

Nru 168

13. 03. 2026

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Jo Etienne Abela, M.P., Ministru għas-Saħħa u l-Anzjanità Attiva f'isem il-Ministru għall-Finanzi, u moqri għall-Ewwel darba fis-Seduta tad-19 ta' Jannar 2026.

A BILL introduced by the Honourable Jo Etienne Abela, M.P., Minister for Health and Active Ageing on behalf of the Minister for Finance, and read the First time at the Sitting of the 19th January 2026.

ATT sabiex jemenda l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, Kap. 330.

AN ACT to amend the Malta Financial Services Authority Act, Cap. 330.

ELEANOR SCERRI

Skrivan tal-Kamra tad-Deputati

ELEANOR SCERRI

Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT sabiex jemenda l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, Kap. 330.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2026 li jemenda l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, hawn iżjed 'il quddiem imsejjaħ l-"Att prinċipali".

Titolu fil-qosor
u bidu fis-seħh.

Kap. 330.

(2) Dan l-Att għandu jidhol fis-seħh f'dik id-data jew dati li l-Ministru responsabbli għar-regolamentazzjoni tas-servizzi finanzjarji jista', b'avviż fil-Gazzetta, jistabilixxi u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet u, jew għanijiet differenti ta' dan l-Att.

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

Emendi ġenerali
tal-Att
prinċipali.

(a) il-kliem "mis-Sezzjoni għar-Riżoluzzjoni" kull fejn jokkorru, għandhom jiġu sostitwiti bil-kliem "mit-Taqsima ta' Riżoluzzjoni";

(b) il-kliem "tas-Sezzjoni għar-Riżoluzzjoni" kull fejn jokkorru, għandhom jiġu sostitwiti bil-kliem "tat-Taqsima ta' Riżoluzzjoni";

(c) il-kliem "Is-Sezzjoni għar-Riżoluzzjoni" kull fejn jokkorru, għandhom jiġu sostitwiti bil-kliem "It-Taqsima ta' Riżoluzzjoni";

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(d) il-kliem "Sezzjoni għar-Riżoluzzjoni" kull fejn jokkorru, għandhom jiġu sostitwiti bil-kliem "Taqsimat ta' Riżoluzzjoni";

(e) il-kliem "*Chairman*" u "*chairman*", kull fejn jokkorru, għandhom jiġu sostitwiti bil-kliem "*Chairperson*" u "*chairperson*" rispettivament.

Emenda tal-
artikolu 2 tal-
Att prinċipali.

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

(a) minnufih wara t-tifsira "Awtorità" għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "awtorizzazzjoni" tfisser kwalunkwe forma ta' awtorizzazzjoni mogħtija mill-Awtorità lil xi entità jew individwu, li ma tkunx liċenzja, u tinkludi reġistrazzjoni, rikonossiment, notifika jew kwalunkwe forma oħra ta' approvazzjoni jew permess;"

(b) minnufih wara t-tifsira "il-BRRD" għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "Deputat Uffiċjal Eżekuttiv Ewlieni" tfisser uffiċjal responsabbli sabiex jassisti u jkun ta' sostenn għall-Uffiċjal Eżekuttiv Ewlieni fil-qadi tad-dmirijiet u responsabbiltajiet tiegħu, maħtur skont l-artikolu 7D;"

(ċ) it-tifsira "Direttorat" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Direttorat tfisser sezzjoni tal-Awtorità mwaqqfa mill-Uffiċjal Eżekuttiv Ewlieni wara konsultazzjoni mal-Bord tal-Gvernaturi, magħmula minn numru ta' sottosezzjonijiet jew unitajiet responsabbli għall-funzjonijiet differenti u oqsma ta' operat tal-Awtorità;"

(d) it-tifsira "istituzzjoni" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "istituzzjoni" tfisser istituzzjoni ta' kreditu jew ditta ta' investiment għall-finijiet tal-BRRD;"

(e) it-tifsira "Konsulent Ġenerali" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Konsulent Ġenerali" tfisser l-Uffiċjal Ewlieni li jmexxi d-Direttorat responsabbli għal affarijiet legali;"

(f) it-tifsira "Kumitat dwar Deċiżjonijiet tal-Infurzar" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Kumitat dwar Deċiżjonijiet tal-Infurzar" tfisser il-Kumitat imwaqqaf bl-artikolu 11;"

(g) minnufih wara t-tifsira "Kumitat dwar Deċiżjonijiet tal-Infurzar", kif sostitwita, għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "Kumitat dwar Deċiżjonijiet Regolatorji" tfisser il-Kumitat imwaqqaf bl-artikolu 10A;"

(h) it-tifsira "Kumitat Eżekuttiv" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Kumitat Eżekuttiv" tfisser il-Kumitat imwaqqaf bl-artikolu 9;"

(i) minnufih wara t-tifsira "Kumitat Eżekuttiv", kif sostitwita, għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali" tfisser il-Kumitat imwaqqaf bl-artikolu 10B;"

(j) it-tifsira "Kumitat ta' Verifika" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Kumitat ta' Verifika u Riskju" tfisser il-Kumitat imwaqqaf bl-artikolu 12A;"

(k) minnufih wara t-tifsira "Ministru" għandu jiġi miżjud it-tifsir ġdid li ġej:

" "MTF" tfisser Faċilità ta' Negozju Multilaterali mħaddem minn ditta ta' investment jew operatur fis-suq, li tħaddan fiha flimkien interessi terzi multipli ta' bejgħ u ta' xiri fi strumenti finanzjarji fis-sistema u skont regoli mhux diskrezzjonali, b'mod li twassal għal kuntratt skont it-Titolu II tal-MiFID;

"OTF" tfisser Faċilità ta' Negozju Organizzata li ma tkunx suq regolat jew MTF u li fiha interessi terzi multipli ta' bejgħ u ta' xiri f'*bonds*, prodotti finanzjarji strutturati, permessi ta' emissjoni jew derivattivi jkun jistgħu jaġixxu flimkien fis-sistema b'mod li jwassal għal kuntratt skont it-Titolu II tal-MiFID;"

(l) it-tifsira "servizzi finanzjarji" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "servizzi finanzjarji" tfisser il-kummerċ ta' krediti u ta' istituzzjonijiet finanzjarji, il-kummerċ tal-assigurazzjoni u tal-attivitajiet ta' intermedjarji fl-assigurazzjoni, l-ġħoti ta' servizzi ta' investiment u skemi ta' investiment kollettiv, pensjonijiet u l-fondi għal min jirtira, swieq regolati, depożitarji ċentrali tat-titoli, l-ġħoti ta' servizzi li għandhom x'jaqsmu ma' kryptoassi inklużi l-ħruġ tagħhom, l-offerti lill-pubbliku u ammissjoni għan-negożjar, in-negożju ta' *trustees*, *trusts* u provdituri ta' servizz lil kumpaniji, u dawk l-oqsma l-oħra ta' attivitajiet jew servizzi finanzjarji li jistgħu jitqiegħdu taħt il-kompetenza ta' sorveljanza u dik regolatorja tal-Awtorità mill-Ministru jew minn kwalunkwe liġi oħra;" u

(m) it-tifsira "Uffiċjal Eżekuttiv Ewlieni" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "Uffiċjal Eżekuttiv Ewlieni" tfisser l-Uffiċjal maħtur skont l-artikolu 7D;".

Emenda tal-artikolu 3 tal-Att prinċipali.

4. Is-subartikolu (3) tal-artikolu 3 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Kemm-il darba dan l-Att jew kwalunkwe Att ieħor amministrat mill-Awtorità ma jipprovdux xort'oħra, l-Awtorità, inkluż il-korpi tagħha li jieħdu deċiżjonijiet għandhom, fil-qadi tal-funzjonijiet u s-setgħat tagħhom, jkunu awtonomi u għandhom jaġixxu b'mod oġġettiv u indipendenti, u ma għandhomx jitolbu jew jieħdu struzzjonijiet jew ikunu soġġetti għal kwalunkwe interferenza minn xi awtorità oħra, korp ieħor jew persuna oħra."

Emenda tal-artikolu 4 tal-Att prinċipali.

5. L-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu l-kelma "f'Malta;" għandha tiġi sostitwita bil-kliem "li jingħataw f'Malta jew minn Malta;"

(ii) il-paragrafu (gA) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(gA) li tipprovdi, tippromwovi u trawwem

aktar taħriġ, għarfien u edukazzjoni fl-affarijiet kollha relatati mas-servizzi finanzjarji, inkluż litteriżmu finanzjarju;"

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Bla hsara għad-dispożizzjonijiet tal-artikolu 17:

(a) għall-aħjar qadi tal-funzjonijiet tagħha taħt dan l-Att jew kwalunkwe Att ieħor, l-Awtorità għandha tikkolabora ma' korpi oħra lokali u barranin, dipartimenti u entitajiet tal-Gvern, organizzazzjonijiet internazzjonali, mal-Awtorità Ewropea tat-Titoli u s-Swieq (ESMA), l-Awtorità Ewropea dwar il-Banek (EBA), l-Awtorità Ewropea dwar Pensjonijiet tal-Assigurazzjoni u tax-Xogħol (EIOPA), kulleġġi tas-supervizuri, il-Bord Ewropew dwar ir-Riskju Sistemiku (ESRB), il-Bank Ċentrali Ewropew (ECB), l-Awtorità Ewropea kontra l-*Money Laundering* (AMLA), il-Bord ta' Riżoluzzjoni Uniku (SRB) u entitajiet oħra li jeżerċitaw funzjonijiet u setgħat regolatorji, ta' liċenzjar, ta' awtorizzazzjoni, ta' reġistrazzjoni jew ta' sorveljanza taħt kwalunkwe liġi f'Malta jew barra minn Malta jew li xort'oħra jsegwu jew jissorveljaw oqsma jew attivitajiet fis-settur tas-servizzi finanzjarji u r-reġistrazzjoni ta' soċjetajiet kummerċjali, u li tagħmel arrangamenti għal skambju reċiproku ta' informazzjoni jew għal forom oħra ta' għajjnuna fuq hwejjeġ regolatorji jew ta' sorveljanza; u

(b) fil-qadi tal-funzjonijiet tagħha taħt dan l-Att jew taħt xi Att ieħor, l-Awtorità għandha wkoll tikkollabora ma' awtoritajiet lokali jew barranin ta' infurzar tal-liġi, ta' informazzjoni, ta' prosekuzzjoni u ġudizzjarji.";

(ċ) minnufih wara s-subartikolu (2) tiegħu, kif sostitwit, għandhom jiġu miżjuda s-subartikoli ġodda li ġejjin:

"(2a) Għall-aħjar twettiq tal-funzjoni tagħha taħt is-subartikolu (1)(gA), l-Awtorità tista' tistabbilixxi akkademja ta' taħriġ jew arrangament ieħor xieraq edukattiv sabiex tippovdi taħriġ, għarfien u edukazzjoni fi hwejjeġ relatati mas-settur tas-servizzi finanzjarji, inkluż xejriet u żviluppi fir-regolamentazzjoni u s-supervizjoni.

(2b) "L-Awtorità tista' toħloq inizzjattivi ta' shubija

pubblika privata ma' korpi ta' partijiet interessati, assoċjazzjonijiet, gruppi jew rappreżentanti tas-settur finanzjarju għall-aħjar twettiq tal-funzjonijiet tagħha, sabiex issaħħaħ l-iskambju ta' informazzjoni fir-rigward ta' kwistjonijiet emergenti, sabiex tiffacilita kooperazzjoni u komunikazzjoni bejn l-Awtorità u partijiet interessati, u sabiex tgħolli l-istandards fis-settur tas-servizzi finanzjarji.";

(d) fis-subartikolu (3) tiegħu minnufih wara l-kliem "li għandha x'taqsam mas-servizzi finanzjarji." għandhom jiġu miżjuda l-kliem "L-Awtorità għandu jkollha wkoll id-dritt li titlob imgħax sal-massimu permess mil-liġi fuq kwalunkwe ammont ta' drittijiet jew imposti li l-ħlas tagħhom ikun skada, sad-data li fiha jithallas tali ammont:

Iżda l-Awtorità tista', f'ċirkostanzi eċċezzjonali u ġustifikabbli, u kif soġġett għall-approvazzjoni tal-Kumitat dwar Deċiżjonijiet Regulatorji, turrinunzja kwalunkwe drittijiet u, jew imposti preskritti jew imgħax dovut lilha, kompletament jew parzjalment, jew fir-rigward ta' tali perjodu jew kwistjoni kif l-Awtorità tista' tqis ġustifikat:

Iżda wkoll l-Awtorità ma għandhiex, fuq inizjattiva tagħha stess, turrifondi kwalunkwe dritt, imposta jew imgħax li jkunu diġà ġew imħallsa."

6. L-artikolu 4A tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 4A tal-Att prinċipali.

"Liċenzja għandha titqies bħala konċessjoni.

4A. (1) L-għoti ta' liċenzja hu konċessjoni u privileġġ revokabbli, mogħti lil persuni li, minbarra li jissodisfaw ir-rekwiżiti kif jistgħu jiġu stabbiliti mill-Awtorità, jitiqiesu li huma idoneji u xierqa, u adatti li jkollhom liċenzja, u l-ebda detentur tagħha ma għandu jitqies li jkun akkwista kwalunkwe dritt vestit fiha jew taħtha. L-oneru tal-prova tal-idoneità ta' detentur tal-liċenzja sabiex jingħata u sabiex ikollu liċenzja għandu jkun dejjem fuq id-detentur tal- liċenzja.

(2) L-Awtorità tista' twettaq verifiki dwar kemm persuna tkun idonea u xierqa u kemm tkun adatta, kif l-Awtorità jidhrilha xieraq qabel ma tingħata liċenzja u kif jidhrilha neċessarju wara, u l-persuna li dwarha tkun qiegħda ssir l-verifika għandha tagħti lill-Awtorità l-informazzjoni u d-dokumentazzjoni kollha kif l-Awtorità tista' titlob għal dan il-għan.

(3) Kwalunkwe persuna ingaġġata minn applikant għal liċenzja sabiex tipprovdi parir professjonali u assistenza fir-rigward ta' tali applikazzjoni, jew ingaġġata minn detentur ta' liċenzja sabiex tipprovdi parir professjonali u assistenza fir-rigward ta' kwalunkwe kwistjoni regolatorja, u li taġixxi u tikkomunika mal-Awtorità f'isem tali applikant jew detentur ta' liċenzja, għandha twettaq il-verifiki dwar id-diligenza dovuta u l-integrità fuq tali applikant jew detentur ta' liċenzja, u għandha tinforma lill-Awtorità minghajr dewmien dwar kwalunkwe informazzjoni avversa jew suspettuża identifikata li tista'tkun rilevanti għall-verifika dwar kemm persuna tkun idonea u xierqa u adatta, imwettqa mill-Awtorità fuq tali applikant jew detentur.

(4) Kwalunkwe applikant għal, jew detentur ta' liċenzja u kwalunkwe persuna li tagħti pariri professjonali u assistenza kif imfisser fis-subartikolu (3) li xjentement u bl-intenzjoni li jagħtu rappreżentazzjoni ħażina dwar kemm applikant jew detentur ta' liċenzja jkun idoneu u xieraq u adatt, jissottomettu lill-Awtorità informazzjoni qarrieqa jew falza fir-rigward ta' kemm applikant jew detentur ta' liċenzja jkun idoneju u xieraq u adatt jew jonqsu milli jissottomettu lill-Awtorità kwalunkwe informazzjoni avversa li dwarha jkunu konxji, li tkun rilevanti għall-finijiet li wieħed jistabilixxi kemm ikun adatt applikant jew detentur ta' liċenzja, għandhom ikunu ħatja ta' reat u għandhom jeħlu meta jinstabu ħatja multa li ma teċċedix ħamsin elf euro (€50,000).

(5) F'dan l-artikolu, liċenzja tinkludi u tapplika għal kwalunkwe liċenzja jew awtorizzazzjoni, irrispettivament mill-mod li bih tissejjaħ, maħruġa mill-Awtorità taħt kwalunkwe liġi li għall-amministrazzjoni tagħha l-Awtorità tkun responsabbli .".

7. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 5 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) L-organi prinċipali tal-Awtorità huma l-Bord tal-Gvernaturi, il-Kumitat Eżekuttiv, il-Kumitat dwar Deċiżjonijiet Regolatorji, il-Kumitat dwar Deċiżjonijiet tal-Infurzar, il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali u l-Kumitat dwar Riżoluzzjoni sal-limitu li l-Awtorità taġixxi bħala l-Awtorità ta' Riżoluzzjoni skont l-

artikolu 7B.";

(b) fis-subartikolu (2) tiegħu l-kliem "Ikun id-dmir tal-organi tal-Awtorità" għandhom jiġu sostitwiti bil-kliem "Għandu jkun id-dmir tal-organi, tad-Direttorati u tat-Taqsimiet tal-Awtorità".

Emenda tal-artikolu 6 tal-Att prinċipali.

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

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

(i) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) l-Uffiċjal Eżekuttiv Ewlieni, li ma għandux ikollu d-dritt għal vot;"

(ii) fil-paragrafu (ċ) tiegħu l-kliem "hames membri oħra jew aktar," għandhom jiġu sostitwiti bil-kliem "sitt membri oħra," il-kliem "ta' servizzi finanzjarji." għandhom jiġu sostitwiti bil-kliem "ta' servizzi finanzjarji;" u l-kliem "Il-Bord tal-Gvernaturi għandu jagħżel deputat *Chairman* mill-Membri tal-Bord." għandhom jiġu mħassra;

(iii) minnufh wara l-paragrafu (ċ) tiegħu, kif emendat, għandu jiġi miżjud il-paragrafu ġdid li ġej:

"(d) Deputat *Chairperson* magħżul mill-Bord tal-Gvernaturi minn fost il-membri tal-Bord.";

(b) minnufh wara s-subartikolu (2) tiegħu, għandu jiġi miżjud is-subartikolu ġdid li ġej:

"(2A)Fejn ikun hemm post battal fost il-membri tal-Bord tal-Gvernaturi, għandu jinħatar membru ġdid skont id-dispożizzjonijiet ta' dan l-artikolu. Il-ħatra għandha ssir mill-aktar fis u mhux aktar tard minn tliet (3) xhur minn meta jkun hemm post battal.";

(ċ) is-subartikolu (4) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(4) Fejn iċ-*Chairperson* ikun assenti jew ma jkunx jista' jeżerċita l-funzjonijiet u s-setgħat tal-kariga tiegħu u l-Prim Ministru ma jkunx ħatar persuna oħra

sabiex taġixxi bħala *Chairperson* matul il-perjodu ta' assenza jew inabbiltà, id-Deputat *Chairperson* għandu jwettaq il-funzjonijiet taç-*Chairperson* matul tali perjodu.";

(d) fis-subartikolu (5) tiegħu l-kliem "għandhom jirċievu dik ir-remunerazzjoni li l-Ministru jista' minn żmien għal żmien jistabbilixxi." għandhom jiġu sostitwiti bil-kliem "għandhom jirċievu tali remunerazzjoni kif stabbilita fl-ittra tal-ħatra tagħhom.";

(e) is-subartikolu (6) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (a) tiegħu għandu jiġi emendat kif ġej:

(ia) fis-subparagrafu (vi) tiegħu l-kliem "xi prattika kummerċjali oħra jew mod ieħor" għandhom jiġu sostitwiti bil-kliem "xi prattika jew attività kummerċjali oħra jew mod ieħor" u minnufih wara l-kelma "il-kompetenza" għandhom jiġu miżjuda l-kliem ", l-integrità";

(ib) fis-subparagrafu (viii) tiegħu l-kelma "kariga." għandhom jiġu miżjuda l-kliem "kariga; jew";

(ic) minnufih wara s-subparagrafu (viii) tiegħu, kif emendat, għandhom jiġu miżjuda is-subparagrafi godda li ġejjin:

"(ix) tkun ġiet skwalifikata minn kwalunkwe korp professjonali jew regolatorju; jew

(x) tkun instabet ħatja jew qed tiġi akkużata bit-twettieq ta'"reat rilevanti" kif imfisser fl-Att dwar ir-Rikavat mill-Kriminalità;"

Kap. 621.

(ii) fil-paragrafu (b) tiegħu l-kliem "x'aktarx twettaq dawk ir-responsabbilitajiet u" għandhom jiġu sostitwiti bil-kliem "x'aktarx twettaq dawk ir-responsabbilitajiet, għar-reputazzjoni u l-integrità tagħha, u";

(iii) il-paragrafu (d) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(d) Membru tal-Bord ma jistax jitneħħa mill-kariga tiegħu mill-Prim Ministru, jew jiġi mitlub li jirreżenja mill-kariga tiegħu ħlief għal xi waħda mir-raġunijiet imsemmija fis-subparagrafi (i) sa (ix) tal-paragrafu (a) jew minħabba f'inabilità li jwettaq il-funzjonijiet tal-kariga tiegħu, kemm jekk minħabba mard mentali jew fiżiku, jew imġiba ħażina, u għall-finijiet ta' dan il-paragrafu nuqqas ta' attendenza ripetuta u mhux ġustifikata mill-laqgħat tista' titqies li tammonta għal imġiba ħażina."

Emenda tal-artikolu 7 tal-Att prinċipali.

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

(a) fis-subartikolu (2) tiegħu l-kliem "*quorum* ta' mhux inqas minn tliet membri." għandhom jiġu sostitwiti bil-kliem "*quorum* ta' mhux inqas minn erba' (4) membri, li jkollhom dritt għal vot.";

(b) fis-subartikolu (3) tiegħu l-kliem "mid-deputat *Chairman*, jew minn membru" għandhom jiġu sostitwiti bil-kliem "mid-Deputat *Chairperson*, jew fejn kemm iċ-*Chairperson* kif ukoll id-Deputat *Chairperson* ikunu assenti, minn membru";

(ċ) fil-paragrafu (a) tas-subartikolu (5) tiegħu l-kliem "għandu jagħzel persuna biex taġixxi" għandhom jiġu sostitwiti bil-kliem "għandu jagħzel uffiċjal tal-Awtorità sabiex jaġixxi".

Thassir tal-artikolu 7A tal-Att prinċipali.

10. L-artikolu 7A tal-Att prinċipali għandu jiġi mħassar.

Sostituzzjoni tal-artikolu 7B tal-Att prinċipali.

11. L-artikolu 7B tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"L-Awtorità ta' Riżoluzzjoni u l-Kumitat ta' Riżoluzzjoni.

7B. (1) (a) L-Awtorità għandha taġixxi wkoll bħala Awtorità ta' Riżoluzzjoni għall-finijiet tal-artikolu 3 tal-BRRD. Il-funzjonijiet tal-Awtorità ta' Riżoluzzjoni għandhom jitwettqu permezz tal-Kumitat ta' Riżoluzzjoni mwaqqaf fis-subartikolu (2).

(b) L-Awtorità għandha toħloq arrangamenti strutturali xierqa sabiex tiżgura li jkun hemm indipendenza operattiva u sabiex jiġu evitati kunflitti ta' interess bejn il-funzjonijiet tagħha ta' sorveljanza u funzjonijiet oħra, u l-funzjoni tagħha ta' riżoluzzjoni taħt dan l-Att.

(2) Għandu jkun hemm Kumitat ta' Riżoluzzjoni li għandu jkollu s-setgħat kollha mogħtija lill-Awtorità ta' Riżoluzzjoni taħt il-BRRD. L-għamla, is-setgħat u l-funzjonijiet tal-Kumitat ta' Riżoluzzjoni għandhom ikunu regolati bid-dispożizzjonijiet stabbiliti fl-Ewwel Skeda u skont kwalunkwe regolamenti li jsiru taħtha. Il-Kumitat ta' Riżoluzzjoni għandu jaġixxi b'mod indipendenti mill-organi tal-Awtorità."

12. Fl-artikolu 7Ċ tal-Att prinċipali l-kliem "l-Awtorità, permezz tal-Kumitat ta' Riżoluzzjoni," għandhom jiġu sostitwiti bil-kliem "l-Awtorità ta' Riżoluzzjoni, permezz tal-Kumitat ta' Riżoluzzjoni".

Emenda tal-artikolu 7Ċ tal-Att prinċipali.

13. Minnufih wara l-artikolu 7Ċ tal-Att prinċipali għandu jiġi miżjud l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Att prinċipali.

"L-Uffiċjal Eżekuttiv Ewlieni u d-Deputati Uffiċjali Eżekuttivi Ewlenin.

7D. (1) L-Uffiċjal Eżekuttiv Ewlieni għandu jinħatar mill-Bord tal-Gvernaturi skont tali proċeduri u skont it-termini u l-kondizzjonijiet li l-Bord jista' jiddetermina.

