminal purposes, or to safeguard their integrity:

Provided that the exchange of information shall be subject to:

(a) a guarantee by the authority or body receiving such information that it has adequate rules and procedures in place governing the confidentiality and security of information;

(b) the condition that information or documents exchanged shall be used by the receiving authority or body only for the purpose of performing its supervisory or regulatory functions;

(c) the condition that the exchanged information shall not be used for purposes other than those referred to in paragraph (b), nor shall it be disseminated to any other person, body, authority or agency without the express prior consent of the Unit; and

(d) any other condition or restriction that the Unit may determine, including the prior conclusion, if it deems so necessary, of any memorandum of understanding or other agreement to regulate any such exchange of information:

Provided further that where the Unit exchanges any information with a supervisory authority in Malta, that supervisory authority shall provide the Unit upon request and in a timely manner with information on the use made of the exchanged information and any outcome of any inspection or any other regulatory action undertaken on the basis of that information.";

(b) in paragraph (b) of sub-article (3) thereof, the words "with the aim of establishing that person's compliance" shall be substituted by the words "with the aim of monitoring that person's compliance"; and

(c) immediately after sub-article (4) thereof, there shall be added the following new sub-article:

"(5) For the purposes of sub-article (1) the term supervisory authority shall also include any authority, body or committee responsible for the authorisation, licensing, registration, or regulation of, or the granting, suspension or revocation of a warrant to subject persons."

11. Article 27A of the principal Act shall be amended as follows:

Amendment of
article 27A of
the principal
Act.

(a) in sub-article (1) thereof, immediately after the words "funding of terrorism and the persons involved" there shall be added the words ", regardless of the type of underlying criminal activity, and even where the underlying criminal activity is not known at the time of exchange";

(b) sub-article (3) thereof shall be amended as follows:

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(i) immediately after the words "by the Unit promptly" there shall be added the words ", regardless of the type of underlying criminal activity";

(ii) in paragraph (a) immediately after the words "criminal investigation;" there shall be added the word "or"; and

(iii) paragraph (b) shall be deleted and paragraph (c) shall be renumbered as paragraph (b).

Amendment of
article 27B of
the principal
Act.

12. Article 27B of the principal Act shall be amended as follows:

(a) the words "if it deems it necessary or expedient, and" shall be deleted and the words "information to the relevant competent authority." shall be substituted by the words "information to the relevant competent authority:";

(b) immediately after article 27B thereof there shall be added the following proviso:

"Provided that the transmission of information shall be subject to:

(a) a guarantee by the competent authority receiving such information that it has adequate rules and procedures in place governing the confidentiality and security of information;

(b) the condition that information or documents exchanged shall be used by the receiving competent authority only for the purposes of pursuing its functions at law;

(c) the condition that the transmitted information shall not be used for purposes other than those referred to in paragraph (b) above, nor shall it be disseminated to any other person, body, authority or agency without the express prior consent of the Unit; and

(d) any other condition or restriction that the Unit may determine, including the prior conclusion, if it deems so necessary, of any memorandum of understanding or other agreement to regulate any such transmission of information."

13. Article 30B and article 30C of the principal Act shall be renumbered as articles 30C and 30D respectively.

Renumbering of article 30B and article 30C of the principal Act.

14. Immediately after article 30A of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Information demanded or obtained by the Unit.

30B. Without prejudice to the provisions of article 27A, any information demanded or obtained by the Unit in terms of the provisions of this Act and regulations issued thereunder may be used by the Unit for the pursuance of any of its functions under article 16 as it deems relevant and necessary."

15. Article 34 of the principal Act shall be amended as follows:

Amendment of article 34 of the principal Act.

(a) sub-article (1) thereof shall be substituted by the following:

"(1) The Unit, and its officers, employees and agents, whether still in service of the Unit or not, shall treat any information and documents acquired in the performance of their duties or the exercise of their functions under this Act as confidential, and shall not disclose any information or document relating to the affairs of the Unit or of any person, which they have acquired in the performance of their duties or the exercise of their functions under this Act except:

(a) when authorised to do so under any of the provisions of this Act;

(b) for the purpose of the performance of their duties or the exercise of their functions under this Act;

(c) to any competent court or tribunal in any appeal proceedings instituted in accordance with the provisions of article 13A, or in proceedings to which the Unit is a party for the purpose of the enforcement of any penalty imposed by the Unit under this Act; and

(d) in the form of an aggregation of data or other statistical information, which in the opinion of the Unit does not lead to the identification of any specific person and which does not prejudice any analysis or investigation.";

(b) sub-article (2) thereof shall be amended as follows:

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(i) paragraph (a) thereof shall be substituted by the following:

"(a) in its opinion such disclosure could impede an inquiry, investigation or any other proceeding in course in Malta; or";

(ii) paragraph (b) and paragraph (c) thereof shall be renumbered as paragraph (c) and paragraph (d) respectively; and

(iii) immediately after paragraph (a) thereof there shall be added the following new paragraph:

"(b) such information or document was received by the Unit in carrying out its functions under sub-articles 16(1)(a), 16(1)(b) and 16(1)(k) or providing such information or disclosing such document may, in the opinion of the Unit, prejudice any analysis; or";

(c) sub-article (3) thereof shall be substituted by the following:

"(3) The Unit may also disclose any information or document referred to in sub-article (1) to any authority in or outside Malta carrying out a criminal investigation into any act or omission committed in Malta and which constitutes, or if committed outside Malta would in corresponding circumstances constitute:

Cap. 101. (a) any of the offences referred to in article 22(2)(a)(1) of the Dangerous Drugs Ordinance; or

Cap. 31. (b) any of the offences referred to in article 120A(2)(a)(1) of the Medical and Kindred Professions Ordinance; or

(c) any offence of money laundering within the meaning of this Act; or

(d) any offence of funding of terrorism:

Provided that when disclosing any information or document in the circumstances referred to in this sub-article, the Unit may also disclose any information or document related to the underlying criminal activity."; and

(d) immediately after sub-article (3) thereof there shall

be added the following new sub-article:

"(4) Notwithstanding any other provision of this Act or any other law, any information or document disclosed by the Unit in terms of sub-article (3) shall be considered as secret and shall:

(a) be used only for the purposes of the investigation being carried out and no other use thereof shall be made nor shall it be disclosed or disseminated to any other person or authority without the prior express consent of the Unit:

Provided such further use, disclosure or dissemination is strictly necessary for the purpose of the investigation being carried out and the provisions of this sub-article shall also apply to such further use, disclosure or dissemination;

(b) be considered as intelligence for the purposes of assisting the investigation being carried out, and shall not be considered as evidence nor used as such in any proceedings, whether judicial or otherwise, which may be instituted as a result of any such investigation;

(c) not be provided under oath;

(d) be recorded, held and archived separately from the acts of the investigation or any *procès verbal* and shall be sealed in such manner so as to ensure its confidentiality and secrecy;

(e) not form part of any published report or findings resulting from the investigation; and

(f) under no circumstance be made public."

16. In sub-article (1) of article 42 of the principal Act, the word "Board" shall be substituted by the word "Unit".

Amendment of article 42 of the principal Act.

Objects and Reasons

The object of this Bill is to provide for the transposition of a number of provisions of Directive (EU) 2018/843.

VERŻJONI ELETTRONIKA