(2) L-Uffiċjal Eżekuttiv Ewlieni għandu jkun responsabbli:

(a) għall-operat u t-twettiq ġenerali mill-Awtorità;

(b) għall-implimentazzjoni tal-oġġettivi, l-istrateġija u l-politiki tal-Awtorità;

(c) għat-tmexxija tal-Kumitat Eżekuttiv;

(d) għall-monitoraġġ u s-superviżjoni tal-Kumitat dwar Deċiżjonijiet Regolatorji, il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali, il-Kumitat dwar Deċiżjonijiet tal-Infurzar u tad-Direttorati u tat-Taqsimiet kollha tal-Awtorità sabiex jiżgura l-implimentazzjoni xierqa u effettiva tal-funzjonijiet tal-Awtorità skont il-liġi;

(e) għall-affarjiet amministrattivi tal-Awtorità, inkluż il-ġestjoni u l-finanzi tal-Awtorità, riżorsi umani u servizzi anċillari;

(f) għat-twaqqif u s-setgħat ta' Direttorati u Taqsimiet u d-determinazzjoni dwar il-funzjonijiet rispettivi tad-Direttorati u tat-Taqsimiet hekk stabbiliti; u

(g) għal kwalunkwe haġa oħra kif jista' jiġi determinat mill-Bord tal-Gvernaturi.

(3) L-Uffiċjal Eżekuttiv Ewlieni għandu, wara konsultazzjoni mal-Bord tal-Gvernaturi, jahtar Deputat Uffiċjal Eżekuttiv Ewlieni jew aktar sabiex jassisti fit-twettiq tad-dmirijiet u r-responsabbiltajiet tiegħu.

(4) Persuna ma għandhiex tkun eligibbli sabiex tinħatar Uffiċjal Eżekuttiv Ewlieni jew Deputat Uffiċjal Eżekuttiv Ewlieni jekk ma tkunx persuna idonea u xierqa sabiex ikollha tali kariga.

(5) Fid-determinazzjoni jekk persuna tkunx persuna idonea u xierqa, għandhom jitqiesu l-onestà ta' dik il-persuna, il-kompetenza tagħha u kemm hi matura fil-gudizzju tagħha sabiex twettaq ir-responsabbiltajiet ta' dik il-kariga, ir-reputazzjoni u l-integrità tagħha, u d-diligenza li biha x'aktarx twettaq dawk ir-responsabbiltajiet.

(6) Il-Bord tal-Gvernaturi jista' jahtar kwalunkwe wiehed mid-Deputati Uffiċjali Eżekuttivi Ewlienin tal-Awtorità sabiex jaġixxi ta' Aġent Uffiċjal Eżekuttiv Ewlieni meta l-Uffiċjal Eżekuttiv Ewlieni ma jkunx jista' jaġixxi, jew meta jkun hemm vakanza fil-kariga tal-Uffiċjal Eżekuttiv Ewlieni."

Sostituzzjoni tal-artikolu 9 tal-Att prinċipali.

14. L-artikolu 9 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Il-Kumitat Eżekuttiv.

9. (1) Għandu jkun hemm Kumitat Eżekuttiv li għandu jkun responsabbli:

(a) għall-koordinazzjoni u l-monitoraġġ tal-oġettivi statutorji u strateġiċi, u l-politiki tal-Awtorità;

(b) li jiżgura li jkun hemm koordinazzjoni u komunikazzjoni bejn id-Direttorati u t-Taqsimiet differenti tal-Awtorità;

(ċ) għall-approvazzjoni ta' regoli regolatorji magħmula mill-Awtorità u legiżlazzjoni proposta;

(d) li jipproponi politika u rakkomandazzjonijiet oħra lill-Bord tal-Gvernaturi fuq hwejjeġ li jaqgħu fi hdan il-mandat tal-Awtorità; u

(e) kwalunkwe haġa oħra li tista' tiġi determinata mill-Uffiċjal Eżekuttiv Ewlieni u mill-Bord tal-Gvernaturi.

(2) Il-Kumitat Eżekuttiv jista' minn żmien għal żmien jiddelega bil-miktub kwalunkwe mill-funzjonijiet u setgħat tiegħu fuq tali materji u bla ħsara għal tali kondizzjonijiet u modalitajiet kif jista' jiġi speċifikat fid-delega, bla ħsara għat-termini u l-perjodu ta' żmien tad-delega kif determinat mill-Kumitat Eżekuttiv, lill-Uffiċjal Eżekuttiv Ewlieni jew lil wieħed jew aktar mill-membri tal-Kumitat Eżekuttiv. Kwalunkwe tali delega għandha tiġi approvata mill-Bord tal-Gvernaturi.

(3) Il-Kumitat Eżekuttiv għandu jikkonsisti mill-Uffiċjal Eżekuttiv Ewlieni, li għandu jippresjedi fih, u d-Deputati Uffiċjali Eżekuttivi Ewlienin:

Iżda l-Uffiċjal Eżekuttiv Ewlieni jista' jahtar kwalunkwe wieħed jew aktar mill-Uffiċjali Ewlenin tal-Awtorità fuq il-Kumitat Eżekuttiv, kif jista' jidhirlu xieraq:

Iżda wkoll il-Kumitat Eżekuttiv għandu jkun magħmul minn mhux inqas minn ħames (5) membri.

(4) L-Uffiċjal Eżekuttiv Ewlieni għandu jinnomina wieħed mill-uffiċjali tal-Awtorità sabiex jaġixxi ta' Segretarju għall-Kumitat Eżekuttiv għal tali żmien u taht tali termini u kondizzjonijiet kif l-Uffiċjal Eżekuttiv Ewlieni jista' jidhirlu xieraq.

(5) Is-Segretarju għandu jkollu d-dmir li jagħmel it-tnejjijiet meħtieġa għal-laqqgħat tal-Kumitat Eżekuttiv u għandu jżomm minuti ta' dawk il-laqqgħat.

(6) Il-*quorum* meħtieġ għal-laqqgħat tal-Kumitat Eżekuttiv għandu jkun ta' mhux inqas minn erba' (4) membri, li għandhom jinkludu l-Uffiċjal Eżekuttiv Ewlieni. Id-deċiżjonijiet tal-Kumitat għandhom jittiehdu b'magħgoranza tal-voti tal-membri preżenti u fil-każ ta' voti ndaqs l-Uffiċjal Eżekuttiv Ewlieni għandu jkollu kemm vot oriġinali kif ukoll it-tieni vot jew vot deċiżiv. Il-Kumitat għandu jirregola l-proċedura tiegħu stess."

15. Minnufih wara l-artikolu 10 tal-Att prinċipali għandhom jiġu miżjuda l-artikoli godda li ġejjin:

Żieda ta' artikoli godda mal-Att prinċipali.

"Il-Kumitat dwar Deċiżjonijiet Regulatorji.

10A. (1) Għandu jkun hemm Kumitat dwar Deċiżjonijiet Regulatorji li għandu jkun responsabbli għall-implimentazzjoni tal-qafas regulatorju fis-settur tas-servizzi finanzjarji u, bla ħsara għall-ġeneralità ta' dak li ntqal qabel, għandu b'mod partikolari jkun responsabbli:

(a) li jikkunsidra u jivvaluta applikazzjonijiet għal-liċenzji u kwalunkwe awtorizzazzjonijiet oħra, inkluż applikazzjonijiet għar-restrizzjoni volontarja, modifika, sospensjoni jew tħassir tagħhom, u li jiddeċiedi dwar l-approvazzjoni jew iċ-ċaħda tagħhom;

(b) li jgħoddi liċenzji jew awtorizzazzjonijiet oħra;

(ċ) li jwettaq monitoraġġ u sorveljanza fuq persuni liċenzjati jew awtorizzati mill-Awtorità fis-settur finanzjarju sabiex jivverifika l-konformità tagħhom mal-obbligi regolatorji;

(d) li jikkunsidra, jivvaluta u jirrevedi s-sejbiet superviżorji u rakkomandazzjonijiet li jistgħu jingiebu quddiemu mid-direttorati superviżorji u jikkonferma, jimmodifika jew jiċhad tali sejbiet u rakkomandazzjonijiet kif jista' jidhirlu xieraq;

(e) li jieħu kull tip ta' deċiżjonijiet u miżuri regolatorji kif l-Awtorità hi b'dan l-Att jew kwalunkwe Att ieħor jew regolamenti, mogħtija s-setgħa li tiegħu sabiex tissalvagwardja, tiżgura jew terġa' għib fis-seħħ il-konformità mar-rekwiżiti regolatorji u, jew sabiex tissalvagwardja l-interessi tal-konsumaturi ta' servizzi finanzjarji u, jew l-integrità tas-sistema finanzjarja, inkluż il-ħruġ ta' kwalunkwe direttiva jew direttivi jew tiegħu tali miżura oħra, kif il-Kumitat dwar Deċiżjonijiet Regolatorji jista' jidhirlu meħtieġ fiċ-ċirkostanzi, u fejn iċ-ċirkostanzi serji jkunu jeħtieġu li tittiehed azzjoni immedjata, l-imsemmi Kumitat jista' jieħu deċiżjonijiet u miżuri urġenti u kawtelatorji, inkluż li temporanjament jillimita l-attivitajiet tan-negozju:

Iżda l-Kumitat dwar Deċiżjonijiet Regolatorji ma għandux ikollu s-setgħa li jimponi kwalunkwe modifika, restrizzjoni, sospensjoni jew tħassir ta' liċenzja jew xi forma oħra ta' awtorizzazzjoni, jew li jimponi penali amministrattiva;

(f) li jahtar jew li jitlob il-ħatra ta' persuna kwalifikata, jew jahtar persuna tas-sengħa jew spettur jew jahtar amministratur temporanju jew jahtar persuna kompetenti kif jista' jkun meħtieġ taħt kwalunkwe liġi amministrata mill-Awtorità bl-ghan li tagħti pariri lil jew tassisti detentur ta' liċenzja jew ta' awtorizzazzjoni fit-tmexxija tan-negozju tiegħu jew taħtar kwalunkwe persuna oħra li jkollha l-gharfien espert meħtieġ kif il-Kumitat dwar Deċiżjonijiet Regolatorji jista' jidhirlu neċessarju sabiex tassisti lill-Awtorità fil-funzjoni tagħha ta' sorveljanza;

(g) li jiddeċiedi dwar jekk kwalunkwe kwistjoni regolatorja, inkluż każ ta' nuqqas ta' konformita, jew ksur potenzjali tar-rekwiziti regolatorji, jew ta' suspett ta' mgħiba ħażina jew aġir ħażin għandhomx jintbagħtu lid-Direttorat ta' Infurzar għal sħarriġ, investigazzjoni u, jew azzjoni ta' infuzar ulterjuri;

(h) li jikkonsulta ma' u, jew jirreferi lit-Taqsima ta' Riżoluzzjoni u, jew lill-Kumitat ta' Riżoluzzjoni kwalunkwe kwistjoni kif il-Kumitat dwar Deċiżjonijiet Regolatorji jista' jidhirlu xieraq; u

(i) għal kwalunkwe materja oħra li tista' tiġi determinata mill-Bord tal-Gvernaturi.

(2) Għall-fini tat-twettiq tal-funzjonijiet tiegħu, il-Kumitat dwar Deċiżjonijiet Regolatorji għandu jkollu s-setgħat rilevanti kollha li huma vestiti fl-Awtorità b'dan l-Att jew taħt xi Att ieħor amministrat mill-Awtorità.

(3) Il-Kumitat dwar Deċiżjonijiet Regolatorji jista' minn żmien għal żmien jiddelega bil-miktub kwalunkwe mill-funzjonijiet jew setgħat tiegħu, dwar tali kwistjonijiet u bla ħsara għal tali kondizzjonijiet u modalitajiet kif jista' jiġi speċifikat fid-delega, kif soġġett għat-termini u t-tul ta' żmien kif determinat mill-imsemmi Kumitat, lil wieħed jew aktar mill-membri tiegħu, kwalunkwe wieħed jew iżjed mis-sottokumitati li jistgħu jiġu stabbiliti mill-Kumitat dwar Deċiżjonijiet Regolatorji jew lil xi Direttorat jew Taqsima tal-Awtorità, kif jista' jiġi speċifikat. Kwalunkwe delega hekk magħmula għandha tiġi approvata mill-Bord tal-Gvernaturi.

(4) Il-Kumitat dwar Deciżjonijiet Regulatorji għandu jkun magħmul minn:

(a) Uffiċjal Eżekuttiv Ewlieni, li għandu jippresjedi fih;

(b) Deputat Uffiċjal Eżekuttiv Ewlieni responsabbli għas-sorveljanza settorjali u l-Uffiċjali Ewlenin li jaqgħu tahtu;

(ċ) Deputat Uffiċjal Eżekuttiv Ewlieni responsabbli għas-sorveljanza transettorjali u l-Uffiċjali Ewlenin li jaqgħu tahtu;

(d) Konsulent Ġenerali;

(e) Uffiċjal Ewlieni responsabbli għall-istrategija u l-politika; u

(f) Uffiċjal Ewlieni responsabbli għas-servizzi diġitali u tal-informazzjoni.

(5) L-Uffiċjal Eżekuttiv Ewlieni għandu jinnomina wiehed mill-membri tal-Kumitat dwar Deciżjonijiet Regulatorji sabiex jaġixxi bħala Deputat *Chairperson* li għandu jippresjedi fil-laqgħat tal-imsemmi Kumitat fl-assenza tal-Uffiċjal Eżekuttiv Ewlieni.

(6) L-Uffiċjal Eżekuttiv Ewlieni għandu jinnomina wiehed mill-uffiċjali tal-Awtorità sabiex jaġixxi bħala Segretarju għall-Kumitat dwar Deciżjonijiet Regulatorji għal tali perjodu u taht tali termini u kondizzjonijiet kif l-Uffiċjal Eżekuttiv Ewlieni jista' jidhirlu xieraq.

(7) Is-Segretarju għandu jkollu d-dmir li jagħmel it-tnejjijiet meħtieġa għal-laqgħat tal-Kumitat dwar Deciżjonijiet Regulatorji u għandu jżomm minuti ta' dawk il-laqgħat.

(8) Il-*quorum* meħtieġ għal laqgħat tal-Kumitat dwar Deciżjonijiet Regulatorji għandu jkun ta' mhux inqas minn sitt (6) membri li għandhom jinkludu l-Uffiċjal Eżekuttiv Ewlieni jew, fl-assenza tiegħu, id-Deputat *Chairperson* kif nominat. Id-deciżjonijiet tal-imsemmi Kumitat għandhom jittieħdu b'maġġoranza tal-voti tal-membri preżenti u fil-każ ta' voti ndaqs, l-Uffiċjal Eżekuttiv Ewlieni jew id-Deputat *Chairperson*, li jippresjedi l-laqgħa għandu jkollu vot oriġinali kif ukoll it-tieni vot jew vot deciżiv. Il-Kumitat għandu, jirregola l-proċedura tiegħu stess.

(9) Bla ħsara għad-dispożizzjonijiet tal-artikolu 8, il-Kumitat dwar Deċiżjonijiet Regulatorji jista' minn żmien għal żmien jawtorizza lil xi wiehed jew aktar mill-uffiċjali anzjani tal-Awtorità li jiffirmaw liċenzja, kategorija ta' liċenzja jew kwalunkwe forma oħra ta' awtorizzazzjoni jew deċiżjoni, kif jista' jidhirlu xieraq.

(10) Il-Kumitat dwar Deċiżjonijiet Regulatorji għandu jissottometti rapport annwali lill-Kumitat Eżekuttiv li jipprovdi statistika u informazzjoni, li ma tispeċifikax il-każ, dwar it-twertiq tal-funzjonijiet tiegħu.

Il-Kumitat dwar
Deċiżjonijiet
dwar is-Swieq
Kapitali.

10B. (1) Għandu jkun hemm Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali li għandu jkun responsabbli:

(a) li jimplimenta l-politiki dwar swieq kapitali u l-ammissibiltà għall-elenkar u n-negozjar ta' strumenti finanzjarji kif jista' jiġi stabbilit mill-Bord tal-Gvernaturi minn żmien għal żmien;

(b) li jikkunsidra, jivvaluta, jawtorizza jew jiċċhad appikazzjonijiet għall-ammissibiltà għall-elenkar u n-negozjar, jew talbiet sabiex jitwaqqaf jew jiġi sospiż l-elenkar jew in-negozjar ta' strumenti finanzjarji jew għal derogi minn rekwiżiti jew kondizzjonijiet applikabbli kif jista' jkun permess skont il-liġijiet, regoli u regolamenti applikabbli;

(c) li japprova prospetti;

(d) li japprova programmi ta' *bonds* koperti;

(e) li jiżgura l-konformità ma' kwalunkwe rekwiżiti jew kondizzjonijiet applikabbli għal mittenti u stabbiliti għal strumenti finanzjarji elenkati u negozjati;

(f) li jwettaq monitoraġġ tas-suq kapitali sabiex tiġi żgurata l-integrità tas-suq, il-protezzjoni tal-investitur u l-prevenzjoni ta' abbuż tas-suq;

(g) li jieħu kull tip ta' deċiżjonijiet u miżuri regolatorji kif l-Awtorità għandha s-setgħa tieħu permezz ta' dan l-Att jew kwalunkwe Att ieħor jew regolamenti fir-rigward ta' swieq kapitali għall-fini li jissalvagwardja, jiżgura jew jerga' jgħib fis-seħħ il-konformità mar-rekwiżiti regolatorji u, jew sabiex jissalvagwardja l-interessi ta' investituri u, jew l-integrità tas-suq kapitali, inkluz il-ħruġ ta' kwalunkwe direttiva jew direttivi jew it-teħid ta' tali miżura oħra kif il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali jista' jidhirlu li tkun neċessarja fiċ-ċirkostanzi. Fejn iċ-ċirkostanzi serji jitolbu t-teħid ta' azzjoni immedjata, l-imsemmi Kumitat jista' jieħu deċiżjonijiet u miżuri urġenti u, jew kawtelatorji sabiex jiġu limitati temporanjament l-attivitajiet tan-negozju:

Iżda l-Kumitat ma għandux ikollu s-setgħa li jirtira approvazzjoni għal programmi ta' *bonds* koperti, jew ineħhi strumenti finanzjarji elenkati mill-elenkar u, jew jinnegozja f'suq regolat awtorizzat jew ineħhi strumenti finanzjarji milli jinnegozjaw f'MTF jew f'OTF, jew jahtar amministratur speċjali, jew jimponi penali amministrattiva;

(h) li jiddeċiedi jekk każ ta' nuqqas ta' konformità, jew ta' ksur potenzjali tar-rekwiżiti regolatorji, jew ta' suspett dwar abbuż, imġiba ħażina jew aġir ħażin għandhomx jintbagħtu lid-Direttorat dwar l-Infurzar għal investigazzjoni u, jew azzjoni ta' infurzar ulterjuri;

(i) li jikkonsulta ma' u, jew jibgħat lit-Taqsima ta' Riżoluzzjoni u, jew lill-Kumitat ta' Riżoluzzjoni kwalunkwe kwistjoni li l-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali jista' iqis li hi xierqa; u

(j) għal kwalunkwe haġa oħra li l-Bord tal-Gvernaturi jista' jiddetermina.

(2) Għall-fini tat-twettiq tal-funzjonijiet tiegħu, il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali għandu jkollu s-setgħat rilevanti kollha li huma vestiti fl-Awtorità taħt dan l-Att jew xi Att ieħor amministrat mill-Awtorità.

(3) Il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali jista' minn żmien għal żmien jiddelega bil-miktub kwalunkwe mill-funzjonijiet u s-setgħat tiegħu, dwar tali kwistjonijiet u bla ħsara għal tali kondizzjonijiet u modalitajiet kif jista' jiġi speċifikat fid-delega, kif soġġett għat-termini u għat-tul tad-delega kif jista' jiġi determinat mill-Kumitat, lil kwalunkwe sottokumitat wiehed jew iżjed li jistgħu jiġu stabbiliti mill-Kumitat jew minn Direttorat u Taqsima tal-Awtorità, kif jista' jiġi speċifikat. Kull tali delega għandha tiġi approvata mill-Bord tal-Gvernaturi.

(4) Il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali għandu jikkonsisti minn:

- (a) Uffiċjal Eżekuttiv Ewlieni;
- (b) Deputat Uffiċjal Eżekuttiv Ewlieni responsabbli għas-sorveljanza settorjali;
- (ċ) Deputat Uffiċjal Eżekuttiv Ewlieni responsabbli għas-sorveljanza transettoralji; u
- (d) żewġ (2) membri tal-Bord tal-Gvernaturi, li wiehed minnhom għandu jaġixxi bħala *Chairperson* tal-Kumitat, maħtur mill-Bord.

(5) Iċ-*Chairperson* tal-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali għandu jinnomina wiehed mill-uffiċjali tal-Awtorità sabiex jaġixxi bħala Segretarju tal-Kumitat għal tali perjodu u taht tali termini u kondizzjonijiet kif l-Uffiċjal Eżekuttiv Ewlieni jqis xieraq.

(6) Is-Segretarju għandu jkollu d-dmir li jagħmel it-tnejjiet meħtieġa għal-laqqgħat tal-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali u għandu jzomm minuti ta' dawk il-laqqgħat.

(7) Il-*quorum* meħtieġ għal laqqgħat tal-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali għandu jkun ta' mhux inqas minn tliet (3) membri, li għandhom jinkludu iċ-*Chairperson* jew, fl-assenza tiegħu, l-Uffiċjal Eżekuttiv Ewlieni li għandu jippresjedi waqt il-laqqgħa. Id-deċiżjonijiet tal-Kumitat għandhom jittieħdu b'maġġoranza tal-voti tal-membri preżenti, u fil-każ ta' voti ndaq, iċ-*Chairperson* jew l-Uffiċjal Eżekuttiv Ewlieni, li jkun qiegħed jippresjedi l-laqqgħa għandu jkollu vot originali kif ukoll it-tieni vot jew vot deċiżiv. Il-Kumitat għandu jirregola l-proċedura tiegħu stess.

(8) Il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali għandu jissottometti rapport annwali lill-Kumitat Eżekuttiv, li jipprovdi statistika u informazzjoni, li ma tispeċifikax il-każ, dwar it-twettiq tal-funzjonijiet tiegħu."

Sostituzzjoni tal-artikolu 11 tal-Att prinċipali.

16. L-artikolu 11 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Il-Kumitat dwar Deċiżjonijiet tal-Infurzar.

11. (1) Għandu jkun hemm Kumitat dwar Deċiżjonijiet tal-Infurzar li għandu jaġixxi b'mod imparzjali u indipendentement mill-organi l-oħra tal-Awtorità u mill-Kumitat ta' Riżoluzzjoni. Il-Kumitat dwar Deċiżjonijiet tal-Infurzar ma għandu jkun soġġett għall-ebda ordni jew kontroll minn kwalunkwe persuna, awtorità jew korp, u għandu jwettaq il-funzjonijiet tiegħu mingħajr ebda indhil jew interferenza.

(2) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jkun responsabbli għall-infurzar tal-qafas regolatorju fis-settur tas-servizzi finanzjarji u bla ħsara għall-ġeneralità għal dak li ntqal qabel b'mod partikolari għandu jkun responsabbli:

(a) li jikkunsidra b'mod indipendenti u imparzjali, jivvaluta u jirrevedi każijiet ta' infurzar, is-sejbiet ta' investigazzjonijiet u rakkomandazzjonijiet għal azzjoni ta' infurzar, li jingiebu quddiemu mid-Direttorat tal-Infurzar u li jikkonferma, jimmodifika jew jiċhad tali sejbiet kif jista' jidhirlu xieraq;

(b) li jiddeċiedi jekk l-entità jew il-persuna soġġetta għall-azzjoni ta' infurzar kisritx jew naqsitx milli tikkonforma ma' kwalunkwe dispożizzjoni ta' dan l-Att jew kwalunkwe Att ieħor amministrat mill-Awtorità, jew kwalunkwe regolamenti jew regoli magħmula taħthom, jew kwalunkwe regolamenti jew regoli li jitttrasponu l-BRRD, jew xi dispożizzjoni ta' kwalunkwe regolament ieħor applikabbli, jew ma' kwalunkwe kondizzjonijiet imposti fl-licenzja jew awtorizzazzjoni maħruġa mill-Awtorità jew ma' kwalunkwe direttivi maħruġa mill-Awtorità jew kwalunkwe rekwiżiti regolatorji oħra;

(ċ) fl-eżerċizzju tal-funzjoni tal-infurzar tal-Awtorità, u bla ħsara għad-dispożizzjonijiet tal-paragrafi (e) u (f) tas-subartikolu (1) tal-artikolu 10A:

(i) li jieħu kull tip ta' deċiżjonijiet regolatorji kif l-Awtorità għandha s-setgħa li tieħu b'dan l-Att jew kwalunkwe Att jew regolamenti oħra sabiex timponi jew tinforza l-konformità mar-rekwiżiti regolatorji u, jew sabiex tissalvagwardja l-interessi tal-konsumaturi ta' servizzi finanzjarji, investituri u, jew l-integrità tas-sistema finanzjarja u s-swieq finanzjarji, inkluż il-ħruġ ta' kwalunkwe direttiva jew direttivi jew l-impożizzjoni ta' tali miżura oħra kif il-Kumitat dwar Deċiżjonijiet tal-Infurzar jista' jqis meħtieġ;

(ii) li joħroġ ordnijiet għall-iffriżar ta' fondi u, jew attiv ieħor inklużi kontijiet bankarji kif provdut bl-artikolu 16(8), f'isem detentur ta' liċenzja jew awtorizzazzjoni jew kwalunkwe parti terza oħra kif jista' jigi indikat;

(iii) jaħtar jew jitlob il-ħatra ta' persuna kwalifikata, jew jaħtar persuna tas-sengħa jew spettur jew jaħtar persuna kompetenti jew amministratur kif jista' jkun meħtieġ taħt kwalunkwe liġi amministrata mill-Awtorità jew jaħtar persuna oħra li jkollha l-għarfien espert meħtieġ kif il-Kumitat dwar Deċiżjonijiet tal-Infurzar jista' jqis neċessarju sabiex tassisti lill-Awtorità fil-funzjoni tagħha ta' infurzar;

(iv) jimponi kwalunkwe projbizzjoni jew miżura restrittiva oħra jew limitazzjoni ta' attivitajiet ta' negozju fuq kwalunkwe persuna jew entità li jkollha liċenzja jew awtorizzazzjoni mogħtija mill-Awtorità;

(v) jiddetermina li individwu li jkollu kariga li teħtieġ l-approvazzjoni tal-Awtorità ma għadux meqjus bħala persuna idonea u xierqa sabiex teżerċita l-funzjonijiet u dmirijiet li għalihom giet approvata;

(d) li jħassar, jissospendi, jimmodifika jew jirrestringi liċenzja jew kwalunkwe forma oħra ta' awtorizzazzjoni;

(e) li jiddeċiedi dwar u jimponi penali amministrattivi fuq kwalunkwe persuna li tkun kisret jew naqset milli tikkonforma ma' kwalunkwe dispożizzjoni ta' dan l-Att jew xi Att ieħor amministrat mill-Awtorità jew ma' kwalunkwe regolamenti jew regoli magħmula taħthom, jew ma' kwalunkwe regolamenti jew regoli li jittrasponu l-BRRD, jew ma' kwalunkwe dispożizzjoni ta' xi regolament ieħor applikabbli, jew ma' kwalunkwe kondizzjonijiet imposti f'licenzja jew awtorizzazzjoni maħruġa mill-Awtorità, jew ma' kwalunkwe direttivi maħruġa mill-Awtorità, jew kwalunkwe rekwiżiti regolatorji oħra;

(f) li jissospendi jew inehhi strumenti finanzjarji elenkati mill-elenkar u, jew l-innegozjar f'suq regolat awtorizzat;

(g) li jissospendi jew inehhi strumenti finanzjarji min-negozjar fuq l-MTF jew l-OTF;

(h) li japprova ftehimiet bonarji skont l-artikolu 15A; u

(i) kwalunkwe haġa oħra li tista' tiġi determinata mill-Bord tal-Gvernaturi.

(3) Għall-fini tat-twettiq tal-funzjonijiet tiegħu, il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jkollu s-setgħat rilevanti vestiti fl-Awtorità taħt dan l-Att u taħt kwalunkwe Att ieħor amministrat mill-Awtorità.

(4) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jkun magħmul mill-persuni li ġejjin:

(a) Deputat Uffiċjal Eżekuttiv Ewlieni responsabbli għall-infurzar;

(b) Deputat Uffiċjal Eżekuttiv Ewlieni responsabbli għall-affarjiet legali;

(ċ) Deputat Uffiċjal Eżekuttiv Ewlieni responsabbli għal servizzi diġitali u korporattivi; u

(d) Uffiċjal Ewlieni responsabbli għall-Verifika tal-Kwalità:

Iżda l-Bord tal-Gvernaturi għandu jaħtar *Chairperson* u Deputat *Chairperson* minn fost il-membri tal-Kumitat.

(5) Wieħed mill-uffiċjali tal-Awtorità għandu jkun nominat sabiex jaġixxi bħala Segretarju tal-Kumitat għal tali perjodu u taħt tali termini u kondizzjonijiet kif l-Uffiċjal Eżekuttiv Ewlieni jqijs xieraq.

(6) Is-Segretarju għandu jkollu d-dmir li jagħmel it-tnejn meħtieġa għal-laqgħat tal-Kumitat dwar Deċiżjonijiet tal-Infurzar u għandu jzomm minuti ta' dawk il-laqgħat.

(7) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar ma għandux iżomm is-seduti tiegħu fil-pubbliku. Il-każijiet għandhom jingiebu quddiem l-imsemmi Kumitat mid-Direttorat tal-Infurzar. Il-Kumitat għandu jisma' uffiċjali mid-Direttorat tal-Infurzar, uffiċjali oħra tal-Awtorità jew kwalunkwe persuna oħra li tista' tagħti informazzjoni rilevanti u l-entità jew il-persuna soġġetta għall-azzjoni ta' infurzar, qabel ma jieħu deċiżjoni:

Iżda l-entità jew il-persuna soġġetta għall-azzjoni ta' infurzar għandu jkollha dritt li tiġi assistita waqt kwalunkwe smiġh quddiem il-Kumitat.

(8) Il-*quorum* meħtieġ għal-laqgħat tal-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jkun ta' mhux inqas minn tliet (3) membri, li għandhom jinkludu *Chairperson*. Id-deċiżjonijiet tal-Kumitat għandhom jittieħdu b'maġġoranza tal-voti tal-membri preżenti u fil-każ ta' voti ndaq, *Chairperson* għandu jkollu vot oriġinali kif ukoll it-tieni vot jew vot deċiżiv.

(9) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jzomm is-seduti u jieħu deċiżjonijiet skont ir-regoli tal-*gustizzja naturali* u skont il-proċeduri li jissalvagwardjaw id-dritt tas-smiġh xieraq fi żmien raġonevoli, ta' kwalunkwe persuna jew entità soġġetta għal proċeduri quddiem il-Kumitat. Tali proċeduri għandhom jiġu approvati mill-Bord tal-Gvernaturi u għandhom jiġurezi pubbliċi. L-istandard ta' prova meħtieġa mill-Kumitat għandu jkun dak ta' bilanċ ta' probabilitajiet.

(10) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jissottometti rapport annwali lill-Kumitat Eżekuttiv, li jipprova statistika u informazzjoni li ma tispeċifikax il-każ, dwar it-tweġiq tal-funzjonijiet tiegħu."

17. L-artikolu 12 tal-Att prinċipali għandu jiġi sostitwit bl-

Sostituzzjoni
tal-artikolu 12
tal-Att
prinċipali.

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artikolu ġdid li ġejj:

"Id-Direttorat
tal-Infurzar.

12. (1) Għandu jkun hemm Direttorat tal-Infurzar li l-funzjoni tiegħu għandha tkun li jittratta hwejjeg ta' infurzar taht id-dispożizzjonijiet ta' dan l-Att jew kwalunkwe Att ieħor amministrat mill-Awtorità, jew kwalunkwe regolamenti jew regoli magħmula taħthom u bla ħsara għall-ġeneralità ta' dak li ntqal qabel, id-Direttorat tal-Infurzar għandu jkun responsabbli b'mod partikolari:

(a) li jikkunsidra, jivvaluta u, jew jinvestiga kwalunkwe referenzi mibgħuta lilu mill-Kumitat dwar Deċiżjonijiet Regolatorji, il-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali, il-Kumitat ta' Riżoluzzjoni, iċ-*Chairperson*, l-Uffiċjal Eżekuttiv Ewlieni, jew kwalunkwe mid-Direttorati tal-Awtorità, inkluż dawk magħmula fuq informazzjoni u, jew talbiet riċevuti minn awtoritajiet ta' infurzar, ta' intelligenza jew regolatorji lokali jew barranin, korpi jew entitajiet oħra, jew *network* jew raggruppament li jkun fih tali awtoritajiet ta' infurzar, ta' informazzjoni u regolatorji, lokali jew barranin, jew it-tnejn;

(b) li jikkunsidra, jivvaluta u, jew jinvestiga rapporti u, jew informazzjoni oħra riċevuta b'rabta mal-ksur ta' dan l-Att jew kwalunkwe Att ieħor amministrat mill-Awtorità, jew kwalunkwe regolamenti jew regoli magħmula taħthom jew kwalunkwe rekwiziti regolatorji oħra u, jew kwalunkwe mgħiba ħażina jew aġir ħażin;

(ċ) li jwettaq investigazzjonijiet amministrattivi fir-rigward ta' negozju jew attività ta' servizzi finanzjarji, kemm awtorizzati jew xort'oħra;

(d) li jistabilixxi ksur potenzjali ta' kwalunkwe dispożizzjoni ta' dan l-Att jew ta' kwalunkwe Att ieħor amministrat mill-Awtorità, jew kwalunkwe regolamenti jew regoli magħmula taħthom, jew kwalunkwe dispożizzjoni ta' xi regolament ieħor applikabbli, jew kwalunkwe regolamenti jew regoli li jittrasponu l-BRRD, jew kwalunkwe mill-kondizzjonijiet imposti f'licenzja jew awtorizzazzjoni maħruġa mill-Awtorità, jew kwalunkwe direttivi maħruġa mill-Awtorità, jew kwalunkwe rekwiżiti regolatorji oħra, jew abbuż potenzjali ta' suq, jew ta' mgħiba hażina jew aġir hażin;

(e) li jistabilixxi l-miżuri regolatorji proposti, penali amministrattivi u, jew sanzjonijiet;

(f) li jikkunsidra u jivvaluta sottomissjonijiet magħmula minn detenturi ta' licenzja jew ta' awtorizzazzjoni jew minn kwalunkwe persuna oħra fir-rigward tal-ksur potenzjali u l-miżuri regolatorji proposti, penali amministrattivi u, jew sanzjonijiet;

(g) li jagħmel rakkomandazzjonijiet għal azzjoni ta' infurzar lill-Kumitat dwar Deċiżjonijiet tal-Infurzar;

(h) li jimplementa kwalunkwe deċiżjoni tal-Kumitat dwar Deċiżjonijiet tal-Infurzar, inkluż it-twettiq ta' arrangamenti xierqa u t-twettiq ta' tali azzjonijiet u proċeduri li jistgħu jkunu neċessarji għal dak il-għan;

(i) li jmexxi proċeduri quddiem il-Kumitat dwar Deċiżjonijiet tal-Infurzar, u li jirrappreżenta lill-Awtorità fi proċeduri quddiem it-Tribunal għas-Servizzi Finanzjarji u l-qrati; u

(j) li jwettaq tali dmirijiet oħra li jistgħu jiġu assenjati lilu mill-Uffiċjal Eżekuttiv Ewlieni.

(2) Fit-twettiq tal-funzjonijiet tiegħu taħt is-subartikolu (1)(d) sa (g), id-Direttorat tal-Infurzar għandu jqis l-informazzjoni u l-opinjoni mogħtija mill-Kumitat dwar Deċiżjonijiet Regolatorji sabiex jiżgura li jkun hemm allinjament mal-approċċ ta' sorveljanza u ta' infurzar tal-Awtorità, l-oġettivi u l-politika rilevanti għall-kwistjoni taħt konsiderazzjoni.

(3) Id-Direttorat tal-Infurzar għandu jkollu, għall-fini li jwettaq il-funzjonijiet tiegħu, is-setgħat rilevanti kollha vestiti fl-Awtorità taht dan l-Att jew kwalunkwe Att ieħor amministrat mill-Awtorità.

(4) Id-Direttorat tal-Infurzar għandu malli ssirli talba, jipprovdi lill-Uffiċjal Eżekuttiv Ewlieni, informazzjoni, dokumentazzjoni, aġġornamenti u spjegazzjonijiet dwar kwalunkwe azzjoni jew materja ta' infurzar li tkun qiegħda tiġi mmexxija mid-Direttorat."

Sostituzzjoni tal-artikolu 12A tal-Att prinċipali.

18. L-artikolu 12A tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Kumitat ta' Verifika u Riskju.

12A. (1) Għandu jkun hemm Kumitat ta' Verifika u Riskju li l-funzjoni tiegħu għandha tkun li:

(a) jiddetermina jekk il-governanza, kontrolli u proċessi ta' ġestjoni tar-riskju tal-Awtorità fl-implimentazzjoni tal-politiki u strategiji maqbula matul l-attivitajiet tal-Awtorità jkunux adegwati, effettivi u funzjonanti;

(b) jistabbilixxi l-mandat u ir-rwol tat-Taqsima ta' Verifika Interna;

(ċ) jivvaluta l-prestazzjoni tat-Taqsima ta' Verifika Interna stabbilita taht l-artikolu 12B;

(d) jiddetermina l-mandat u ir-rwol tat-Taqsima tal-Immaniggar tar-Riskju u jivvaluta l-prestazzjoni tagħha;

(e) iwettaq tali funzjonijiet oħra li jistgħu jiġu assenjati lilu mill-Bord tal-Gvernaturi.

(2) Fit-twettiq tal-funzjonijiet tiegħu, il-Kumitat ta' Verifika u Riskju għandu jkollu s-setgħat kollha meħtieġa sabiex ikun jista' jwettaq il-funzjonijiet tiegħu kif suppost, u d-dispożizzjonijiet tal-artikolu 12B(4) u

(5) għandhom, *mutatis mutandis*, japplikaw għall-Kumitat.

(3) Fit-twettiq tal-funzjonijiet tiegħu taħt is-subartikolu (1)(b) u (d) il-Kumitat ta' Verifika u Riskju għandu jikkonsulta lill-Uffiċjal Eżekuttiv Ewlieni dwar kompiti godda u l-proċessi li jiġu applikati matul l-attivitajiet tal-Awtorità sabiex tiġi żgurata kopertura sħiħa tal-attivitajiet tal-Awtorità mit-Taqsima ta' Verifika Interna u mit-Taqsima tal-Immaniġġar tar-Riskju. Għaldak li għandu x'jaqsam mal-funzjonijiet tiegħu taħt is-subartikolu (1)(ċ), il-Kumitat ta' Verifika u Riskju għandu jieħu inkonsiderazzjoni l-pjan tal-verifika interna u kwalunkwe rapport dwar stima ta' assigurazzjoni tal-kwalità tal-verifika.

(4) Il-Kumitat ta' Verifika u Riskju għandu jkun magħmul minn:

(a) żewġ (2) *co-chairpersons* u persuna oħra mahtura mill-Bord tal-Gvernaturi minn fost il-membri tiegħu; u

(b) persuna li għandha l-kompetenza u l-għarfien espert rilevanti, mahtura mill-Bord tal-Gvernaturi.

(5) Il-*co-chairpersons* u l-membri għandhom jinhatru għal tali żmien, li jkun perjodu ta' mhux aktar minn tliet (3) snin, li jista' jiġi speċifikat fl-ittra tal-hatra, u għandhom ikunu eliġibbli għal hatra mill-ġdid; huma għandhom jirċievu tali remunerazzjoni kif il-Bord tal-Gvernaturi jista' jistabbilixxi minn żmien għal żmien.

(6) Wieħed mill-*co-chairpersons* għandu kemm jista' jkun possibbli jippresjedi l-laqgħat tal-Kumitat dwar materji ta' verifika interna filwaqt li l-*co-chairperson* l-ieħor għandu kemm jista' jkun possibbli jippresjedi il-laqgħat tal-Kumitat fuq materji ta' riskju.

(7) L-Awtorità għandha tikkonsulta lill-Kumitat ta' Verifika u Riskju qabel ma tahtar lill-uffiċjal jew uffiċjali l-iżjed anzjani fi hdan it-Taqsima ta' Verifika Interna u t-Taqsima ta' Riskju.

(8) Il-Kumitat ta' Verifika u Riskju għandu jissottometti lill-Bord tal-Gvernaturi pjan ta' verifika annwali li għandu jiġi approvat mill-imsemmi Bord.

(9) Il-Kumitat ta' Verifika u Riskju għandu jirrapporta lill-Bord tal-Gvernaturi dwar il-progress li jkun sar fil-qasam ta' kompetenza tiegħu u dwar il-progress li jkun qiegħed isir mit-Taqsima ta' Verifika Interna u t-Taqsima tal-Immaniġġar tar-Riskju.

(10) Il-membri tal-Kumitat ta' Verifika u Riskju għandhom jaġixxu fil-kapaċità personali tagħhom u skont il-ġudizzju individwali tagħhom u l-Kumitat għandu jkun indipendenti mill-Bord tal-Gvernaturi.

(11) Il-Kumitat ta' Verifika u Riskju għandu jinnomina lil wieħed (1) mill-uffiċjali tal-Awtorità bħala s-Segretarju tiegħu għal tali perjodu u taht tali termini u kondizzjonijiet kif il-Bord tal-Gvernaturi għandu jqis xierqa.

(12) Il-Kumitat ta' Verifika u Riskju għandu jirregola l-proċedura tiegħu stess.

(13) Id-dispożizzjonijiet tal-artikolu 6(6)(a), (b), (d) u (e) għandhom, sa fejn applikabbli, japplikaw *mutatis mutandis* għall-kariga ta' *co-chairpersons* u l-membri tal-Kumitat, bis-sostituzzjoni tal-"Kumitat ta' Verifika u Riskju" għal "Bord tal-Gvernaturi", u "Bord tal-Gvernaturi" għal "Prim Ministru".

Emenda tal-artikolu 12B tal-Att prinċipali.

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

(a) fis-subartikolu (1) tiegħu l-kliem "proċessi ta' maniġġar tar-riskju tal-Awtorità." għandhom jiġu sostitwiti bil-kliem "proċessi ta' ġestjoni tar-riskju tal-Awtorità u sabieħ tmexxi investigazzjonijiet interni dwar kwalunkwe nuqqas ta' osservanza tagħhom jew ta' politiki oħra, proċessi u proċeduri tal-Awtorità kif jista' jiġi ordnat mill-Bord tal-Gvernaturi jew mill-Kumitat ta' Verifika u Riskju jew mill-Uffiċjal Eżekuttiv Ewlieni." u l-kliem "Kumitat ta' Verifika" għandhom jiġu sostitwiti bil-kliem "Kumitat ta' Verifika u Riskju";

(b) fis-subartikolu (2) tiegħu l-kliem "Direttur tat-Taqsima," għandhom jiġu sostitwiti bil-kliem "Kap tat-Taqsima,";

(ċ) fis-subartikolu (4) tiegħu l-kliem "tista' tivverifika l-partijiet kollha tal-Awtorità," għandhom jiġu sostitwiti bil-kliem "tista' tivverifika u tinvestiga l-partijiet kollha tal-Awtorità," u l-kliem "prestazzjoni ta' verifika." għandhom jiġu sostitwiti bil-kliem "prestazzjoni ta' verifika jew investigazzjoni.";

(d) fis-subartikolu (6) tiegħu l-kliem "Kumitat ta' Verifika" għandhom jiġu sostitwiti bil-kliem "Kumitat ta' Verifika u Riskju".

20. L-artikolu 13 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 13 tal-Att prinċipali.

"Uffiċjali u impjegati tal-Awtorità.

13. (1) L-Awtorità tista' tahtar Deputati Uffiċjali Eżekuttivi Ewlenin, Uffiċjali Ewlenin, Kapijiet, Deputati Kapijiet u tali uffiċjali u impjegati oħra li jidhrilha li jkunu meħtieġa għat-twettiq effiċjenti tal-funzjonijiet, setgħat u dmirijiet tagħha taħt dan l-Att jew xi liġi oħra. L-għażla u l-ħatra tad-Deputati Uffiċjali Eżekuttivi Ewlenin għandha ssir mill-Uffiċjal Eżekuttiv Ewlieni wara konsultazzjoni mal-Bord tal-Gvernaturi. L-uffiċjali u l-impjegati l-oħra tal-Awtorità għandhom jintgħażlu u jiġu maħtura mill-Uffiċjal Eżekuttiv Ewlieni skont il-proċeduri u l-kondizzjonijiet li l-Bord tal-Gvernaturi jista' jistabbilixxi:

Izda l-uffiċjali u l-impjegati tal-Awtorità għandhom jiġi maħtura abbażi ta' kriterji ppubblikati li jkunu oġġettivi u trasparenti u għandhom, fi kwalunkwe waqt, ikunu persuni ta' integrità u kondotta tajba.

(2) L-Awtorità għandha twaqqaf politiki, regoli, projbizzjonijiet u arrangamenti sabiex tipprevjeni kunflitti ta' interess ta' membri tal-persunal skont it-dispożizzjonijiet tad-Direttiva 2013/36/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar l-aċċess għall-attività tal-istituzzjonijiet ta' kreditu u s-supervizjoni prudenzjali tal-istituzzjonijiet ta' kreditu, li temenda d-Direttiva 2002/87/KE u li tħassar id-Direttivi 2006/48/KE u 2006/49/KE. Tali politiki, regoli, projbizzjonijiet u arrangamenti għandhom bhala minimu japplikaw għal kunflitti li jistgħu jqumu permezz ta':

(a) negozjar f'ċerti strumenti finanzjarji; u

(b) impjeg mogħti minn, jew l-aċċettazzjoni ta' xi kuntratt għall-għoti ta' servizzi professjonali matul perjodu ta' żmien stabbilit ma' tali entitajiet li għandhom jiġu identifikati fil-politiki, regoli, projbizzjonijiet u arrangamenti stabbiliti mill-Awtorità.

(3) Il-politiki, regoli, projbizzjonijiet u arrangamenti stabbiliti mill-Awtorità:

(a) għandhom ikunu proporzjonati għar-rwol u responsabbiltajiet tal-membri tal-persunal u għandhom ikunu applikabbli f'dawk iċ-ċirkostanzi, jipprovdu tali termini u kondizzjonijiet u japplikaw għal tali perjodu ta' żmien li jista' jkun neċessarjament raġonevoli sabiex jipprevjenu kunflitti ta' interess minn impjegati u impjegati preċedenti;

(b) għandhom jehtieġu li membri tal-persunal jagħtu lill-Awtorità dikjarazzjoni ta' interess dwar kwalunkwe parteċipazzjonijiet finanzjarji li jista' jqajjem xi tħassib dwar kunflitti ta' interess u li jiddisponu minnhom jew xort'oħra, kif jista' jiġi preskritt;

(ċ) jistgħu jipprovdu għal eċċezzjonijiet, eżenzjonijiet, derogi u kumpens kif jista' jiġi permess taħt id-Direttiva msemmija fis-subartikolu (2);

(d) ma għandhomx jikkostitwixxu ksur tad-drittijiet tal-ħaddiema kif stabbilit fil-liġi ta' Malta u ksur tad-drittijiet fundamentali rikonoxxuti fil-Kostituzzjoni ta' Malta jew fil-Karta tad-Drittijiet Fundamentali tal-Unjoni Ewropea; u

(e) ma għandhomx jirrestringu mingħajr raġuni l-kapaċità tal-Awtorità li teżercita il-funzjonijiet superviżorji tagħha.

Kap. 9.

(4) Għall-finijiet tal-Kodiċi Kriminali u ta' kwalunkwe dispożizzjoni ta' natura kriminali f'xi liġi oħra, il-membri tal-Awtorità u kull uffiċjal jew impjegat tagħha għandhom jitqiesu bħala uffiċjali pubbliċi."

Emendi tal-artikolu 14 tal-Att prinċipali.

21. L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"Pubblikazzjoni u tixrid ta' informazzjoni.

14. (1) L-Awtorità għandha tagħmel arranġamenti f'dik il-forma u b'dak il-mod li jidhirlha xieraq għad-dissiminazzjoni u l-pubblikazzjoni ta' dik l-informazzjoni, miżuri regolatorji u pariri li jidhirlha li jkunu spedjenti li tpoġġi għad-dispożizzjoni tal-pubbliku dwar hwejjeġ li għandhom x'jaqsmu mat-twettiq tal-funzjonijiet tagħha taħt dan l-Att jew xi liġi oħra.

(b) fis-subartikolu (2) tiegħu l-kliem "informazzjoni jew pariri," għandhom jiġu sostitwiti bil-kliem "informazzjoni, miżuri regolatorji jew pariri,".

22. Minnufih wara l-artikolu 15 tal-Att prinċipali għandu jiġi miżjud l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid fl-Att-prinċipali.

"Ftehim bonarju.

15A. (1) L-Awtorità tista', fid-diskrezzjoni tagħha, fi kwalunkwe waqt meta tkun għaddejja investigazzjoni jew azzjoni oħra mmexxija mid-Direttorat tal-Infurzar, tipproponi jew taqbel ma' talba, biex tidhol għal ftehim bonarju ma' detentur ta' liċenzja jew awtorizzazzjoni jew persuna soġġetta għal azzjoni ta' infurzar, fir-rigward ta' kontravvenzjoni, ksur jew nuqqas ta' osservanza ta' xi dispożizzjoni ta' dan l-Att, jew kwalunkwe Att ieħor amministrat mill-Awtorità, kwalunkwe regolamenti jew regoli maħruġa taħthom, kwalunkwe kondizzjonijiet imposti fuq liċenzja jew awtorizzazzjoni maħruġa mill-Awtorità, kwalunkwe direttiva maħruġa mill-Awtorità jew ligi tal-Unjoni Ewropea, kif applikabbli.

(2) L-Awtorità ma għandhiex tidhol fi ftehim bonarju f'kazijiet fejn:

(a) il-kontravvenzjoni, ksur jew nuqqas ta' osservanza jirrigwardaw:

(i) it-tmexxija ta' attività ta' servizzi finanzjarji mhux awtorizzata;

(ii) reat kriminali għajr reat taħt dan l-Att jew taħt xi Att ieħor amministrat mill-Awtorità; jew

(iii) ksur serju, ripetut u sistematiku ta' liġijiet u regolamenti kontra ħasil ta' flus u l-iffinanzjar tat-terroriżmu;

(b) il-kontravvenzjoni, ksur jew nuqqas ta' osservanza huma tali li jistgħu jimminaw l-integrità u, jew il-fiduċja pubblika fi, jew xort'oħra jkollhom impatt avvers fuq is-settur finanzjarju jew ir-reputazzjoni ta' Malta, jew ikunu ta' tali natura li ma jkunx fl-interess pubbliku li tidhol fi ftehim bonarju;

(ċ) wara li tkun saret stima mill-Awtorità, l-individwu li hu soġġett għall-infurzar jitqies li ma għadux jissodisfa l-kriterji sabiex jitqies bhala persuna li hi kompetenti u idonea sabiex tokkupa kariga għolja fi hdan entità liċenzjata;

(d) id-diskussjoniet bonarji li jkunu għaddejjin jiġu mwaqqfa minhabba nuqqas ta' interess jew nuqqas ta' kooperazzjoni tad-detentur ta' liċenzja jew awtorizzazzjoni jew tal-persuna soġġetta għall-azzjoni ta' infurzar;

(e) ma jkunx għadu għadda minimu ta' sentejn (2) mill-eżekuzzjoni ta' ftehim bonarju preċedenti mal-istess detentur ta' liċenzja jew awtorizzazzjoni jew persuna:

Iżda l-Awtorità tista', fuq bażi ta' każ b'każ, tikkunsidra jekk tidholx fi ftehim bonarju mal-istess detentur ta' liċenzja jew awtorizzazzjoni jew persuna fi żmien sentejn (2) mill-eżekuzzjoni ta' ftehim bonarju preċedenti, wara li tikkunsidra l-portata jew xort'oħra tal-ksur li fir-rigward tiegħu kien ġie iffirmat l-ewwel ftehim transattiv u lportata jew xort'oħra tal-ksur li dwaru jkun qed jiġi propost li jiġi ffirmat it-tieni ftehim bonarju:

Iżda wkoll l-Awtorità ma tistax tidhol għal iktar minn żewġ (2) ftehim bonarji mal-istess detentur ta' liċenzja jew awtorizzazzjoni jew persuna involuta f'perjodu ta' sentejn (2);

(f) id-detentur ta' liċenzja jew awtorizzazzjoni jew il-persuna soġġetta għall-azzjoni ta' infurzar ikun għal darb'oħra, b'mod serju, ripetut u sistematiku, ikkommetta l-istess kontravvenzjoni, ksur jew nuqqas, li dwarhom kien ġie ffirmat ftehim bonarju preċedentement; u

(g) tkun diġà ttiehdet deċiżjoni finali dwar il-kwistjoni mill-Kumitat dwar Deċiżjonijiet tal-Infurzar:

Iżda l-Awtorità tista' eċċezjonalment tikkunsidra li tidhol fi ftehim bonarju wara li tkun ittiehdet deċiżjoni finali mill-Kumitat dwar Deċiżjonijiet tal-Infurzar, fuq bażi ta' każ b'każ.

(3) Ftehim bonarju għandu jiġi approvat mill-Kumitat dwar Deċiżjonijiet tal-Infurzar. Il-ftehim għandu jkun bil-miktub u għandu jkun vinkolanti fuq l-Awtorità u fuq id-detentur ta' liċenzja jew awtorizzazzjoni jew il-persuna involuta. Għandu jstabbilixxi t-termini u l-kondizzjonijiet tal-ftehim u għandu jkun fih:

(a) deskrizzjoni tal-kontravvenzjonijiet, ksur u nuqqasijiet kommessi, u l-aċċettazzjoni tagħhom mid-detentur ta' liċenzja jew awtorizzazzjoni jew mill-persuna involuta;

(b) l-azzjoni regolatorja speċifika u, jew il-miżuri oħra li l-Awtorità qablet li għandhom jittieħdu u l-azzjonijiet li ġew aċċettati li għandhom jittieħdu mid-detentur ta' liċenzja jew awtorizzazzjoni jew il-persuna involuta sabiex ikun hemm rimedju għall-kontravvenzjonijiet, ksur jew nuqqasijiet kommessi u sabiex tiġi żgurata l-osservanza tal-oqfsa legali u regolatorji applikabbli f'tali perjodi ta' żmien kif jista' jiġi stabbilit mill-Awtorità;

(ċ) l-ammont tal-penali amministrattiva, jekk ikun hemm, u l-ammont tal-penali amministrattivi kif tista' tiġi mnaqqa skont it-termini tal-ftehim u t-termini u kondizzjonijiet għall-ħlas ta' dak l-ammont; u

(d) rinunzja min-naħa tad-detentur ta' liċenzja jew awtorizzazzjoni jew persuna involuta ta' kull dritt ta' appell jew mod ieħor ta' oġġezzjoni għal xi penali amministrattiva imposta, u r-riżultati u l-miżuri li ġew miftiehma mal-Awtorità.

(4) Fejn il-ftehim bonarju ma jiġix iffirmit minħabba nuqqas ta' interess jew nuqqas ta' kooperazzjoni tad-detentur ta' liċenzja jew awtorizzazzjoni jew tal-persuna soġġetta għall-azzjoni ta' infurzar, jew fi żmien tali perjodu li jista' jiġi deċiż mill-Awtorità, l-Awtorità għandha tgħaddi għall-impożizzjoni tal-penali amministrattiva, fl-ammont sħiħ tagħha, kif kellha l-intenzjoni li timponi u ta' dawk il-miżuri l-oħra li għandha s-setgħa li timponi bil-liġi u kif jidhrilha meħtieġ.

(5) Fejn detentur ta' liċenzja jew awtorizzazzjoni jew il-persuna soġġetta għal azzjoni ta' infurzar jonqsu mingħajr raġuni valida milli jhallsu l-penali amministrattiva mnaqqa, jekk ikun il-każ, fi żmien dak il-perjodu kif stabbilit fil-ftehim bonarju u, jew milli josservaw it-termini tal-ftehim:

(a) id-detentur ta' liċenzja jew awtorizzazzjoni jew il-persuna involuta għandhom jitolfu kwalunkwe konċessjoni jew benefiċċju ieħor li jorog mill-ftehim, inkluż it-tnaqqis tal-penali amministrattiva, jekk ikun il-każ u għandha tkun dovuta u tithallas lill-Awtorità l-penali sħiħa mingħajr tnaqqis u ;

(b) l-Awtorità għandha, b'avviż bil-miktub, tehtieg li d-detentur ta' liċenzja jew awtorizzazzjoni jew il-persuna involuta jhallsu l-ammont sħiħ tal-penali amministrattiva mhux imnaqqa, jekk ikun il-każ, dovuta lill-Awtorità, u, jew josservaw l-azzjonijiet regolatorji speċifiċi u, jew il-miżuri imposti mill-Awtorità fil-ftehim bonarju, u, jew l-azzjonijiet li d-detentur ta' liċenzja jew l-awtorizzazzjoni jew il-persuna involuta kienu qablu dwarhom biex jirrimedjaw għall-kontravvenzjonijiet, ksur u, jew nuqqasijiet kommessi u sabiex tiġi żgurata l-osservanza tal-oqfsa legali u regolatorji f'dawk il-perjodi ta' zmien li għandhom jiġu stabbiliti mill-Awtorità; u

(ċ) l-Awtorità tista', b'avviż bil-miktub, tieħu tali azzjonijiet jew miżuri regolatorji oħra, kif l-Awtorità għandha s-setgħa li tieħu b'dan l-Att jew b'xi Att ieħor, u kif jistgħu jitqiesu meħtieġa fiċ-ċirkostanzi inklużi li toħrog direttivi bil-miktub li jehtiegu lid-detentur ta' liċenzja jew awtorizzazzjoni jew lill-persuna involuta li jagħmlu jew jonqsu milli jagħmlu xi att, inklużi tali projbizzjonijiet, restrizzjonijiet u limitazzjonijiet taħt dawk il-kondizzjonijiet li jistgħu jiġu speċifikati fid-direttivi.

(6) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (5), fejn detentur ta' liċenzja jew awtorizzazzjoni jew persuna soġġetta għall-azzjoni ta' infurzar jonqsu milli josservaw it-termini tal-ftehim bonarju, l-Awtorità tista' tistitwixxi azzjoni quddiem il-Prim' Awla tal-Qorti Ċivili sabiex tirkupra mingħand id-detentur ta' liċenzja jew awtorizzazzjoni jew mill-persuna involuta kwalunkwe penali amministrattiva dovuta u pagabbli, u tinforza l-osservanza tat-termini tal-ftehim.

(7) L-Awtorità għandha tistabbilixxi politiki, regoli u proċeduri fir-rigward ta' ftehim bonarju, inklużi politiki dwar it-tnaqqis ta' penali amministrattivi u dwar l-informazzjoni li għandha tiġi ppubblikata mal-eżekuzzjoni ta' ftehim bonarju. Tali politiki u regoli għandhom jiġu approvati mill-Bord tal-Gvernaturi u għandhom jiġureżi pubbliċi.

(8) Id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu bla ħsara għal xi setgħat oħra li jistgħu jiġu eżerċitati mill-Awtorità skont dan l-Att jew xi liġi oħra."

23. L-artikolu 16 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 16 tal-Att prinċipali.

"Setgħat tal-Awtorità.

16. (1) Meta tkun qiegħda teżerċita l-funzjonijiet tagħha taħt dan l-Att jew xi liġi oħra jew xi regolamenti jew regoli magħmula taħthom, u bla ħsara għal xi dritt jew setgħa oħra taħt dan l-Att jew xi liġi oħra jew regolamenti jew regoli magħmula taħthom, l-Awtorità għandu jkollha id-drittijiet u s-setgħat previsti f'dan l-artikolu.

(2) (a) L-Awtorità għandu jkollha s-setgħa u d-dritt li:

(i) jkollha aċċess u dħul raġonevoli fi kwalunkwe fond kummerċjali u, jew xi ufficċju ta' detentur ta' licenzja jew awtorizzazzjoni;

(ii) jkollha aċċess għal, u pproċessar ta' kwalunkwe informazzjoni, dokumentazzjoni, data rilevanti u, jew rekords fi kwalunkwe forma miżmuma minn detentur ta' liċenzja jew awtorizzazzjoni jew minn xi persuna oħra, inkluża kwalunkwe persuna li magħha d-detentur ta' liċenzja jew awtorizzazzjoni jista' jkollu jew seta' jkollu arrangament ta' esternalizzazzjoni għaż-żamma tad-data, meta l-Awtorità għandha raġuni sabiex temmen li tali persuna tkun fil-pussess ta' dokumentazzjoni, data, informazzjoni u, jew rekords rilevanti. Is-setgħa u d-dritt ta' aċċess u pproċessar skont dan is-subparagrafu għandu jinkludi aċċess għal data dwar l-assi tal-klijenti u tranżazzjonijiet finanzjarji, rekords telefoniċi jew rekords oħra ta' komunikazzjoni, u aċċess għal kwalunkwe informazzjoni oħra relatatama', jew li tirtigwarda l-attivitajiet liċenzjati jew awtorizzati mill-Awtorità jew li xort'oħra jaqgħu taħt il-funzjonijiet superviżorji jew regolatorji tagħha:

Iżda fejn detentur ta' liċenzja jew awtorizzazzjoni jinqeda bl-esternalizzazzjoni għaż-żamma tad-data ta' parti terza, tali detentur ta' liċenzja jew awtorizzazzjoni għandu irrevokabilment jawtorizza lill-Awtorità bil-miktub li jkollha aċċess għal tali data miżmuma minn tali parti kif jkun jidhrilha li jkun meħtieġ sabiex teżercita l-funzjonijiet regolatorji tagħha;

(iii) titlob, minn detentur ta' liċenza jew awtorizzazzjoni jew minn xi persuna oħra, inkluża kwalunkwe persuna li magħha d-detentur tal-liċenzja jew awtorizzazzjoni jista' jkollu jew seta' jkollu arrangament ta' esternalizzazzjoni għaż-żamma tad-data, tali informazzjoni u data relatatama', jew li tirrigwarda l-attivitajiet liċenzjati jew awtorizzati mill-Awtorità, kif l-Awtorità tista' tqis meħtieġ sabiex tkun tista' teżercita l-funzjonijiet tagħha taħt din il-liġi jew xi liġi oħra. Meta ssir talba bil-miktub mill-Awtorità, id-detentur ta' liċenzja jew awtorizzazzjoni jew tali persuna oħra għandhom minnufih jagħtu lill-Awtorità kwalunkwe informazzjoni u data li hi tkun talbet.

(b) Detenturi ta' liċenzja jew ta' awtorizzazzjoni għandhom id-dmir li jżommu l-informazzjoni, id-dokumentazzjoni, data u, jew rekords kollha f'post sigur u b'mod sigur u għandhom jiżguraw li l-informazzjoni, dokumentazzjoni, data u, jew rekords kollha, kull fejn u bi kwalunkwe mod li jinżammu, ikunu aċċessibbli għall-Awtorità l-ħin kollu u mingħajr dewmien.

(ċ) Kwalunkwe persuna li tissottometti informazzjoni u data lill-Awtorità għandu jkollha d-dmir li tiżgura li tali informazzjoni u data jkunu korretti u aġġornati, u għandha tissottometti tali informazzjoni u data qabel ma jgħaddi dak iż-żmien jew dik id-data, u f'dik il-forma jew format, b'dak il-mod u b'dak il-mezz jew metodu, inkluż il-format elettroniku permezz ta' trażmissjoni elettronika u permezz ta' tali sistema elettronika u, jew pjattaforma, flimkien ma', fejn meħtieġa, firma elettronika kwalifikata, kif jista' jiġi speċifikat u meħtieġ mill-Awtorità.

(d) F'dan is-subartikolu "detentur ta' liċenzja jew awtorizzazzjoni" għandha tinkludi persuna li preċedentement kellha liċenzja jew awtorizzazzjoni, u l-impjegati u l-uffiċjali ta' tali detentur ta' liċenzja jew awtorizzazzjoni.

(3) (a) Id-dritt tal-Awtorità li tikseb informazzjoni u data minn detentur ta' liċenzja jew awtorizzazzjoni, jew minn xi wiehed mill-uffiċjali jew impjegati ta' tali detentur, jew minn xi persuna oħra, ma għandu bl-ebda mod jiġi ristrett, imfixkel jew prekluz. Kwalunkwe restrizzjoni li wiehed jitkellem jew obbligu simili ta' kunfidenzjalità jew kwalunkwe kondizzjoni restrittiva oħra li tinħoloq mir-relazzjoni legali jew kuntrattwali bejn id-detentur ta' liċenzja jew awtorizzazzjoni u l-uffiċjali jew l-impjegati tiegħu jew xi persuna oħra għandha, sa fejn tmur kontra dawn id-dispożizzjonijiet jew timpedixxi jew tirrestringi d-dritt tal-Awtorità li tirċievi informazzjoni u data meħtieġa għat-twettiq tal-funzjonijiet u dmirijiet regolatoriji tagħha u li joħroġ minn dan l-Att jew xi Att ieħor, huma nulli u bla effett.

(b) Detentur ta' liċenzja jew awtorizzazzjoni, jew kwalunkwe uffiċjali jew impjegati ta' tali detentur, jew kwalunkwe persuna oħra, ma jistgħux jeċċepixxu xi restrizzjoni kuntrattwali li tiċhadhom milli jiżvelaw jew projbizzjoni simili jew obbligu simili ta' kunfidenzjalità li joħroġ minn, jew li allegatament joħroġ mil-liġi kuntrattwali, jew xort'oħra jirrifjutaw li jikkonformaw ma' talba għal informazzjoni u data mill-Awtorità, u ma għandhom jittieħdu l-ebda azzjoni u miżura dixxiplinarja għall-ksur ta' kuntratt, direttament jew indirettament, minn detentur ta' liċenzja jew awtorizzazzjoni kontra xi uffiċjal jew impjegat tiegħu jew xi persuna oħra li tippovdi lill-Awtorità xi informazzjoni jew data meħtieġa mill-Awtorità.

(ċ) Għall-finijiet ta' dan is-subartikolu:

(i) "informazzjoni u data" għandha tinkludi spjegazzjonijiet u forom oħra ta' assistenza; u

(ii) "impjegati" u "uffiċjali" għandhom jinkludi impjegati u uffiċjali tal-passat.

(4) Kwalunkwe persuna jew entità li jkollha liċenzja jew xi forma oħra ta' awtorizzazzjoni mogħtija mill-Awtorità sabiex tippovdi xi tip ta' servizz finanzjarju li jaqa' taħt il-funzjonijiet regolatorji u superviżorji tal-Awtorità, u d-diretturi u manigġers, tkun xi tkun il-kariga tagħhom, jew kwalunkwe persuni oħra li jkunu jew kienu jissorveljaw l-operazzjonijiet jew l-attivitajiet ta' xi entità kif intqal qabel, jew kwalunkwe persuna li twettaq jew kienet twettaq servizz finanzjarju mingħajr il-liċenzja jew l-awtorizzazzjoni meħtieġa għandhom, għall-finijiet li jiġi salvagwardjat l-interess pubbliku fir-regolament effettiv ta' servizzi finanzjarji, id-dmir li jassistu u jikkollaboraw mal-Awtorità sabiex din tkun tista' twettaq il-funzjonijiet regolatorji tagħha inkluż li tissorvelja l-konformità mal-liċenzja jew awtorizzazzjoni applikabbli jew kondizzjonijiet għall-approvazzjoni u ħtiġijiet regolatorji.

(5) Fit-twettiq tal-funzjonijiet tagħha taħt dan l-Att jew taħt xi liġi oħra, l-Awtorità tista':

(a) tieġu kull għamla ta' deċiżjonijiet u miżuri regolatorji li l-Awtorità għandha s-setgħa li tieġu b'dan l-Att jew xi Att ieħor jew regolamenti, kif jista' jidhrilha meħtieġ u xieraq, sabiex tissalvagwardja, tiżgura, tirmipjazza jew tinforza l-osservanza tal-ħtiġijiet regolatorji u, jew sabiex tissalvagwardja l-interessi tal-konsumaturi ta' servizzi finanzjarji, investituri u, jew l-integrità tas-sistema finanzjarja u tas-swieq kapitali;

(b) toħroġ direttiva bil-miktub li teħtieġ lil persuna li tagħmel jew li tonqos milli tagħmel xi haġa, inklużi projbizzjonijiet, restrizzjonijiet u limitazzjoni ta' attivitajiet ta' negozju, bla ħsara għal tali kondizzjonijiet li jistgħu jiġu speċifikati fid-direttiva u kwalunkwe persuna li lilha tingħata d-direttiva għandha tobdi, tikkonforma ruħha u xort' oħra tagħti effett lil kwalunkwe tali direttiva f'tali żmien u b'tali mod imsemmi fid-direttiva; u

(ċ) tħassar, tissospendi, timmodifika jew tirrestringi liċenzja ta' servizzi finanzjarji jew xi awtorizzazzjoni oħra mogħtija mill-Awtorità.

(6) Bla ħsara għas-setgħat mogħtija lill-Awtorità taħt dan l-Att jew taħt xi liġi oħra, fit-tweqqiq tal-funzjonijiet tagħha u kull meta tqis li jkun neċessarju jew spedjenti, l-Awtorità tista' taħtar kwalunkwe wiehed minn dawn li ġejjin sabiex jassistiha fit-tweqqiq tal-funzjonijiet tagħha u, jew sabiex twettaq dawk il-kompiti li l-Awtorità tista' tiddetermina, taħt dawk it-termini u kondizzjonijiet li l-Awtorità tista' tordna:

(a) persuna kwalifikata, sabiex isservi diversi għanijiet, inklużi:

(i) tmexxi analiżi dwar oqsma speċifiċi ta' tħassib;

(ii) tivvaluta r-riskju minn avvenimenti mhux mistennija li jeħtieġu azzjoni immedjata;

(iii) tiġbor informazzjoni dwar xejriet u riskji;

(iv) timplimenta azzjonijiet ta' rimedju wara li jkunu saru revizzjonijiet ta' konformità;

(v) tiegħu miżuri preventivi sabiex jitnaqqsu r-riskji, u

(vi) tivvaluta proposti għal bidliet sinifikattivi fil-mudell ta' negozju u governanza ta' ditta:

Iżda l-Awtorità tista' wkoll teħtieġ li l-persuna kwalifikata tiġi appuntata minn detentur ta' liċenzja jew xi persuna oħra;

(b) persuna tas-sengħa li, fl-opinjoni tal-Awtorità jkollha l-għarfien neċessarju sabiex tipprovdi l-assistenza metieġa mill-Awtorità. Meta l-persuna tas-sengħa tiġi appuntata skont dan is-subartikolu, id-dispożizzjonijiet li ġejjin ikunu applikabli:

(i) il-persuna li fir-rigward tagħha tiġi appuntata l-persuna tas-sengħa għandha tikkoopera mal-persuna tas-sengħa u tipprovdi kwalunkwe informazzjoni u dokumentazzjoni, kif jista' jkun meħtieġ, minn tali persuna tas-sengħa fit-tweqqiq tal-ħatra tagħha;

(ii) l-Awtorità tista' teħtieg lill-persuna tas-sengħa, *inter alia*, sabiex tagħtiha rapport relatat mal-assistenza mogħtija lill-Awtorità skont it-termini tal-ħatra tagħha; u

(iii) ir-rapport imħejji mill-persuna tas-sengħa skont is-subparagrafu (ii) u approvat mill-Awtorità bil-miktub, għandu jkollu għall-finijiet kollha, l-istess effett bħal dokument imħejji mill-Awtorità:

Iżda fejn tiġi appuntata persuna tas-sengħa sabiex tħejji rapport indipendenti, din id-dispożizzjoni ma għandhiex tapplika għal tali rapport indipendenti;

(ċ) persuna kompetenti, jew amministratur, amministratur speċjali jew amministratur temporanju, jew spettur kif jista' jkun meħtieg taħt xi liġi amministrata mill-Awtorità;

(d) tali persuna oħra li, fl-opinjoni tal-Awtorità, għandha l-għarfien meħtieg sabiex tassisti lill-Awtorità fit-twettiq tal-funzjonijiet regolatorji tagħha u sabiex twettaq dawk il-kompiti kif l-Awtorità tista' tordna.

(7) (a) L-Awtorità tista' sabiex isiru l-ħatriet skont id-dispożizzjonijiet tas-subartikolu (6), toħroġ regoli jew linji gwida li jispjegaw il-proċeduri u r-rekwiziti, inklużi s-setgħat, dmirijiet u obbligi ta' min ikun appuntat.

(b) Id-drittijiet u l-ispejjeż kollha relatati ma' dawn il-ħatriet, inklużi drittijiet imposti minn min jiġi appuntat, għandhom jithallsu mill-individwu jew entità li għalihom ssir il-ħatra, sakemm ma jkunx deċiż xort'oħra mill-Awtorità.

(ċ) Għall-aħjar twettiq tal-funzjonijiet tagħha taħt dan l-Att jew xi liġi oħra, u sabiex jiġi żgurat li l-Awtorità tista' tagħmel il-ħatriet imsemmija fis-subartikolu (6) b'mod tempestiv u effettiv, l-Awtorità għandha, sabiex tagħmel dawk il-ħatriet, tkun eżentata mid-dispożizzjonijiet ta' regoli u regolamenti dwar l-akkwist pubbliku ta' servizzi li jistgħu jkunu fis-seħħ minn żmien għal żmien.

(8) Fit-twettiq tal-funzjonijiet u setgħat tagħha taħt din il-liġi jew xi liġi oħra, sabiex jiġi salvagwardjat, ippreservat u mxejkel it-tberbiq ta' fondi u assi oħra, fl-interess tal-konsumaturi ta' servizzi finanzjarji u investituri, l-Awtorità għandu jkollha d-dritt li toħroġ ordnijiet għall-iffriżar ta' fondi u, jew assioħra inklużi kontijiet bankarji f'isem id-detentur ta' liċenzja jew awtorizzazzjoni jew kwalunkwe parti terza kif jista' jiġi indikat għal dak iż-żmien u taħt dawk il-kondizzjonijiet kif l-Awtorità tista' tistabbilixxi bil-miktub. L-ordni tista' wkoll tipprojbixxi lid-detentur ta' liċenzja jew awtorizzazzjoni jew lil tali parti terza oħra milli tittrasferixxi, tiddisponi minn, jew titlef pussess ta' tali fondi jew assi. L-Awtorità tista' tikkomunika dawn l-ordnijiet lil awtorità barranija ta' infurzar jew superviżorja u titlob l-assistenza fl-eżekuzzjoni ta' tali ordnijiet barra minn Malta. Dawn l-ordnijiet jistgħu jiġu wkoll maħruġa wara talba minn awtorità ta' infurzar jew superviżorja barranija. L-Awtorità tista' teżercita s-setgħat tagħha skont dan is-subartikolu minkejja d-dispożizzjonijiet tal-artikoli 17A u 17B u kwalunkwe dispożizzjoni oħra f'xi liġi oħra.

(9) (a) (i) Fejn ikun ġie ddeterminat minn awtorità regolatorja, superviżorja, ta' intelligence, ta' infurzar ta' liġi u, jew ġudizzjarja rilevanti li detentur ta' liċenzja jew awtorizzazzjoni oħra wettaq ksur serju, ripetut jew sistematiku tal-Att kontra *Money Laundering*, ta' kwalunkwe regolamenti magħmula tahtu, jew ta' proċeduri jew gwidi maħruġa skont l-istess Att jew ta' kwalunkwe tali regolamenti jew taht leġislazzjoni tal-UE kontra l-ħasil tal-flus u kontra l-iffinanzjar tat-terroriżmu, jew xi regoli oħra jew standards tekniċi, bla ħsara għall-funzjonijiet u s-setgħat ta' tali awtorità oħra regolatorja, superviżorja, ta' intelligence, infurzar tal-liġi, jew ġudizzjarja rilevanti, l-Awtorità tista' abbażi ta' tali determinazzjoni minnufih tipproċedi sabiex tieħu tali azzjoni u miżuri regolatorji fir-rigward tal-imsemmi detentur ta' liċenzja jew awtorizzazzjoni skont is-setgħat tagħha taht dan l-Att, kif jista' jidhrilha meħtieġ fiċ-ċirkostanzi.

(ii) Fejn abbażi tal-informazzjoni li tkun rċeviet minn awtorità regolatorja, superviżorja, ta' intelligence, ta' infurzar ta' liġi u, jew ġudizzjarja rilevanti, l-Awtorità jkollha raġuni suffiċjenti sabiex temmen jew tissuspetta li detentur ta' liċenzja jew awtorizzazzjoni oħra jista' jkun qiegħed jikser jew jista' ikun kiser dan l-Att, ir-regolamenti magħmula taħtu, proċeduri jew gwidi maħruġa taħt l-istess Atti jew taħt leġiżlazzjoni tal-UE, regoli oħra jew standards tekniċi msemmija fil-paragrafu (a)(i), bla ħsara għall-funzjonijiet u s-setgħat ta' xi awtorità oħra regolatorja, superviżorja, ta' intelligence, ta' infurzar tal-liġi, jew ġudizzjarja rilevanti, l-Awtorità tista' tieħu tali azzjoni u miżuri regolatorji fir-rigward tal-imsemmi detentur ta' liċenzja jew awtorizzazzjoni skont is-setgħat tagħha taħt dan l-Att jew kwalunkwe liġi oħra kif jista' jidhrilha meħtieġ fiċ-ċirkostanzi, bil-għan li tiżgura l-konformità mal-kondizzjonijiet tal-liċenzja jew awtorizzazzjoni u r-rekwiżiti regolatorji prudenzjali u, jew sabiex tissalvagwardja l-interessi tal-konsumaturi ta' sevizzi finanzjarji, investituri u, jew l-integrità tas-sistema finanzjarja u s-swieq kapitali.

(b) Fejn individwu, li jkollu kariga li tirrikjedi l-approvazzjoni tal-Awtorità, ikun wettaq jew ikkontribwixxa għal ksur kif imsemmi fil-paragrafu (a)(i), l-Awtorità tista', bla ħsara għal kwalunkwe setgħa jew funzjoni oħra mogħtija lilha taħt dan l-Att jew taħt xi liġi oħra, toħroġ direttiva li tipprobixxi, temporanjament jew xort'oħra, jew tissospendi tali individwu milli jeżerċita kwalunkwe tali funzjonijiet u dmirijiet b'konnessjoni mal-kariga tagħhom kif imsemmi f'dan il-paragrafu, kif jista' jiġi determinat mill-Awtorità mal-istess detentur ta' liċenzja jew awtorizzazzjoni msemmi fil-paragrafu (a)(i), jew ma' xi detentur ieħor ta' liċenzja jew awtorizzazzjoni maħruġa mill-Awtorità, jew ma' kwalunkwe persuna li xort'oħra taqa' taħt il-funzjonijiet superviżorji jew regolatorji tal-Awtorità.

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(10) Fit-twettiq tal-funzjonijiet u setgħat tagħha taħt dan l-Att jew xi liġi oħra, l-Awtorità tista' titlob u tista' tiġi assistita minn awtoritajiet ta' infurzar, aġenziji jew awtoritajiet ta' intelligence, regolaturi u, jew awtoritajiet lokali jew barranin, jew supranazzjonali.

(11) L-Awtorità tista', għall-aħjar twettiq tad-dispożizzjonijiet ta' dan l-Att jew kwalunkwe Att ieħor amministrat minnha, jew kwalunkwe funzjoni oħra kif jista' jiġi lilha assenjata minn żmien għal żmien, toħroġ u tippubblika regoli li jirregolaw il-proċeduri u d-dmirijiet ta' persuni liċenzjati jew awtorizzati minnha jew li jaqgħu taħt il-funzjonijiet regolatorji jew superviżorji tagħha. Dawn ir-regoli jistgħu:

(a) jistabbilixxu rekwiżiti u kondizzjonijiet addizzjonali fir-rigward tal-attivitajiet ta' tali persuni, it-tmexxija tan-negozju tagħhom, ir-relazzjonijiet tagħhom mal-klijenti, il-pubbliku u partijiet oħra, ir-responsabbiltajiet tagħhom lejn l-Awtorità, ir-rekwiżiti ta' rappurtar, ir-riżorsi finanzjarji, l-adegwatezza tal-kapital u r-rekwiżiti relatati, u kwalunkwe haġa oħra kif l-Awtorità tista' tikkunsidra xierq;

(b) jipprovdu għal prospetti tat-taxxa, dikjarazzjonijiet u avvizi li għandhom isiru jew jingħataw għal kwalunkwe għan li fir-rigward tiegħu l-Awtorità teżercita funzjonijiet superviżorji jew regolatorji, jew xi funzjoni oħra kif tista' tiġi assenjata lilha, taħt dan l-Att jew xi Att ieħor, u l-forma u l-kontenut tagħhom; u

(ċ) jippreskrivu l-informazzjoni li dawn il-persuni għandhom jissottomettu lill-Awtorità:

Iżda dawn ir-regoli għandhom jorbtu lil detenturi ta' liċenzja u awtorizzazzjoni kollha kif ukoll persuni oħra li jistgħu jiġu speċifikati fihom.

(12) (a) Bla hsara għal kwalunkwe setgħat oħra li jistgħu jiġu eżerċitati mill-Awtorità skont id-dispożizzjonijiet ta' dan l-Att jew ta' kwalunkwe liġi oħra, fejn l-Awtorità tiddetermina li xi persuna tkun kisret jew naqset milli tosserva xi dispożizzjoni ta' dan l-Att jew kwalunkwe Att ieħor amministrat mill-Awtorità, jew kwalunkwe regolamenti jew regoli magħmula taħthom, jew kwalunkwe mid-dispożizzjonijiet tar-Regolament (UE) 2019/2088 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' Novembru 2019 dwar divulgazzjonijiet relatati mas-sostenibbiltà fis-settur tas-servizzi finanzjarji, jew tal-Artikoli 5, 6 jew 7 tar-Regolament (UE) 2020/852 tal-Parlament Ewropew u tal-Kunsill tat-18 ta' Ġunju 2020 dwar l-istabbiliment ta' qafas biex jiġi ffaċilitat l-investment sostenibbli, u li jemenda r-Regolament (UE) 2019/2088, jew ta' xi kondizzjonijiet imposti f'licenzja jew awtorizzazzjoni maħruġa mill-Awtorità jew kwalunkwe direttivi maħruġa mill-Awtorità, l-Awtorità tista' b'avviż bil-miktub timponi penali amministrattiva li ma teċċedix mija u ħamsin elf euro (€150,000) fir-rigward ta' kull ksur, kontravvenzjoni u nuqqas ta' osservanza individwali, skont il-każ. L-Awtorità għandha tiżgura li l-penali amministrattivi imposti skont dan is-subartikolu jkunu effettivi, dissważivi u proporzjonati.

(b) Fejn iċ-ċirkostanzi hekk jitolbu, l-Awtorità tista' toħroġ ċanfiriet jew twissijiet jew tiegħu miżuri regolatorji jew korrettivi oħra kif jista' jitqies meħtieġ miċ-ċirkostanzi u min-natura u s-serjetà tal-ksur u għemil ħażin.

(ċ) Fejn avviż kif imsemmi fil-paragrafu (a) ma jiġix appellat, jew fejn tali avviż jiġi appellat sa hmistax-il (15) ġurnata mid-deċiżjoni tat-Tribunal għas-Servizzi Finanzjarji fir-rigwardta' tali appell, il-penali amministrattiva kif misjuba fl-avviż, jew kif imnaqsa jew miżjuda bid-deċiżjoni tat-Tribunal għandha tkun dovuta lill-Awtorità. Man-notifika ta' kopja tal-avviż jew tad-deċiżjoni, skont il-każ, permezz ta' att ġudizzjarju lill-persuna indikata fl-avviż jew deċiżjoni, l-imsemmija avviż jew deċiżjoni għandhom jikkostitwixxu titolu eżekuttiv għall-effetti u finijiet kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(13) (a) Kwalunkwe deċiżjoni ta' infurzar jew ta' miżura oħra, inklużi ċanfriet u twissijiet, imposti mill-Awtorità skont kwalunkwe liġi li l-Awtorità hija responsabbli mill-amministrazzjoni tagħha, għandhom jiġu ppubblikati b'tali mezz u b'dak il-mod u għal dal it-tul ta' żmien kif jista' jitqies meħtieġ fiċ-ċirkostanzi u n-natura u s-serjetà tal-ksur jew għemil hażin. Il-Bord tal-Gvernaturi jista' minn żmien għal żmien jistabbilixxi politiki u linji gwida fir-rigward tal-pubblikazzjoni ta' deċiżjonijiet, miżuri, sanzjonijiet u penali amministrattivi.

(b) Tali publikazzjoni għandu jkun fiha informazzjoni dwar it-tip u n-natura tal-ksur, jekk ikun il-każ, u r-raġuni għal-impożizzjoni tad-deċiżjoni, miżura, sanzjoni jew penali amministrattivi, u l-identità tal-persuna li fuqha ġew imposti d-deċiżjoni, il-miżura, is-sanzjoni jew il-penali amministrattivi. Il-publikazzjoni għandha ssir mingħajr dewmien żejjed wara li tali persuna tiġi infurmata bid-deċiżjoni, miżura, sanzjoni jew penali amministrattiva:

Iżda f'każijiet fejn jiġi pprezentat appell mill-persuna li fuqha jiġu imposti tali deċiżjoni, miżura, sanzjoni jew penali amministrattiva, l-Awtorità għandha mingħajr dewmien żejjed, tippubblika wkoll informazzjoni dwar l-istatus tal-appell u l-eżitu tiegħu.

(ċ) Minkejja d-dispożizzjonijiet tal-paragrafu (b), l-Awtorità tista' tippubblika informazzjoni fuq bażi anonima, fi kwalunkwe miċ-ċirkostanzi li ġejjin:

(i) fejn il-penali amministrat-tiva imposta ma teċċedix l-ammontkif jista' jiġi stabbilit mill-Bord tal-Gvernaturi;

(ii) fejn il-pubblikazzjoni x'aktarx tippreġudika l-istabbiltà tas-swieq finanzjarji jew ta' kwalunkwe superviżjoni li tkun għaddejja, jew investigazzjonijiet kriminali;

(iii) fejn il-pubblikazzjoni x'aktarx tikkawża, sa fejn jista' jiġi determinat, ħsara sproporzjonata lill-persuna jew entità involuta:

Iżda l-pubblikazzjoni fuq bażi anonima għandha tkun miżura eċċezzjonali li għandha tkun ġustifikata, u għandha tiġi approvata mill-Kumitat dwar Deċiżjonijiet tal-Infurzar skont il-politiki ta' publikazzjonijiet tal-Awtorità:

Iżda wkoll fiċ-ċirkostanzi msemmija fis-sub-paragrafi (ii) u (iii), l-Awtorità tista' tipposponi l-pubblikazzjoni għal tali perjodu ta' żmien sakemm tali ċirkostanzi jieqfu u, fiċ-ċirkostanzi msemmijin fis-subparagrafu (ii), jekk tali ċirkostanzi hekk jeħtieġu, l-Awtorità tista' tiddeċiedi li ma tippubblikax kwalunkwe informazzjoni.

(d) Dan is-subartikolu għandu jkun bla ħsara għal kwalunkwe dispożizzjoni dwar il-pubblikazzjoni jew xort'oħra ta' xi deċiżjoni jew miżura ta' infurzar kifmisjubfi kwalunkwe Att ieħor amministrat mill-Awtorità jew fi kwalunkwe regolamenti magħmula taħthom, jew fi kwalunkwe legiżlazzjoni tal-Unjoni Ewropea.

(14) Fit-twertiq tal-funzjonijiet tagħha skont din il-liġi jew xi liġi oħra, l-Awtorità tista' tuża u tapplika kwalunkwe mis-setgħat jew mid-drittijiet taħt dan l-artikolu fuq persuni jew entitajiet li jkollhom il-liċenzja jew awtorizzazzjoni tagħhom li tkun ġiet sospiża jew mħassra, jew ċeduta volontarjament lill-Awtorità, sa dik id-data li fiha ma jkun fadal pendenti l-ebda kwistjonijiet regolatorji u d-drittijiet legittimi ta' konsumaturi interessati jkunu ġew sodisfatti."

Żieda ta' artikoli godda fl-Att prinċipali.

24. Minnufih wara l-artikolu 16A tal-Att prinċipali għandhom jiġu miżjuda l-artikoli godda li ġejjin:

"Ostruzzjoni tal-Awtorià.

16B. Kwalunkwe persuna li b'agħir jew nuqqas volontarju tostakola lill-Awtorità fit-twettiq tal-funzjonijiet tagħha skont dan l-Att jew kwalunkwe Att ieħor għandha, bla ħsara għal kwalunkwe responsabbiltà taħt xi liġi oħra, tkun ħatja ta' reat taħt dan l-Att u teħel meta tinstab ħatja multa li ma teċċedix ħamsin elf euro (€50,000).

Ġbir, żamma jew ipproċessar ta' data personali.

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16Ċ. (1) (a) Kwalunkwe pproċessar ta' data personali mmexxi mill-Awtorità għandu jkun kompletament konformi mad-dispożizzjonijiet tal-GDPR u l-Att dwar il-Protezzjoni u l-Privatezza tad-Data, inklużi r-regolamenti maħruġa taħtu.

(b) L-Awtorità għandha tiġbor, iżzomm u tipproċessa data personali kif neċessarju u meħtieġ sabiex twettaq il-funzjonijiet tagħha kollha u, jew l-eżerċizzju ta' kwalunkwe mis-setgħat tagħha taħt dan l-Att inklużi r-regolamenti magħmula taħtu u kwalunkwe liġi oħra, u għandha iżzomm u tipproċessa tali data bi kwalunkwe mezzi, inklużi mezzi u sistemi elettronici.

(2) L-Awtorità tista' tipproċessa data personali għal għan li ma jkunx dak li għalih kienet miġbura, kemm-ildarba tali għan ikun kompatibbli, skont l-Artikolu 6(4) tal-GDPR, mal-għan oriġinali li għalih id-data personali kienet miġbura, inkluż fejn tali pproċessar ieħor hu neċessarju u proporzjonat għat-twettiq ta' kwalunkwe waħda mill-funzjonijiet regolatorji tagħha, għall-prevenzjoni, l-iżvelar jew l-investigazzjoni ta' ksur ta' rekwiżiti regolatorji, jew għat-twettiq ta' xi obbligu legali jew funzjoni oħra fl-interess pubbliku kif assenjat lill-Awtorità bil-liġi.

(3) (a) L-Awtorità tista' tipproċessa data personali għal tali perjodu ta' żmien u skont il-politiki tagħha kif jista' jiġi stabbilit mill-Awtorità għal dan il-għan.

(b) Bla ħsara għal kwalunkwe limiti taż-żmien previsti f'xi liġi għall-ħażna jew tħassir ta' data, l-Awtorità għandha tistabbilixxi limiti taż-żminijiet xierqa għat-tħassir ta' data personali jew għar-reviżjoni perijodika tal-ħtieġa għaž-żamma ta' data personali.

(ċ) Meta tkun qed tistabbilixxi l-limititaż-żmien xierqa ghaż-żamma u tħassir ta' data personali, l-Awtorità għandha tqis l-obbligi regolatorji tagħha u l-għan li għalih id-data tkun giet miġbura, u fejn id-data personali tkun giet miġbura għall-finijiet ta' liċenzja jew awtorizzazzjoni mahruġa mill-Awtorità, għandu jitqies li jkun neċessarju li tinzamm u tiġi pproċessata tali data sakemm tibqa' fis-seħħ il-validità ta' dik il-liċenzja jew awtorizzazzjoni u għal tali perjodu addizzjonali kif jista' jkun meħtieġ bil-liġi jew neċessarju sabiex jiġu indirizzati l-obbligi ta' verifika, regolatorji, superviżorji jew legali direttament relatati ma' tali liċenzja jew awtorizzazzjoni, li wara għandhom jiġu mħassra jew anonimizzati b'mod sigur.

(4) Bla ħsara għas-subartikoli (5) sa (8), l-Awtorità tista' tirrestringi d-drittijiet u l-obbligi stabbiliti fl-Artikoli 12 sa 22 u fl-Artikolu 34 tal-GDPR, kif ukoll fl-Artikolu 5 tal-GDPR sa fejn id-dispożizzjonijiet tiegħu jikkorrispondu mad-drittijiet u obbligi previsti fl-Artikoli 12 sa 22 tal-GDPR, meta tali restrizzjoni tkun neċessarja u proporzjonata sabiex tissalvagwardja kontra:

(a) kwalunkwe ostakolu għall-Awtorità fit-twerttiq tal-funzjonijiet tagħha u, jew għall-eżerċitar tas-setgħat tagħha skont il-liġi, inklużi l-infurzar tal-liġijiet li jirregolaw servizzi finanzjarji u l-prevenzjoni, is-sejba u l-investigazzjoni ta' kwalunkwe ksur ta' kwalunkwe tali liġi;

(b) kwalunkwe ostakolu għal xi proċess, proċedura, investigazzjoni, inkjesta, valutazzjoni, skema, applikazzjoni jew tpaċija li tkun qed issir mill-Awtorità fit-twerttiq tal-funzjonijiet u, jew fl-eżerċitar tas-setgħat tagħha skont il-liġi;

(ċ) kwalunkwe ostakolu lill-Awtorità sabiex tilhaq objettiv regolatorju li jkun fl-interess pubbliku;

(d) kwalunkwe ostakolu għall-impożizzjoni jew l-irkupru ta' xi penali amministrattiva, drittijiet jew imposti dovuti lill-Awtorità skont id-dispożizzjonijiet ta' dan l-Att jew xi liġi oħra applikabbli;

(e) l-iżvelar kontra l-liġi ta' xi informazzjoni li giet miksuba mill-Awtorità fit-twettiq tal-funzjonijiet tagħha; jew

(f) kwalunkwe ostakolu jew preġudizzju fir-rigward tal-ħolqien, twettiq jew difiża ta' jedd legali u, jew proċeduri legali, inkluża xi talba legali antiċipata jew proċeduri, lifihom is-sugġett tad-data huwa jew jista' jkun parti, u li huma jew jistgħu jiġu istitwiti taħt xi liġi, kemm quddiem kwalunkwe qorti kompetenti, tribunal jew korp li jkollu setgħat ġudizzjarji jew kważi ġudizzjarji:

Iżda fejn l-Awtorità tantiċipa talba legali u, jew proċeduri legali, l-Awtorità għandha tkun responsabbli għal, u kapaċi li turi, li abbażi ta' ċirkostanzi fattwali u speċifiċi, tali talba legali u, jew proċeduri legali, x'aktarx li javverixxu:

Iżda wkoll qabel ma tapplika xi restrizzjoni, l-Awtorità għandha twettaq valutazzjoni proporzjonata u skont in-neċessità, u għandha tkun tista' turi li l-applikazzjoni tar-restrizzjoni hija neċessarja u proporzjonata.

(5) L-uffiċjal tal-protezzjoni tad-data mahtur mill-Awtorità għandu jiġi kkonsultat, kif xieraq u b'mod tempestiv, fir-rigward ta' kwalunkwe ostakolu jew restrizzjoni bħal dak imsemmija fis-subartikolu (4), kemm qabel kif ukoll matul iż-żmien li tibqa' sseħħ tali restrizzjoni.

(6) Fejn tapplika restrizzjoni kif imsemmi fis-subartikolu (4), l-Awtorità għandha tinnotifika lis-sugġett tad-data, bil-miktub, dwar id-drittijiet u l-obbligi li jkunu qegħdin jiġu ristretti, ir-raġunijiet għal tali restrizzjoni u d-dritt tiegħu li jirreġistra lment mal-KIPD:

Iżda d-dispożizzjonijiet ta' dan is-subartikolu ma għandhomx japplikaw fejn tali notifika x'aktarx tippreġudika s-salvagwardja tal-objettiv rilevanti stabbilit fis-subartikolu (3).

(7) L-Awtorità għandha perjodikament tirrevedi d-deċiżjoni li tapplika restrizzjoni kif imfisser fis-subartikolu (4) u tivvaluta n-neċessità u l-proporzjonalità tagħha sabiex tiżgura li l-ġustifikazzjoni għar-restrizzjoni tkun għadha valida:

Iżda fejn ir-raġuni għal dik ir-restrizzjoni ma tkunx għadha tapplika, l-Awtorità għandha tneħhi r-restrizzjoni mingħajr dewmien żejjed.

(8) L-Awtorità għandha żżomm rekord ta' kwalunkwe tali restrizzjoni kif imsemmija fis-subartikolu (4) u r-raġunijiet għal dik ir-restrizzjoni u għandha, kull meta tkun hekk mitluba mill-KIPD, tipprovdli lill-imsemmi KIPD kopja ta' dak ir-rekord.

(9) Kliem u espressjonijiet użati f'dan l-artikolu li huma użati wkoll fil-GDPR, iżda li mhumiex imfissra f'dan l-Att, għandu jkollhom l-istess tifsira bħal dik assenjata lilhom fil-GDPR.

(10) Għall-finijiet ta' dan l-artikolu:

(a) "GDPR" tfisser ir-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' *data* personali u dwar il-moviment liberu ta' tali *data*, u li jhassar id-Direttiva 95/46/KE, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe miżuri implimentattivi li jistgħu jkunu ġew magħmula jew jisgħu jinħargu tahtu;

(b) "KIPD" tfisser il-Kummissarju għall-Infommazzjoni u l-Protezzjoni tad-*Data* u għandu jkollha l-istess tifsira kif assenjat lil "Kummissarju" skont l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*;

(c) "ipproċessar" għandu jkollha l-istess tifsira kif assenjat lilha fl-Artikolu 4(1) tal-"GDPR".

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25. L-artikolu 17 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 17 tal-Att prinċipali.

(a) in-nota marginali tiegħu għandha tiġi sostitwita bin-nota marginali ġdida li ġejja:

"Żvelar u skambju ta' informazzjoni.";

(b) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Hlief għall-qadi xieraq tad-dmirijiet jew tal-funzjonijiet tagħhom taht dan l-Att jew kwalunkwe Att ieħor, il-membri tal-Bord tal-Gvernaturi jew ta' kwalunkwe organu ieħor tal-Awtorità, u l-uffiċjali u l-impjegati tal-Awtorità u kwalunkwe aġent, espert jew persuna oħra maħtura mill-Awtorità sabiex tassistiha fil-

qadi tal-funzjoni regolatorja tagħha, u l-uffiċjali u l-impjegati tagħhom, għandhom jittrattaw kwalunkwe informazzjoni li tinkiseb waqt il-qadi ta' dmirijietom bħala kunfidenzjali u ma għandhom, direttament jew indirettament, jiżvelaw tali informazzjoni lill-ebda persuna oħra, ħlief bil-kunsens tal-persuna li tkun żvelat l-informazzjoni. Għall-finijiet ta' dan is-subartikolu, "impjegati" u "uffiċjali" jinkludu wkoll l-impjegati u uffiċjali preċedenti.";

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

"(1a) Kwalunkwe uffiċjal jew impjegat tal-Awtorità, jew xi agent, espert jew xi persuna oħra maħtura mill-Awtorità sabiex tassistiha fil-qadi tal-funzjoni regolatorja tagħha, jew kwalunkwe uffiċjal jew impjegat tagħhom, kemm jekk ikun għadu jagħti servizz lill-Awtorità jew xort' oħra, li fi kwalunkwe ċirkostanza jiżvela lil terzi kwalunkwe informazzjoni jew dokumenti miksuba fit-twettiq tad-dmirijiet tiegħu, jew it-twettiq tal-funzjonijiet tiegħu jew kwalunkwe informazzjoni jew dokument marbuta mal-affarijiet tal-Awtorità, għajr kif previst f' dan l-artikolu, għandu jkun ħati ta' reat u għandu jehel, meta jinstab ħati, multa ta' mhux iżjed minn ħamsin elef euro (€50,000), jew prigunerija għal żmien ta' mhux iktar minn sentejn (2), jew tali multa u prigunerija f' daqqa.";

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

(i) fil-paragrafu (a) tiegħu l-kliem "u r-registrazzjoni ta' soċjetajiet kummerċjali" għandhom jiġu mħassra;

(ii) fil-paragrafu (b) tiegħu l-kliem "awtoritajiet ta' infurzar jew regolatorji lokali jew barranin," għandhom jiġu sostitwiti bil-kliem "awtoritajiet lokali jew barranin ta' infurzar ta' liġi, intelligence, prosekutorji, ġudizzjarji jew regolatorji," u l-kliem "li jkun fih awtoritajiet ta' infurzar jew regolatorji lokali jew barranin" għandhom jiġu sostitwiti bil-kliem "li jinkludi tali awtoritajiet lokali jew barranin";

(iii) fil-paragrafu (ċ) tiegħu l-kliem "funzjoni regolatorja, ta' sorveljanza, ġudizzjarja, ta' registrazzjoni jew ta' liċenzjar" għandhom jiġu sostitwiti bil-kliem

"funzjoni regolatorja, ta' sorveljanza, registrazzjoni jew ta' liċenzjar";

(iv) fil-proviso tiegħu l-kliem "mal-Awtorità." għandhom jiġu sostitwiti bil-kliem "mal-Awtorità:" u minnufih wara għandu jiġi miżjud il-proviso ġdid li ġej:

"Iżda wkoll kwalunkwe talba għal żvelar ta' informazzjoni għandha tkun akkumpanjata b'gustifikazzjoni formali u ċara, li tiddekrivi l-għan tat-talba u li turi r-rilevanza u l-ħtieġa tagħha fir-rigward ta' kwistjoni partikolari jew tranżazzjoni. It-talbiet għandhom ikunu limitati għal dettalji speċifiċi meħtieġa sabiex jaqdu l-għan dikjarat u l-parti li tagħmel it-talba għandha tidentifika b'mod preċiż l-informazzjoni mitluba. L-informazzjoni għandha tingħata biss ladarba l-gustifikazzjoni u l-ispeċifiċità jitqiesu sodisfaċenti skont l-istandards legali applikabbli u l-politiki organizzativi.";

(e) minnufih wara s-subartikolu (2) tiegħu, kif emendat, għandhom jiġu miżjuda s-subartikoli ġodda li ġejjin:

"(2a) Bla ħsara għad-dispożizzjonijiet tas-subartikoli (2b) u (4), l-Awtorità tista' ttipprovdi u tiżvela informazzjoni u dokumentazzjoni regolatorja miksuba waqt il-qadi tal-funzjonijiet tagħha lil xi qorti jew tribunal waqt proċeduri ġudizzjarji.

(2b) Minkejja d-dispożizzjonijiet ta' kwalunkwe liġi oħra:

(a) l-Awtorità ma għandhiex tkun obligata li ttiprovdi jew tiżvela kwalunkwe informazzjoni jew dokument mitluba minn kwalunkwe qorti jew tribunal, awtorità, korp, entità jew persuna fejn l-Awtorità jkollha raġunijiet raġonevoli sabiex temmen li l-għoti jew l-iżvelar tal-informazzjoni jew dokument mitluba jistgħu jippreġudikaw, idgħajfu jew jostakolaw kwalunkwe azzjoni regolatorja, ta' sorveljanza jew ta' infurzar li tkun qiegħda titwettaq jew li l-Awtorità biħsiebha twettaq:

Iżda r-raġunijiet għal kwalunkwe każda li tingħata jew tiżvela kwalunkwe informazzjoni

jew dokument taħt dan is-subartikolu għandhom jiġu mfissra b'mod ċar lill-qorti, tribunal, awtorità, korp, entità jew persuna li titlob l-informazzjoni:

Iżda wkoll fejn it-talba li tingħata jew tiġi żvelata informazzjoni jew dokumenti ssir minn qorti jew tribunal u l-qorti jew tribunal ma jkunux sodisfatti bir-raġunijiet mogħtija mill-Awtorità, il-qorti jew tribunal jistgħu madankollu jordnaw l-għoti ta' xhieda dwar u, jew is-sottomissjoni ta' tali informazzjoni jew dokument *in camera*;

(b) l-Awtorità ma għandhiex tkun obbligata u ma għandhiex tippovdi jew tiżvela lil xi qorti, tribunal, awtorità, korp, entità jew persuna kwalunkwe informazzjoni jew dokument li jkun inkiseb minn, jew ingħata lill-Awtorità bhala informazzjoni jew fil-forma ta' intelligence, jew li kien xort'ohra kkassifikat bhala sigriet meta inkiseb minn, jew ingħata lill-Awtorità, mingħajr l-awtorizzazzjoni bil-miktub minn qabel sabiex dan isir mill-fornitur ta' tali informazzjoni jew dokument:

Iżda kwalunkwe għoti jew żvelar ta' kwalunkwe informazzjoni jew dokument kif imsemmi qabel għandu jkun soġġett għal, u għandu jiġi riċevut u miżmum taħt kunfidenzjalità u segretezza assoluta u ma għandu jiġi żvelat mir-riċevitur lil ebda parti terzi:

Iżda wkoll fejn tali informazzjoni jew dokument jiġu mogħtija jew żvelati lil xi qorti jew tribunal, l-għoti ta' xhieda u s-sottomissjoni ta' tali informazzjoni jew dokument għandha ssir *in camera*;

Iżda wkoll fejn fuq talba tal-Awtorità, il-qorti tkun sodisfatta li l-iżvelar ta' kwalunkwe informazzjoni jew dokument kif imsemmi qabel jistgħu jippreġudikaw l-interess jew is-sigurtà nazzjonali, l-interess pubbliku jew relazzjonijiet internazzjonali, il-qorti tista' tordna li tali informazzjoni jew dokument ma għandhomx jiġu żvelati;

(ċ) l-Awtorità ma għandhiex tkun obbligata

minn qorti jew tribunal, fi proċeduri ċivili li ma tkunx parti fihom, sabiex tipprovdi kwalunkwe informazzjoni jew dokument kunfidenzjali lil kwalunkwe persuna li teċċepixxi li għandha interess legittimu fihom jew kwalunkwe pretensjoni oħra fir-rigward tagħhom fejn il-qorti jew tribunal ikunu sodisfatti li l-iżvelar u, jew l-għoti ta' tali informazzjoni jew dokument huma regolati b'liġijiet, regoli jew regolamenti speċifiċi li jistabbilixxu min għandu jkun intitolat, il-kondizzjonijiet li għandhom jiġu sodisfatti u l-proċeduri applikabbli, sabiex tinkiseb tali informazzjoni jew dokument;

(d) għall-finijiet tas-salvagwardja tal-kunfidenzjalità tal-proċeduri tal-korpi tal-Awtorità dwar it-teħid ta' deċiżjonijiet u tal-awtonomija u l-indipendenza operattiva tal-Awtorità, l-Awtorità ma għandhiex tkun obbligata tipprovdi jew tiżvela lil qorti, tribunal, awtorità, korp, entità jew persuna kwalunkwe dokument li jirrapreżenta korrispondenza ma' awtoritajiet regolatorji, superviżorji, ta' intelligence, ta' infurzar u awtoritajiet kompetenti oħra, komunikazzjonijiet interni u rekords ta' deliberazzjonijiet jew laqgħat interni.";

(f) fis-subartikolu (3) tiegħu minnufih wara l-kliem "il-Bank Ċentrali Ewropew (BĊE)," għandhom jiġu miżjuda l-kliem "l-Awtorità Ewropea kontra l-Money Laundering (AMLA),".

26. Minnufih wara l-artikolu 19 tal-Att prinċipali għandhom jiġu miżjuda l-artikoli ġodda li ġejjin:

Żieda ta' artikoli ġodda mal-Att prinċipali.

"Xiri anonimu.

19A. (1) Bla ħsara għas-setgħat mogħtija lill-Awtorità taħt dan l-Att jew kwalunkwe liġi oħra, l-Awtorità għandu jkollha, għall-qadi aħjar tal-funzjonijiet tagħha, u sabiex tissalvagwardja l-interessi tal-konsumaturi ta' servizzi finanzjarji, is-setgħa li tixtri servizzi, taħt identità koperta, mingħand kwalunkwe persuna liċenzjata jew xort'oħra awtorizzata minnha, jew li xort'oħra twettaq attivitajiet li jaqgħu taħt il-funzjonijiet regolatorji jew superviżorji tal-Awtorità, hawn iżjed 'il quddiem "xiri anonimu".

(2) L-Awtorità tista' abbażi tas-setgħat tagħha skont il-liġi, tiegħu kwalunkwe tali azzjoni kif tista' tqis meħtiegħ, abbażi tas-sejbiet li jirriżultaw minn tali xiri anonimu.

(3) Fit-twettiq tas-setgħa tagħha taħt is-subartikolu (1), l-Awtorità ma għandhiex iġġiegħel jew tikkawża li persuna twettaq xi att illegali jew att li jkun jikkostitwixxi kontravvenzjoni jew ksur ta', jew nuqqas milli tikkonforma mal-qafas legali u regolatorju applikabbli, liema att x'aktarx ma kienx jitwettaq minn tali persuna, jew tali persuna ma kinitx tkun lesta li twettqu.

(4) L-Awtorità tista' tistabilixxi politiki, regoli u proċeduri għat-twettiq aħjar ta', u l-implimentazzjoni aħjar, tad-dispożizzjonijiet ta' dan l-artikolu. Tali politiki u regoli għandhom jiġu ppubblikati.

Indirizz, avviżi,
u komunikazzjoni
elettronika.

19B. (1) Kull detentur ta' liċenzja jew awtorizzazzjoni għandu jipprovdi lill-Awtorità indirizz elettroniku validu u indirizz fiżiku u għandu jkun obligat li javża mingħajr dewmien lill-Awtorità bil-miktub dwar kwalunkwe bidla fihom.

(2) Avviż, dokument, jew kwalunkwe forma oħra ta' komunikazzjoni meħtieġa li tiġi kkonsenjata jew mogħtija jew notifikata lil detentur ta' liċenza jew awtorizzazzjoni jew lil kwalunkwe persuna oħra, permezz ta' dan l-Att jew xi Att ieħor amministrat mill-Awtorità, għandha titqies li tkun għet mibgħuta u riċevuta jekk:

(a) tiġi kkonsenjata jew mibgħuta bil-posta fl-aħħar indirizz fiżiku magħruf; jew

(b) għet mibgħuta permezz tal-posta elettronika fl-aħħar indirizz magħruf ta' posta elettronika;

irrispettivament jekk l-Awtorità rċevietx konferma tal-konsenja jew xort'oħra, fir-rigward ta' tali avviż, dokument jew forma oħra ta' komunikazzjoni.

(3) Bla hsara għas-subregolamenti preċedenti, l-Awtorità tista' timplimenta kwalunkwe forma ta' sistema elettronika kif jista' jkun meħtieġ għall-aħjar qadi tal-funzjonijiet tagħha taħt dan l-Att u kwalunkwe liġi oħra, inkluż għall-fini tal-komunikazzjoni, konsenja u skambju ta' informazzjoni, dokumenti u data bejn detenturi ta' liċenzja jew awtorizzazzjoni u l-Awtorità u d-detenturi ta' liċenzja u awtorizzazzjoni għandom jikkomunikaw mal-Awtorità permezz ta' tali sistema kif l-Awtorità tista' tordna.

Firm
elettronici.

19Ċ. (1) Kwalunkwe dokument fornut lill-Awtorità, li huwa meħtieġ li jiġi awtentikat, għandu jiġi hekk awtentikat jew b'firma miktuba bl-idejn jew b'firma elettronika kwalifikata, kif jista' jiġi ordnat mill-Awtorità minn żmien għal żmien.

(2) Għall-finijiet ta' dan l-artikolu, "firma elettronika kwalifikata" għandha tkun firma elettronika kif imfissra fir-Regolament (UE) Nru 910/2014 tal-Parlament Ewropew u tal-Kunsill tat-23 ta' Lulju 2014 dwar l-identifikazzjoni elettronika u s-servizzi fiduċjarji għal transazzjonijiet elettronici fis-suq intern u li jhassar id-Direttiva 1999/93/KE".

27. Is-subartikolu (4) tal-artikolu 20A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 20A tal-Att prinċipali.

(a) fil-paragrafu (a) tiegħu l-kliem "għal kull ksur jew nuqqas ta' konformità" għandhom jiġu sostitwiti bil-kliem "fir-rigward ta' kull ksur individwali, infrazzjoni jew nuqqas ta' konformità";

(b) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(ċ) penali amministrattivi u multi oghla minn mija u ħamsin elf euro (€150,000), kif jista' jitqies meħtieġ jew xieraq fir-rigward ta' kwalunkwe kontravvenzjoni jew nuqqas ta' konformità ma' leġiżlazzjoni tal-UE jew kwalunkwe regolamenti magħmula taħt dan l-artikolu sabiex jitttrasponu jew jagħtu effett lil kwalunkwe leġiżlazzjoni tal-UE."

28. L-artikolu 20D tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 20D tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minnufih wara l-paragrafu (ċ) għandu jiġi miżjud il-paragrafu ġdid li ġej:

"(ċa) biex jipprovdi għal, u biex jirregola il-ħlas minn kwalunkwe persuna ta' kwalunkwe tali drittijiet u imposti li għandhom jiġihallu lill-Awtorità ta' Riżoluzzjoni fir-rigward ta' kwalunkwe kwistjoni prevista b'dan, jew taħt dan l-Att jew kwalunkwe regolamenti magħmula taħt dan l-artikolu, inkluż it-tnejja ta' pjanijiet ta' riżoluzzjoni, kif jista' jiġi preskritt";

(b) fis-subartikolu (2) tiegħu l-kliem "l-Awtorità" għandhom jiġu sostitwiti bil-kliem "l-Awtorità ta' Riżoluzzjoni".

Sostituzzjoni tal-artikolu 21 tal-Att prinċipali.

29. L-artikolu 21 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Tribunal dwar Servizzi Finanzjarji.

21. (1) Għandu jkun hemm Tribunal indipendenti li jissejjaħ it-"Tribunal dwar Servizzi Finanzjarji", f'dan l-Att ukoll imsejjaħ "it-Tribunal", li għandu jeżerċita u jaqdi l-funzjonijiet u s-setgħat mogħtija lilu bil-liġi.

(2) It-Tribunal għandu jikkonsisti f'panel wieħed jew iktar, li kull wieħed minnhom għandu jkun jikkonsisti f'*Chairperson* u żewġ (2) membri oħra, kif jistgħu jiġu maħtura mill-Ministru.

(3) Il-Ministru għandu jaħtar numru ta' membri sostituti, liema numru għandu jkun fid-diskrezzjoni tal-Ministru iżda ta' mhux inqas minn tnejn (2), skont il-ħtieġa, minn żmien għal żmien, u liema membri sostituti għandhom jissodisfaw il-kriterji skont is-subartikoli (4) jew (5) kif applikabbli u għandhom japplikaw is-subartikoli (6), (7), (8) u (9). F'każ ta' vakanza fil-kompożizzjoni ta' kwalunkwe panel tat-Tribunal jew għar-raġunijiet kontemplati fis-subartikolu (16) jew minhabba l-indispożizzjoni ta' kwalunkwe wieħed mill-membri ta' xi panel, inkluż iċ-*Chairperson*, il-Ministru għandu jaħtar membru sostitut skont l-iskeda, li jissodisfa r-rekwiżiti tal-vakanza skont is-subartikoli (4) jew (5), skont il-każ, u s-subartikolu (6).

(4) Iċ-*Chairperson* ta' kwalunkwe panel tat-Tribunal għandu jkun avukat li għal perjodu ta', jew perjodi li fl-aggregat jammontaw għal, mhux inqas minn tmax (12)-il sena jkun serva bħala avukat f'Malta jew serva bħala mħallf jew maġistrat f'Malta, jew li jkun parzjalment hekk ipprattika u parzjalment hekk serva.

(5) Bla hsara għal kwalunkwe dispożizzjoni oħra fi kwalunkwe liġi oħra fir-rigward tal-kompożizzjoni tat-Tribunal jew il-kwalifiki tal-membri tiegħu, iż-żewġ (2) membri l-oħra ta' kwalunkwe panel tat-Tribunal għandhom ikunu persuni li fil-fehma tal-Ministru jkollhom il-kapaċità u l-esperjenza meħtieġa fin-negozju jew regolamentazzjoni tas-servizzi finanzjarji, jew finanzi.

(6) (a) Persuna ma għandhiex tkun eliġibbli sabiex tiġi maħtura u sabiex isservi bħala *Chairperson* jew membru ta' kwalunkwe panel tat-Tribunal jekk hi:

(i) tkun detentur ta' liċenzja jew awtorizzazzjoni oħra maħruġa mill-Awtorità jew xort'oħra taqa' taħt il-funzjonijiet regolatorji jew superviżorji tal-Awtorità jew hi direttur, uffiċjal jew impjegat ta' tali detentur ta' liċenzja jew awtorizzazzjoni oħra; jew

(ii) tkun membru tal-Kamra tad-Deputati; jew

(iii) tkun legalment inkapaċitata jew interdetta; jew

(iv) tkun għet dikjarata falluta jew tkun għamlet kompożizzjoni jew arrangament mal-kredituri tagħha; jew

(v) tkun kisret kwalunkwe dispożizzjoni magħmula minn, jew taħt kwalunkwe liġi li tidher li għet abbozzata sabiex tipproteġi l-membri tal-pubbliku kontra it-telf finanzjarju minhabba dizonestà, inkompetenza jew għemil hażin li fir-rigward tal-għoti ta' servizzi finanzjarji jew fil-ġestjoni ta' kumpaniji; jew

(vi) kienet involuta fi kwalunkwe prattika ta' negozju li l-Ministru jqis li hi qarrieqa, oppressiva jew xort'oħra mhux xierqa, kemm jekk illegali jew xort'oħra, jew li xort'oħra tirrifletti telf ta' reputazzjoni dwar il-metodu ta' ġestjoni tagħha fit-tmexxija tan-negozju jew attivitajiet professjonali; jew

(vii) kienet ingaġġata fi, jew assoċjata ma' kwalunkwe prattika oħra ta' negozju jew xort'oħra għbet ruħha b'tali mod li jixhet dubju dwar il-kompetenza, l-integrità u s-serjetà tal-gudizzju tagħha; jew

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(viii) giet skwalifikata minn xi korp professjonali jew regulatorju; jew

(ix) ikollha interess finanzjarju jew interess ieħor li x'aktarx ikun ta' preġudizzju fit-twettiq, min-naħa tagħha, tal-funzjonijiet tagħha; jew

(x) tkun instabet hatja jew qed tiġi akkużata bit-twettiq ta' "reat rilevanti" kif imfisser fl-Att dwar ir-Rikavat mill-Kriminalità; jew

(xi) għal xi raġuni oħra ma tkunx persuna idonea u xierqa sabiex tokkupa dik il-kariga.

(b) Meta jiddetermina jekk persuna hijiex persuna idonea u xierqa, il-Ministru għandu jqis l-integrità ta' dik il-persuna, il-kompetenza u s-serjetà tal-ġudizzju sabiex tissodisfa r-responsabbiltajiet ta' dik il-kariga, ir-reputazzjoni u l-integrità tagħha u d-diligenza li biha x'aktarx tissodisfa daww ir-responsabbiltajiet.

(7) *Iċ-Chairperson* u l-membri l-oħra ta' kwalunkwe panel tat-Tribunal għandhom jibqgħu fil-kariga għal perjodu ta' hames (5) snin u ma jistgħux jitneħħew matul il-perjodu tal-ħatra tagħhom hliet għal kwalunkwe mir-raġunijiet imsemmija fis-subartikolu (6)(a)(i) sa (x) jew jekk jiġi ippruvat li ma humiex f'pożizzjoni li jaqdu l-funzjonijiet tal-kariga tagħhom, kemm jekk minħabba nuqqas fiżiku jew mentali jew kwalunkwe kawża oħra, jew imġiba ħażina ppruvata.

(8) *Iċ-Chairperson* u l-membri l-oħra ta' kwalunkwe panel tat-Tribunal għandhom jirċievu tali remunerazzjoni kif tista' tiġi determinata fl-istrument tal-ħatra tagħhom u dik ir-remunerazzjoni għandha tithallas mill-Fond Konsolidat.

(9) Ir-remunerazzjoni msemmija fis-subartikolu (8) ma għandhiex tinbidel matul iż-żmien tal-ħatra tal-membri li jkun qiegħed jirċeviha, hliet għal tali tibdil kif jista' jkun meħtieġ minn żmien għal żmien, sabiex f'kull żmien matul il-ħatra jinżamm il-proporzjon tar-remunerazzjoni mas-salarju ta' mħallef tal-qrati superjuri, eżistenti fid-data tal-ħatra.

(10) Il-proċedura għal appell lit-Tribunal magħmul skont id-dispożizzjonijiet tas-subartikoli (13) u (14) għandu jsir permezz ta' talbiet bil-miktub. Ir-rikors tal-appell għandu jispjega b'mod ċar ir-raġunijiet għall-appell u għandu jiġi ppreżentat lit-Tribunal sa mhux iktar tard minn tletin (30) jum mid-data li l-avviż tad-deċiżjoni jew l-azzjoni inkwistjoni jkun ġie notifikat lill-persuna aggravata. It-Tribunal għandu jinnotifika l-appell lill-awtorità kompetenti sa mhux aktar tard minn ħmistax (15)-il jum mid-data tal-preżentata tal-appell u l-awtorità kompetenti għandu jkollha tletin (30) jum mid-data minn meta tkun ġiet notifikata bl-appell sabiex tippreżenta r-risposta tagħha.

(11) Ir-rikors għandu jkun fih il-provi kollha, inkluż kull affidavit ġuramentat u dokumenti li l-persuna aggravata biġsiebha tippreżenta quddiem it-Tribunal u t-talbiet bil-miktub kollha li jsostnu l-appell. Ir-risposta mill-awtorità kompetenti għandha bl-istess mod ikun fiha l-provi kollha, kull affidavit ġuramentat, dokument u t-talbiet bil-miktub li biġsiebha tissottometti fid-difiża tagħha. Ir-rikors, risposta, talbiet bil-miktub, affidavits ġuramentati, provi u dokumenti oħra għandhom jiġu preżentati fir-reġistru tat-Tribunal.

(12) (a) It-Tribunal għandu jipproċedi billi jittratta l-appell quddiemu bl-akbar urġenza u għandu jappunta l-appell għas-smiġh f'data fil-viċin, liema data fl-ebda każ ma għandha tkun ta' aktar tard minn tliet (3) xhur mill-preżentata tal-appell.

(b) L-appell għandu jiġi deċiż fi żmien tnax (12)-il xahar mid-data appuntata għall-ewwel smiġh tal-appell u ma għandu jingħata l-ebda differiment lil hinn mill-imsemmija tnax (12)-il xahar, ħlief għal differiment wieħed għal raġuni eċċezzjonali u ġustifikata li għandha tiġi registrata mit-Tribunal, u tali differiment għandu jkun għal data li ma tkunx aktar tard minn tliet (3) xhur mill-imsemmija tnax (12)-il xahar.

(13) It-Tribunal għandu jisma' appelli minn deċiżjonijiet tal-awtorità kompetenti u għandu jkollu ġurisdiżjoni sħiħa sabiex jirrevedi tali deċiżjonijiet fuq punti ta' liġi u ta' fatt:

Iżda ma għandu jkun hemm l-ebda appell minn kwalunkwe deċiżjoni li timponi penali amministrattiva li ma teċċedix elf euro (€1,000) u minn kwalunkwe ċanfira jew twissija.

(14) It-Tribunal għandu wkoll jittratta appelli minn deċiżjonijiet tal-Awtorità ta' Riżoluzzjoni u jkollu ġurisdizzjoni sħiħa biex jirrevedi tali deċiżjonijiet fuq punti ta' liġi u ta' fatt:

Iżda fir-rigward ta' appell minn deċiżjoni tal-Awtorità ta' Riżoluzzjoni, għat-teħid ta' miżura għall-ġestjoni ta' kriżi, it-Tribunal għandu juża l-valutazzjonijiet ekonomiċi kumplessi tal-fatti mwettqa mill-Awtorità ta' Riżoluzzjoni bħala bażi għall-valutazzjoni tiegħu stess ta' dik id-deċiżjoni:

Iżda wkoll in-natura kumplessa ta' tali valutazzjonijiet ekonomiċi ma għandhiex tipprevjeni lit-Tribunal milli jeżamina jekk il-prova li fuqha bbażat ruħha l-Awtorità ta' Riżoluzzjoni hijiex fattwalment korretta, ta' min jorbot fuqha u konsistenti u jekk dik il-prova jkunx fiha l-informazzjoni kollha rilevanti li għandha titqies sabiex ssir valutazzjoni ta' sitwazzjoni kumplessa, u jekk hijiex kapaċi li tissostanzja l-konklużjonijiet maħruġa minnha.

(15) It-Tribunal għandu jiżgura li s-smiġħ tas-seduti kollha tiegħu u l-għoti tad-deċiżjonijiet kollha tiegħu huma miftuħa u aċċessibbli għall-pubbliku, inkluż permezz ta' mezzi elettronici jew mezzi ta' komunikazzjoni oħra vijabbli, kif iqis xieraq, sakemm it-Tribunal ma jqisx, wara li jikkunsidra n-natura eċċezzjonali tal-kwistjoni quddiemu, li jkun idoneju u xieraq li jmexxi l-proċeduri jew xi parti minnhom fil-maġhluq, u fi kwalunkwe tali każ id-deċiżjoni tat-Tribunal għandha dejjem tingħata fil-pubbliku.

(16) Iċ-*Chairperson* jew il-membri l-oħra ta' kwalunkwe panel tat-Tribunal jistgħu jiġu rikuzati jew jistgħu jastjenu mis-smiġħ tal-kawża f'dawk iċ-ċirkostanzi li jiskwalifikaw imħallef f'kawża ċivili u f'tali każ iċ-*Chairperson* jew membru għandu jiġi sostitwit minn membru ieħor li jkun maħtur mill-Ministru skont is-subartikolu (3):

Iżda għall-finijiet tan-negozju tal-assigurazzjoni, tali membru għandu jiġi sostitwit b'membri ieħor maħtur mill-Ministru, li għandu jkollu t-tagħrif u l-esperjenza meħtieġa skont l-artikolu 57(1) tal-Att dwar il-Kummerċ tal-Assigurazzjoni.

Kap. 403.

(17) It-Tribunal għandu jkollu s-setgħa li jħarrek ix-xhieda u li jagħtihom il-ġurament, u li jaħtar kwalunkwe espert li jista' jqis meħtieġ sabiex jiddeċiedi l-każ quddiemu.

(18) (a) B'żieda mat-talbiet bil-miktub, affidavits ġuramentati, provi u dokumenti sottomessi, it-Tribunal jista', kull meta jqis taħt iċ-ċirkostanzi li jkun spedjenti li jagħmel dan, jippermetti lill-partijiet jipprezentaw talba addizzjonali bil-miktub f'tali żmien kif għandu jordna it-Tribunal.

(b) It-Tribunal jista' wkoll jippermetti jew jesigi li xi waħda mill-partijiet tixhed oralment jew tirispondi għal kwalunkwe mistoqsijiet jew sabiex tikkjarifika kwalunkwe kwistjonijiet, kull meta huwa jqis li jkun spedjenti fiċ-ċirkostanzi li jagħmel dan, qabel ma jagħti s-sentenza:

Iżda t-Tribunal għandu jirrifjuta kull prova li jqis li tkun irrilevanti jew superfluwa.

(19) Mas-smiġħ tal-appell lilu pprezentat taħt kwalunkwe liġi, it-Tribunal għandu jkollu s-setgħa:

(a) li jikkonferma, jannulla jew ivarja d-deċiżjoni tal-awtorità kompetenti jew tal-Kumitat ta' Riżoluzzjoni taħt il-liġi rilevanti u li jagħti ordnijiet li jkunu fis-setgħa tiegħu taħt dan l-Att jew kwalunkwe liġi oħra lill-imsemmija awtorità kompetenti jew lill-Kumitat ta' Riżoluzzjoni sabiex jimplimentaw d-deċiżjoni tat-Tribunal;

(b) bla ħsara għad-dispożizzjonijiet tal-artikolu 17, li jeħtieġ il-produzzjoni ta' kwalunkwe dokument jew informazzjoni oħra;

(ċ) li jordna l-ħlas tal-ispejjeż minn kwalunkwe parti fl-appell.

(20) Fin-nuqqas ta' kwalunkwe regoli, it-Tribunal jista' jirregola il-proċeduri tiegħu stess u jista':

(a) jieħu dawk il-miżuri kollha u joħroġ dawk l-ordnijiet kollha li jqis xierqa sabiex jiżgura t-tmexxija tajba tas-seduti tat-Tribunal, inkluż permezz ta' mezzi elettronici jew mezzi vijabbli oħra ta' komunikazzjoni;

(b) jippermetti li l-prezentata ta' dokumenti fi proċedimenti quddiemu u n-notifika tagħhom lill-partijiet, isiru permezz ta' mezzi elettronici u f'tali format kif jista' jidhirlu xieraq;

(ċ) jikkomunika mal-partijiet permezz ta' mezzi elettronici jew posta konvenzjonali, fid-diskrezzjoni tiegħu;

(d) jirċievi l-atti kollha, inklużi appelli u risposti għalihom, bit-trażmissjoni tal-att oriġinali debitament iffirmit, b'mezzi elettronici;

(e) jirċievi d-dritt preskritt permezz ta' hlas elettroniku jew mezzi oħra; u

(f) jiffissa u jmexxi s-smiġħ tas-seduti tiegħu u jagħti d-deċiżjonijiet tiegħu b'tali mezzi elettronici jew mezzi oħra ta' komunikazzjoni vijabbli, kif iqis xieraq:

Iżda kwalunkwe nuqqas jew ħsara lill-mezzi elettronici jew mezzi oħra ta' komunikazzjoni, inklużi sistemi ta' vidjokonferenzi, ma għandhomx jirrendu is-smiġħ null u bla effett:

Iżda wkoll in-notifika permezz tal-posta elettronika għandha titqies li tkun saret fid-data li fiha l-att kien ġie trażmess permezz tal-mezzi elettronici:

Iżda wkoll iċ-*Chairperson* tat-Tribunal jista' jordna li l-użu ta' mezzi elettronici għandu japplika għall-proċeduri kollha fir-rigward ta' xi appell partikolari, inklużi l-preżentata u n-notifika ta' atti u dokumenti u t-tmexxija tas-smiġħ tas-seduti.

(21) Għandu jkun hemm appell lill-Qorti tal-Appell fuq kwistjoni ta' liġi biss, minn deċiżjoni tat-Tribunal. L-appell għandu jsir sa mhux aktar tard minn għoxrin (20) jum mid-data tad-deċiżjoni tat-Tribunal. Fid-determinazzjoni ta' tali appell, il-Qorti tal-Appell għandu jkollha s-setgħat kollha tat-Tribunal sabiex tagħti l-ordnijiet.

(22) Il-Ministru jista' jagħmel regolamenti li jirregolaw il-proċeduri u d-drittijiet sabiex isiru u jitmexxew l-appelli quddiem it-Tribunal, iżda fin-nuqqas ta' tali regolamenti u bla ħsara għar-regoli ta' ġustizzja naturali, it-Tribunal għandu jirregola l-proċedura tiegħu stess.

(23) Il-Ministru responsabbli għall-ġustizzja jista' b'regolamenti magħmula taħt dan is-subartikolu jistabbilixxi d-drittijiet li għandhom jithallsu fir-registru tal-qorti fir-rigward tal-preżentata ta' atti ġudizzjarji marbuta ma' appelli lill-Qorti ta' Appell taħt dan l-artikolu:

Iżda sakemm tali drittijiet jiġu hekk stabbiliti mill-imsemmi Ministru, għandhom japplikaw id-drittijiet elenkati fl-Iskeda A li tinsab mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(24) Appell magħmul taħt dan l-artikolu ma għandux jissospendi l-operat ta' kwalunkwe deċiżjoni jew direttiva li minnha jsir l-appell:

Iżda kwalunkwe deċiżjoni sabiex tiġi kkanċellata liċenzja jew awtorizzazzjoni ma għandhiex issiroperattiva qabel ma jiskadi ż-żmien li fih jista' jsir l-appell taħt dan l-artikolu u, jekk isir appell f'tali żmien, id-deċiżjoni għandha ssir operattiva fid-data tad-deċiżjoni tat-Tribunal li tiċhad l-appell, jew fid-data li fiha l-appell jiġi abbandunat:

Iżda wkoll fejn appell ikun jikkonċerna xi deċiżjoni tal-Kumitat ta' Riżoluzzjoni għat-tehidta' mizura għall-ġestjoni ta' kriżi:

(a) il-preżentata ta' appell minn tali deċiżjoni ma għandha tinvolvi l-ebda sospensjoni awtomatika tal-effetti tad-deċiżjoni kontestata; u

(b) id-deċiżjoni tal-Kumitat ta' Riżoluzzjoni għandha tkun tista' tiġi infurzata minnufih u din għandha tagħti lok għal preżunzjoni konfutabbli li s-sospensjoni tal-infurzar tagħha tmur kontra l-interess pubbliku.

(25) F'dan l-artikolu, "awtorità kompetenti" tirreferi għall-Awtorità taħt dan l-Att u taħt kull liġi oħra li għall-finijiet tagħha din tinħatar bħala l-awtorità kompetenti."

30. Minnufih wara l-artikolu 21 tal-Att prinċipali, kif sostitwit, għandu jiġi miżjud l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Att prinċipali.

"Registru tat-Tribunal dwar Servizzi Finanzjarji.

21A. (1) Għandu jkun hemm registru biex iservi lit-Tribunal dwar Servizzi Finanzjarji lighandu jkun magħruf bħala ir-"Registru tat-Tribunal dwar Servizzi Finanzjarji".

(2) (a) Ir-Registru għandu jkun depożitarju kompetenti sabiex jirċievi l-atti kollha, talbiet bil-miktub u dokumenti oħra li, skont dan l-Att jew kwalunkwe liġi oħra għandhom jiġu ppreżentati fit-Tribunal. Kwalunkwe dispożizzjoni fi kwalunkwe liġi li tagħmel referenza għall-preżentata ta' kwalunkwe att jew dokument lit-Tribunal għandha tintfieh bħala referenza għall-preżentata ta' tali att jew dokument fir-registru hawn stabbilit:

Iżda kwalunkwe att, talbiet bil-miktub jew dokumenti oħra pprezentati b'mezzi elettronici għandhom, għall-finijiet u għanijiet kollha tal-liġi, jitqiesu li jkunu ġew pprezentati direttament fir-reġistru u kwalunkwe kopja tagħhom maħruġa mir-reġistru għandha, għall-finijiet u għanijiet kollha tal-liġi, titqies li hi l-original.

(b) L-atti kollha, talbiet bil-miktub u dokumenti pprezentati fit-Tribunal sa mid-data li fiha ġie stabbilit, għandhom jiġu trasferiti lir-reġistru u l-arkivji tat-Tribunal.

(3) (a) Il-Ministru għandu jahtar persuna sabiex taġixxi bħala "Direttur Eżekuttiv tar-Reġistru tat-Tribunal dwar Servizzi Finanzjarji".

(b) Id-Direttur Eżekuttiv għandu jkun persuna li fl-opinjoni tal-Ministru hi idonea u xierqa sabiex ikollha dik il-kariga u li jkollha il-kwalifiki, esperjenza u kompetenza meħtieġa sabiex taqdi r-responsabbiltajiet ta' dik il-kariga. Fid-determinazzjoni dwar jekk persuna tkunx idonea u xierqa, il-Ministru għandu jqis l-integrità ta' dik il-persuna, ir-reputazzjoni u l-integrità tagħha u d-diliġenza li biha x'aktarx twettaq ir-responsabbiltajiet tagħha.

(ċ) Il-Ministru jista' b'regolamenti jippreskrivi l-funzjonijiet, setgħat u dmirijiet li għandhom jitwettqu mid-Direttur Eżekuttiv, il-kwalifiki u l-kriterji għall-ħatra u l-ħwejjeġ kollha anċillari għall-istess.

(4) Id-Direttur Eżekuttiv għandu jkun il-kap tar-Reġistru u għandu jkun responsabbli għall-ġestjoni u l-amministrazzjoni tar-reġistru u tal-arkivji u għall-affarijiet kollha li huma meħtieġa għall-iffunzjonar tajjeb tat-Tribunal. Id-Direttur Eżekuttiv jista' jkun assistit minn tali ufficjali u persunal ieħor kif il-Ministru jista' jiddetermina.

(5) Bla ħsara għall-funzjonijiet, setgħat u dmirijiet li jistgħu, b'regolamenti, jkunu mogħtija lilu, id-Direttur Eżekuttiv għandu:

(a) jirċievi u jirreġistra l-atti kollha, it-talbiet bil-miktub u dokumenti oħra li għandhom jiġu pprezentati fit-Tribunal skont kwalunkwe liġi;

(b) iżomm reġistru tal-każijiet u proċeduri kollha quddiem it-Tribunal;

(ċ) jirreġistra l-ordnijiet u deċiżjonijiet tat-Tribunal;

(d) iżomm rekord u minuti tal-proċeduri waqt is-seduti u, jew is-smiġħ fit-Tribunal;

(e) jirreġistra kwalunkwe talba verbali magħmula lit-Tribunal minn kwalunkwe parti fil-proċeduri;

(f) joħroġ kopji veri ċċertifikati ta' kwalunkwe att jew dokument li jeżisti fir-reġistru, inklużi tali atti u dokumenti li setgħu ġew ippreżentati permezz ta' mezzi elettronici; u

(g) iżomm reġistru bl-indirizzi elettronici tal-persuni kollha li jipparteċipaw fil-proċeduri tal-appell u tali reġistru għandu jkun disponibbli lill-persuni kollha li jipparteċipaw fl-imsemmi appell.

(6) Id-Direttur Eżekuttiv għandu jkun responsabbli għan-notifika u eżekuzzjoni ta' kwalunkwe atti u ordnijiet oħra mogħtija mit-Tribunal u li jwettaq tali dmirijiet oħra li jistgħu jiġu assenjati lill-miċ-*Chairperson* tat-Tribunal.

(7) Id-Direttur Eżekuttiv għandu jkun responsabbli għaż-żamma sigurta tal-atti u d-dokumenti kollha ppreżentati fir-reġistru.

(8) Fit-twettiq tad-dmirijiet tiegħu, id-Direttur Eżekuttiv għandu jirrapporta lil, u jircievi istruzzjonijiet miċ-*Chairperson* tat-Tribunal fir-rigward ta' kwalunkwe proċeduri quddiem it-Tribunal u fir-rigward ta' kwalunkwe att u, jew dokument li jiffirma parti minn tali proċeduri.

(9) It-Tribunal għandu jzomm arkivji, inkluż f'format elettroniku, li fih jiġu depożitati r-rekords, l-atti, it-talbiet bil-miktub u d-dokumenti tal-każijiet u l-proċeduri tat-Tribunal. Il-Ministru jista' jagħmel regolamenti sabiex jirregola l-arkivji u l-ġestjoni tagħhom.

(10) Id-Direttur Eżekuttiv għandu jkun responsabbli għall-amministrazzjoni tal-arkivji u ż-żamma xierqa fihom ta' dokumenti, l-aċċess għalihom, l-għamla u l-awtentifikazzjoni ta' kopji u għall-affarjiet kollha li jirrigwardaw l-arkivji.

(11) Il-Ministru jista' b'regolamenti jippreskrivi l-kwistjonijiet kollha li huma meħtieġa għall-funzjonament xieraq tar-reġistru."

31. Fil-paragrafu (d) tal-artikolu 22 tal-Att prinċipali, il-kliem "mill-Awtorità." għandhom jiġu sostitwiti bil-kliem "mill-Awtorità:" u minnufih wara għandu jiġi miżjud il-proviso ġdid li ġej:

Emenda tal-artikolu 22 tal-Att prinċipali.

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"Iżda d-dhul li jinkiseb mill-ħlas ta' penali amministrattivi għandu jiġi trasferit lill-Fond Konsolidat."

Emenda tal-artikolu 23 tal-Att prinċipali.

32. L-artikolu 23 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu l-kliem "Il-Kumitat Eżekuttiv" għandhom jiġu sostitwiti bil-kliem "L-Uffiċjal Eżekuttiv Ewlieni";

(b) fis-subartikolu (4) tiegħu l-kliem "il-Kumitat Eżekuttiv jista' jadotta estimi supplimentari" għandhom jiġu sostitwiti bil-kliem "l-Uffiċjal Eżekuttiv Ewlieni jista' jara li jiġu mhejjja estimi supplementari".

Emenda tal-artikolu 28 tal-Att prinċipali.

33. Fl-artikolu 28 tal-Att prinċipali l-kliem "kmieni kemm jista' jkun iżda mhux aktar tard minn sitt xhur" għandhom jiġu sostitwiti bil-kliem "kmieni kemm jista' jkun, iżda mhux aktar tard minn sitt (6) xhur".

Sostituzzjoni tal-artikolu 29 tal-Att prinċipali.

34. L-artikolu 29 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Eżenzjoni minn responsabbiltà.

29. (1) L-Awtorità, il-membri tal-Bord tal-Gvernaturi meta jkunu qegħdin jaġixxu fi kwalunkwe funzjoni assenjata lill-Bord taħt kwalunkwe dispożizzjoni ta' dan l-Att, kwalunkwe korp jew organu ieħor tal-Awtorità, inkluż kwalunkwe kumitat jew sottokumitat stabbilit taħt dan l-Att, u kwalunkwe membru jew uffiċjal ta' dak il-korp jew organu u l-uffiċjali u l-impjegati tal-Awtorità, ma għandhomx ikunu responsabbli għal danni fir-rigwardta' dak kollu li sar jew li naqas milli jsir fil-qadi tagħhom jew fil-qadi intiż ta' kwalunkwe funzjoni, jew xort'oħra fil-qadi tad-dmirijiet uffiċjali tagħhom, diment li jintwera li l-att jew in-nuqqas ma jkunx sar, jew naqas milli jsir, skont il-każ, b'kondotta ħażina intenzjonata.

Kap. 652.

(2) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (1), fil-każ ta' kwalunkwe proċeduri gūdzjarji kontra xi membru tal-Bord tal-Gvernaturi jew xi membru jew uffiċjal ta' kwalunkwe korp jew organu tal-Awtorità, jew ta' kwalunkwe kumitat jew sottokumitat stabbilit taħt dan l-Att, jew kontra xi uffiċjal jew impjegat tal-Awtorità, fir-rigward ta' talba għal danni għal kwalunkwe att magħmul jew li naqas milli jsir fil-qadi jew il-qadi pretiż tal-funzjoni tagħhom jew xort'oħra fit-twettiq tad-dmirijiet uffiċjali taħhom, id-dispożizzjonijiet applikabli tal-Att dwar ir-Responsabbiltà ta' persuni li jokkupaw Kariga Pubblika u ta' Entitajiet Pubbliċi għandhom ukoll japplikaw.

(3) Għall-finijiet ta' dan l-artikolu:

(a) il-frazi "dan l-Att" għandha tinkludi kwalunkwe Att ieħor amministrat mill-Awtorità u kwalunkwe regolamenti jew regoli magħmula taħtu; u

(b) il-frazzjiet "membri", "kwalunkwe membru jew uffiċjal" u "uffiċjali u impjegati" għandhom jinkludu membri preċedenti, kwalunkwe membru jew uffiċjal preċedenti, u uffiċjali u impjegati preċedenti, rispettivament:

Iżda l-att jew l-ommissjoni tagħhom iridu jkunu saru jew naqsu milli jsiru matul it-twettiq tal-funzjonijiet tagħhom, jew b'xi mod ieħor fl-eżerċizzju tad-dmirijiet uffiċjali tagħhom matul tali perjodu ta' żmien meta kienu qed iservu lill-Awtorità, u jintwera li l-att jew l-ommissjoni ma sarux jew naqsu milli jsiru, skont il-każ, permezz ta' mġiba ħazina intenzjonata.

35. Minnufih wara l-artikolu 31 tal-Att prinċipali, għandu jiġi miżjud l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Att prinċipali.

"Dispożizzjonijiet tranżitorji addizzjonali ukostruzzjoni tar-referenzi.

32. (1) Kwalunkwe deċiżjoni meħuda mill-Kumitat Eżekuttiv, jew minn sottokumitat tiegħu, jew minn kwalunkwe uffiċjal tal-Awtorità li lilhom il-Kumitat Eżekuttiv ikun iddelega setgħat ta' teħid ta' deċiżjonijiet, qabel il-bidu fis-seħħ ta' dan l-artikolu, għandhom ikomplu japplikaw.

(2) Kwalunkwe deċiżjoni li tirrigwarda l-approvazzjoni ta' prospetti u l-ammissibbiltà għall-elenkar, meħuda mill-Bord tal-Gvernaturi jew minn kwalunkwe kumitat, sottokumitat jew ufficjal tal-Awtorità li lilhom il-Bord tal-Gvernaturi ddelega setgħat ta' teħid ta' deċiżjonijiet qabel il-bidu fis-seħħ ta' dan l-artikolu, għandhom ikomplu japplikaw.

(3) Għall-finijiet ta' dan l-artikolu, il-kelma "deċiżjoni" għandha tinkludi liċenzji maħruġa, approvazzjonijiet u awtorizzazzjonijiet mogħtija, u kwalunkwe azzjoni regolatorja meħuda.

(4) Kwalunkwe referenza fi kwalunkwe liġi għall-Kumitat ta' Verifika għandha tinqara u tinftiehem bħala referenza għall-Kumitat ta' Verifika u Riskju kif imfisser fl-artikolu 2."

Emenda tal-Ewwel Skeda li tinsab mal-Att prinċipali.

36. L-Ewwel Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

(a) il-partita 2 tagħha għandha tiġi sostitwita bil-partita ġdida li ġej:

"Il-Kumitat ta' Rizoluzzjoni.

2. (1) Il-Kumitat ta' Rizoluzzjoni għandu jwettaq il-funzjonijiet tal-Awtorità tar-Rizoluzzjoni. Il-Kumitat għandu jiżgura li jkun hemm konformità sħiħa u kompluta mal-htigijiet u l-obbligi preskritti b'regolamenti magħmula taħt dan l-Att, kemm direttament, jew b'kollaborazzjoni mal-awtoritajiet Ewropej u ta' pajjiżi terzi ta' rizoluzzjoni, u jista', għal tali finijiet, jeżerċita kwalunkwe waħda mis-setgħat tiegħu taħt dan l-Att u taħt kwalunkwe regolamenti magħmula taħtu.

(2) Il-Kumitat ta' Rizoluzzjoni għandu jkun magħmul minn ħames (5) persuni kif ġej:

(a) żewġ (2) membri maħtura mill-Bord tal-Gvernaturi minn fost il-membri tiegħu;

(b) l-Ufficjal Deputat Kap Eżekuttiv responsabbli għall-infurzar;

(ċ) l-Ufficjal Deputat Kap Eżekuttiv responsabbli għall-affarjiet legali; u

(d) persuna maħtura mill-Ministru

responsabbli għall-finanzi.

Il-Bord tal-Gvernaturi għandu jahtar *Chairperson* u Deputat *Chairperson* minn fost il-membri tal-Kumitat.

(3) (a) Il-Kumitat ta' Riżoluzzjoni għandu jaġixxi b'mod indipendenti mill-organi u Taqsimiet tal-Awtorità.

(b) Il-Kumitat ta' Riżoluzzjoni għandu jirrapporta lill-Bord tal-Gvernaturi dwar l-oġettivi tiegħu u t-tmexxija tal-funzjonijiet tiegħu.

(4) Il-quorum meħtieġ għal-laqgħat tal-Kumitat ta' Riżoluzzjoni għandu jkun ta' mhux inqas minn tliet (3) membri, li jinkludi *Chairperson* jew, fl-assenza tiegħu, id-Deputat *Chairperson*. Id-deċiżjonijiet tal-Kumitat għandhom jittieħdu b'maġġoranza tal-voti tal-membri preżenti, u f'każ ta' voti indaqs, *Chairperson* jew id-Deputat *Chairperson* li jippresjedi l-laqgħa għandu jkollu vot oriġinali kif ukoll it-tieni vot jew vot deċiżiv. Il-Kumitat għandu jirregola l-proċeduri tiegħu stess.

(5) *Chairperson* tal-Kumitat ta' Riżoluzzjoni għandu jahtar uffiċjal tal-Awtorità sabiex jaġmilha ta' segretarju għall-Kumitat ta' Riżoluzzjoni għal tali tul ta' żmien u taht dawk it-termini u kondizzjonijiet kif l-Uffiċjal Eżekuttiv Ewlieni jista' jqis xieraq.

(6) Għandu jkun id-dmir tas-Segretarju li jaġmel it-tnejjiet meħtieġa għal-laqgħat tal-Kumitat ta' Riżoluzzjoni u li jżomm il-minuti ta' dawk il-laqgħat.

(7) Il-Kumitat ta' Riżoluzzjoni jista' jistieden kwalunkwe persuna, inkluż mill-Bank Ċentrali ta' Malta u minn kwalunkwe awtorità kompetenti lokali, korp jew entità oħra, u jista' jeħtieġ li kwalunkwe uffiċjal tat-Taqsima ta' Riżoluzzjoni jew tal-Awtorità jattendi l-laqgħa tal-Kumitat ta' Riżoluzzjoni u jipparteċipa fid-diskussjoni.";

(b) il-partita 4 tagħha għandha tiġi sostitwita bil-partita ġdida li ġejja:

"Funzjonijiet u setgħat tal-Kumitat ta' Riżoluzzjoni.

4. (1) Bla ħsara għal kwalunkwe funzjoni jew

setgħa oħra mogħtija lilu b'dan l-Att jew bi kwalunkwe liġi jew regolamenti oħra, il-Kumitat ta' Riżoluzzjoni għandu l-funzjoni li:

(a) jirrevedi u jiddeċiedi dwar ir-rakkomandazzjonijiet li jsirulu mit-Taqsima ta' Riżoluzzjoni stabbilita skont din l-Iskeda, dwar deċiżjonijiet ta' riżoluzzjoni;

(b) jikkoordina u jikkonsulta, dwar affarijiet li jkollhom x'jaqsmu mal-estimi u r-riżorsi mal-Awtorità;

(c) jiskambja informazzjoni, fejn meħtieġ, mal-Awtorità;

(d) iwettaq tali funzjonijiet oħra li jiġu assenjati lilu b'dan l-Att jew bi kwalunkwe regolamenti magħmula taħtu;

(e) japplika miżuri ta' riżoluzzjoni meta istituzzjoni tkun qiegħda tfalli jew x'aktarx li ser tfalli;

(f) jikkoopera mill-qrib mal-Awtorità u jikkonsulta mal-Awtorità fit-tnejn, l-ippjanar u l-applikazzjoni ta' deċiżjonijiet ta' riżoluzzjoni, u fi kwalunkwe każ ieħor fejn tkun meħtieġa tali kooperazzjoni jew konsultazzjoni mis-CRD, mill-BRRD jew mis-CRR;

(g) jikkoopera mill-qrib u jikkonsulta mal-awtoritajiet, kemm lokali kif ukoll barranin, sabiex jikkoordina miżuri ta' riżoluzzjoni sabiex iħares l-istabbiltà finanzjarja fl-Istati Membri kollha u fl-Istati taż-ŻEE milquta u, meta xi grupp transkonfinali jkun qiegħed ifalli jew x'aktarx li ser ifalli, sabiex jikseb l-eżitu l-aktar effettiv għall-grupp kollu fl-intier tiegħu u fil-każijiet l-oħra kollha meta kwalunkwe tali kooperazzjoni jew konsultazzjoni tkun meħtieġa mis-CRD, mill-BRRD jew mis-CRR;

(h) jikkoopera mal-awtoritajiet ta' riżoluzzjoni Ewropej u ma' awtoritajiet ta' riżoluzzjoni ta' pajjiżi terzi dwar kwistjonijiet marbuta ma' riżoluzzjoni;

(i) iwaqqaf arrangament ta' finanzjament dwar rizzoluzzjoni permezz ta' kontribuzzjonijiet obbligatorji mill-istituzzjonijiet;

(j) jikkomunika lill-Bord tal-Gvernaturi d-deċiżjonijiet tiegħu ta' rizzoluzzjoni li jeħtiegu l-implimentazzjoni;

(k) jimplimenta d-deċiżjonijiet ta' rizzoluzzjoni msemmija fil-paragrafu (j);

(l) jassisti lill-Awtorità ta' Rizzoluzzjoni fuq kwalunkwe haġa li taqa' taħt din it-Taqsima, li fuqha l-Awtorità ta' Rizzoluzzjoni tkun qiegħda tfittex l-għajnuna.

(2) Fit-twettiq tal-funzjonijiet generali tiegħu, il-Kumitat ta' Rizzoluzzjoni għandu:

(a) jiżgura li ma għandu jkun hemm l-ebda kunflitt ta' interess mal-funzjonijiet ta' sorveljanza u funzjonijiet oħra tal-Awtorità;

(b) jikseb l-approvazzjoni bil-miktub tal-Ministru, wara li jgħarraf lill-Bord tal-Gvernaturi u lill-Bank Ċentrali ta' Malta, qabel ma jittieħdu kwalunkwe deċiżjonijiet li jista' jkollhom impatt dirett fiskali jew li jkollhom implikazzjonijiet sistematiċi;

(ċ) javża lill-Ministru, wara li jkun għarraf lill-Bord tal-Gvernaturi, dwar kwalunkwe deċiżjonijiet meħuda minnu skont dan l-Att.

(3) Il-Kumitat ta' Rizzoluzzjoni għandu jkollu s-setgħat kollha meħtieġa sabiex ikun jista' jwettaq il-funzjonijiet tiegħu u biex jiżgura l-implimentazzjoni effettiva tad-dispożizzjonijiet tal-BRRD.

(4) Il-Kumitat ta' Rizzoluzzjoni għandu:

(a) jiġbor il-kontribuzzjonijiet mill-istituzzjonijiet għall-arrangamenti ta' finanzjament dwar ir-rizzoluzzjoni;

(b) jagħmel referenzi lid-Direttorat tal-Infurzar li jirrakkomanda l-impożizzjoni ta' penali amministrattivi fuq:

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(i) istituzzjonijiet, għal nuqqas li jikkonformaw mad-deċiżjonijiet indirizzati lilhom;

(ii) kwalunkwe persuna li l-imġiba tagħha, fil-fehma tal-Kumitat ta' Riżoluzzjoni, tammonta għal ksur ta' kwalunkwe dispożizzjonijiet ta' dan l-Att jew ta' kwalunkwe regolamenti jew Regoli maħruġa taħtu li jittrasponu l-BRRD;

(iii) kwalunkwe persuna li tkun naqset milli tkun konformi ma' xi direttiva maħruġa mill-Kumitat ta' Riżoluzzjoni taħt dan l-Att jew ma' kwalunkwe regolamenti jew Regoli maħruġa taħtu li jittrasponu l-BRRD; u

(ċ) jippubblika, jiġbor u jirkupra kwalunkwe penali amministrattivi imposti minnu skont din il-partita.

L.S. 330.09. (5) Il-Kumitat ta' Riżoluzzjoni għandu wkoll is-setgħa li jahtar manijer speċjali u stimatur indipendenti skont ir-rekwiżiti tar-Regolamenti dwar Rkupru u Riżoluzzjoni.";

(ċ) minnufih wara l-partita 4 tagħha, kif sostitwita, għandha tiġi miżjuda l-partita ġdida li ġejja:

"Penali amministrattivi.

4A. (a) Kwalunkwe ksur ta' xi dispożizzjoni ta' dan l-Att jew ta' kwalunkwe regolamenti jew regoli maħruġa taħtu li jittrasponu l-BRRD u kwalunkwe nuqqas ta' konformità ma' xi direttiva maħruġa mill-Kumitat ta' Riżoluzzjoni taħt dan l-Att jew taħt kwalunkwe regolamenti jew Regoli li jittrasponu l-BRRD għandhom ikunu soġġetti għal penali amministrattiva ta':

(i) sa darbtejn l-ammont tal-benefiċċju li jinkiseb mill-ksur, fejn dak il-benefiċċju jkun jista' jiġi stabbilit;

(ii) fil-każ ta' persuna fiżika, sa ħames miljun euro (€5,000,000); jew

(iii) fil-każ ta' persuna ġuridika, sa għaxra fil-mija (10%) mill-valur tal-bejgħ nett annwali totali tal-impriża matul is-sena kummerċjali preċedenti inkluż id-dhul gross li jkun jikkonsisti f'imghax riċevut u dhul ieħor simili, dhul minn ishma u titoli oħra b'rendiment varjabbli jew fiss, u dhul jew drittijiet li jiġu riċevuti skont l-Artikolu 316 tas-CRR. Fil-każ ta' xi sussidjarja ta' impriża prinċipali, il-valur tal-bejgħ rilevanti jkun dak il-valur tal-bejgħ li jirriżulta mill-kontijiet konsolidati tal-impriża prinċipali ewlenija fis-sena kummerċjali preċedenti.

(b) Fejn l-Awtorità ta' Riżoluzzjoni tiddeċiedi li timponi penali amministrattiva kif imsemmi f'dan il-paragrafu u ma jsirx appell għal din id-deċiżjoni, jew fejn tali deċiżjoni tkun giet appellata fi żmien ħmistax (15)-il jum mid-deċiżjoni ta' tali appell, il-penali amministrattiva jekk ikkonfermata, jew kif imnaqqsa jew miżjuda fl-appell, għandha tkun dovuta lill-Awtorità ta' Riżoluzzjoni. Man-notifika ta' kopja tad-deċiżjoni li timponi l-penali jew dik tal-appell, skont il-każ, permezz ta' att ġudizzjarju lill-persuna indikata fid-deċiżjoni, l-imsemmija deċiżjoni għandha tikkostitwixxi titolu eżekuttiv għall-effetti u għanjiet kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivil. L-Awtorità ta' Riżoluzzjoni tista' tistitwixxi proċeduri quddiem il-qrati ċivili sabiex tirkupra bħala dejn l-ammonttal-penali amministrattiva li tkun dovuta lilha:

Kap. 12.

Iżda d-dhul miksub mill-ħlas ta' penali amministrattivi għandu jiġi trasferit lill-Fond Konsolidat.

(ċ) L-impożizzjoni ta' penali amministrattiva mill-Awtorità ta' Riżoluzzjoni skont din il-partita għandha tkun bla ħsara għall-konsegwenzi ta' kwalunkwe att jew ommissjoni ta' min jinsab ħati taħt il-liġi ċivili jew kriminali:

Iżda fil-każijiet kollha fejn l-Awtorità ta' Riżoluzzjoni timponi penali amministrattiva fir-rigward ta' kull ma sar jew naqas milli jsir minn

kwalunkwe persuna u tali att jew ommissjoni jikkostitwixxu wkoll reat kriminali, ma jistgħu jittieħdu jew jitkomplew l-ebda proċeduri kontra l-imsemmija persuna fir-rigward ta' tali reat kriminali.";

(d) il-partita 5 tagħha għandha tiġi emendata kif ġej:

(i) is-subpartita (1) tagħha għandha tiġi sostitwita bis-subpartita ġdida li ġejja:

(1)L-Awtorità ta' Riżoluzzjoni għandha tippubblika, fuq is-sit elettroniku ufficjali tagħha u bi kwalunkwe mezz oħra ta' komunikazzjoni kif jidhrilha xieraq, kwalunkwe penali amministrattiva għal kwalunkwe ksur tad-dispożizzjonijiet tal-BRRD imposta mill-Awtorità ta' Riżoluzzjoni taħt id-dispożizzjonijiet ta' dan l-Att u ta' kwalunkwe regolamenti magħmula jew regoli maħruġa tahtu. Tali pubblikazzjonijiet għandhom jinkludu informazzjoni fuq it-tip u x-xorta tal-ksur u l-identità tal-persuna li fuqha qiegħda tiġi imposta l-penali amministrattiva. Il-pubblikazzjoni għandha ssir mingħajr dewmien żejjed wara li dik il-persuna tkun infurmata b'dawk il-penali:

Iżda f'dawk il-kazijiet fejn ikun tressaq appell mill-persuna li fuqha ġiet imposta tali penali amministrattiva, l-Awtorità għandha, mingħajr dewmien żejjed, tippubblika wkoll fuq is-sit elettroniku ufficjali tagħha u bi kwalunkwe mezz oħra ta' komunikazzjoni li jidhrilha xierqa, informazzjoni dwar l-istatus tal-appell u l-eżitu tiegħu.";

(ii) is-subpartita (2) tagħha għandha tiġi emendata kif ġej:

- il-kliem "L-Awtorità għandha tippubblika l-penali amministrattivi għal kull kontravvenzjoni tad-dispożizzjonijiet tal-BRRD, imposti mill-Kumitat ta' Riżoluzzjoni" għandhom jiġu sostitwiti bil-kliem "L-Awtorità ta' Riżoluzzjoni għandha tippubblika l-penali amministrattivi għal kwalunkwe ksur tad-dispożizzjonijiet tal-BRRD, imposti mill-Awtorità ta' Riżoluzzjoni";

-l-ewwel proviso tiegħu għandu jiġi sostitwit bil-proviso ġdid li ġejj:

"Iżda l-pubblikazzjoni fuq bażi anonima għandha tkun miżura eċċezzjonali li teħtieġ li tiġi ġġustifikata mill-Kumitat ta' Riżoluzzjoni:";

(iii) fis-subpartita (3) tagħha, il-kliem "tal-Awtorità", kull fejn jokkorru, għandhom jiġu sostitwiti bil-kliem "tal-Awtorità ta' Riżoluzzjoni";

(e) il-partita 6 tagħha għandha tiġi mħassra;

(f) il-partita 8 tagħha għandha tiġi emendata kif ġejj:

(i) fis-subpartita (1) tagħha il-kliem "Għandu jkun hemm Sezzjoni għar-Riżoluzzjoni" għandhom jiġu sostitwiti bil-kliem "Għandu jkun hemm fi ħdan l-Awtorità, Taqsima ta' Riżoluzzjoni";

(ii) is-subpartita (2) għandha tiġi sostitwita bis-subpartita ġdida li ġejja:

"(2) It-Taqsima ta' Riżoluzzjoni għandha tirrapporta dwar, u tipprovdi tali informazzjoni, dokumentazzjoni, aġġornamenti u spjegazzjonijiet dwar attivitajiet u żviluppi fi ħdan il-qasam ta' kompetenza tagħha lill-Kumitat ta' Riżoluzzjoni, liċ-*Chairperson* tal-Awtorità ta' Riżoluzzjoni u lill-Uffiċjal Eżekuttiv Ewlieni, kif tista' tiġi mitluba.";

(iii) fis-subpartita (3) tagħha, il-kliem "Direttur tal-Uffiċċju," għandhom jiġu sostitwiti bil-kliem "Kap tat-Taqsima,";

(iv) il-paragrafu (d) tas-subpartita (4) tagħha għandu jiġi sostitwit bil-paragrafu ġdid li ġejj:

"(d) tikkoopera, tikkoordina u tiskambja informazzjoni, kif meħtieġ, mat-Taqsimiet u d-Direttorati l-oħra tal-Awtorità.";

(g) fil-partita 9 tagħha l-kliem "ir-rimedji għal deċiżjoni jew azzjoni skorretta mill-Kumitat ta' Riżoluzzjoni" għandhom jiġu sostitwiti bil-kliem "ir-rimedji għal deċiżjoni jew azzjoni annullata";

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(h) fil-paragrafu (f) tas-subpartita (1) tal-partita 11 tagħha l-kliem "taħt din l-Iskeda." għandhom jiġu sostitwiti bil-kliem "taħt din l-Iskeda:" u minnufih għandu jiġi miżjud il-proviso ġdid li ġej:

"Iżda d-dhul miksub mill-ħlas ta' penali amministrattivi għandu jiġi trasferit lill-Fond Konsolidat."

Għanijiet u Raġunijiet

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Ligi huma sabiex jipprovdi għal riforma strutturali tal-Awtorità ta' Malta għal Servizzi Finanzjarji, inklużi bidliet għall-funzjonijiet tal-Kumitat Eżekuttiv, it-twaqqif tal-Kumitat dwar Deċiżjonijiet Regolatorji u l-Kumitat dwar Deċiżjonijiet dwar is-Swieq Kapitali, r-riforma tal-Kumitat dwar Deċiżjonijiet tal-Infurzar u d-Direttorat dwar l-Infurzar, sabiex isaħħaħ l-indipendenza u l-awtonomija tal-Awtorità, jipprovdi għal setgħat regolatorji addizzjonali tal-Awtorità u reati ġodda taħt l-Att u sabiex isaħħaħ l-indipendenza u l-effettività tat-Tribunal dwar Servizzi Finanzjarji.

**A BILL
entitled**

*AN ACT to amend the Malta Financial Services Authority Act,
Cap. 330.*

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 Malta Financial Services Authority (Amendment) Act, 2026 and this Act shall be read and construed as one with the Malta Financial Services Authority Act, hereinafter referred to as the "principal Act".

Short title and
commencement.
Cap. 330.

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

2. The principal Act shall be amended as follows:

General
amendments to
the principal
Act.

(a) in the Maltese version only, the words "mis-Sezzjoni għar-Riżoluzzjoni", wherever they occur, shall be substituted by the words "mit-Taqsima ta' Riżoluzzjoni";

(b) in the Maltese version only, the words "tas-Sezzjoni għar-Riżoluzzjoni", wherever they occur, shall be substituted by the words "tat-Taqsima ta' Riżoluzzjoni";

(c) in the Maltese version only, the words "Is-Sezzjoni għar-Riżoluzzjoni", wherever they occur, shall be substituted by the words "It-Taqsima ta' Riżoluzzjoni";

(d) in the Maltese version only, the words "Sezzjoni

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għar-Riżoluzzjoni", wherever they occur, shall be substituted by the words "Taqsimata ta' Riżoluzzjoni";

(e) the words "Chairman" and "chairman", wherever they occur, shall be substituted by the words "Chairperson" and "chairperson" respectively.

Amendment of
article 2 of the
principal Act.

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

(a) the definition "Audit Committee" shall be substituted by the following new definition:

" "Audit and Risk Committee" means the Committee established by article 12A;"

(b) immediately before the definition "Authority" there shall be added the following new definition:

" "authorisation" means any form of authorisation granted by the Authority to any entity or individual, other than a licence, and includes a registration, a recognition, a notification or any other form of approval or permission;"

(c) immediately after the definition "the BRRD" there shall be added the following new definition:

" "Capital Markets Decisions Committee" means the Committee established by article 10B;"

(d) the definition "Chief Executive Officer" shall be substituted by the following new definition:

" "Chief Executive Officer" means the Officer appointed in accordance with article 7D;"

(e) immediately after the definition "Chief Officer" there shall be added the following new definition:

" "Deputy Chief Executive Officer" means an officer responsible for assisting and supporting the Chief Executive Officer in the performance of his duties and responsibilities, appointed in accordance with article 7D;"

(f) the definition "Directorate" shall be substituted by the following new definition:

" "Directorate" means a section of the Authority, established by the Chief Executive Officer after

consultation with the Board of Governors, made up of a number of sub-sections or Units responsible for the different functions and areas of operation of the authority;";

(g) the definition "Executive Committee" shall be substituted by the following new definition:

" "Executive Committee" means the Committee established by article 9;";

(h) the definition "Enforcement Decisions Committee" shall be substituted by the following new definition:

" "Enforcement Decisions Committee" means the Committee established by article 11;";

(i) the definition "financial services" shall be substituted by the following new definition:

" "financial services" means the business of credit and financial institutions, the business of insurance and the activities of insurance intermediaries, the provision of investment services and collective investment schemes, pensions and retirement funds, regulated markets, central securities depositories, the provision of services related to crypto-assets including their issuance, offer to the public and admission to trading, the business of trustees, trusts and company service providers, and such other areas of activity or services as may be placed under the supervisory and regulatory competence of the Authority by the Minister or by any other law;";

(j) the definition "General Counsel" shall be substituted by the following new definition:

" "General Counsel" means the Chief Officer leading the Directorate responsible for legal affairs;";

(k) the definition "institution" shall be substituted by the following new definition:

" "institution" means a credit institution or an investment firm for the purposes of the BRRD;";

(l) immediately after the definition "Minister" there shall be added the following new definitions:

" "MTF" means a Multilateral Trading Facility

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operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments into the system and in accordance with non-discretionary rules, in a way that results in a contract in accordance with Title II of MiFID;

"OTF" means an Organised Trading Facility which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of MiFID;"

(m) immediately after the definition "prescribed" there shall be added the following new definition:

" "Regulatory Decisions Committee" means the Committee established by article 10A;"

Amendment of article 3 of the principal Act.

4. Sub-article (3) of article 3 of the principal Act shall be substituted by the following new sub-article:

"(3) Save as expressly provided for in this Act or in any other Act administered by the Authority, in the exercise of its functions and powers, the Authority, including its decision making bodies, shall be autonomous and shall act objectively and independently, and shall not seek or take instructions from, nor be subject to any interference by any other authority, body or person."

Amendment of article 4 of the principal Act.

5. Article 4 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) in paragraph (a) thereof the words "in Malta;" shall be substituted by the words "provided in or from Malta;"

(ii) paragraph (gA) thereof shall be substituted by the following new paragraph:

"(gA) to provide, promote and foster further training, knowledge and education on all matters relating to financial services, including financial literacy;"

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

"(2) Subject to the provisions of article 17:

(a) the Authority shall, for the better performance of its functions under this Act or any other Act, collaborate with other relevant local and foreign bodies, Government departments and entities, international organisations, with the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), colleges of supervisors, the European Systemic Risk Board (ESRB), the European Central Bank (ECB), the European Anti-Money Laundering Authority (AMLA), the Single Resolution Board (SRB) and other entities which exercise regulatory, licensing, authorisation, registration and supervisory functions and powers under any law in Malta or abroad or which are otherwise engaged in overseeing or monitoring areas or activities in the financial services sector and the registration of commercial partnerships, and shall make arrangements for the mutual exchange of information and for other forms of assistance in regulatory and supervisory matters; and

(b) in the exercise of its functions under this Act or any other Act, the Authority shall also cooperate with local and foreign law enforcement, intelligence, prosecutorial and judicial authorities.";

(c) immediately after sub-article (2) thereof, as substituted, there shall be added the following new sub-articles:

"(2a) For the better performance of its function under sub-article (1)(gA), the Authority may establish a training academy or other appropriate educational arrangement to provide training, knowledge and education on matters relating to the financial services sector, including trends and developments in regulation and supervision.

(2b) The Authority may establish public private partnership initiatives with financial sector stakeholder bodies, associations, groups or representatives for the better performance of its functions, to strengthen the exchange of information regarding emerging issues, to facilitate cooperation and communication between the

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Authority and stakeholders, and to raise standards in the financial services sector.";

(d) in sub-article (3) thereof immediately after the words "relating to financial services." there shall be added the words "The Authority shall also have the power to charge interest up to the maximum permitted by law on any amount of fees or charges the payment of which is overdue, until such date as such amount is paid:

Provided that the Authority may, in exceptional and justifiable circumstances, and subject to the approval of the Regulatory Decisions Committee, waive any prescribed fees and, or charges or interest due to it, in whole or in part, or in respect of such period or matter as the Authority may deem justified:

Provided further that the Authority shall not, of its own initiative, refund any fees, charges or interest already paid."

Substitution of article 4A of the principal Act.

6. Article 4A of the principal Act shall be substituted by the following new article:

"Licence considered to be a concession.

4A. (1) The granting of a licence shall constitute a concession and a revocable privilege, granted to persons who, in addition to satisfying the requirements as may be established by the Authority are considered to be fit and proper and suitable to hold a licence. No licence holder shall be deemed to have acquired any vested rights in or under the licence. The burden of proving the licence holder's suitability to be granted and to hold a licence shall rest at all times on the licence holder.

(2) The Authority may conduct fit and proper and suitability assessments as it deems appropriate prior to granting a licence and as it deems necessary thereafter, and the person on whom the assessment is being carried out shall provide the Authority with all the information and documentation as the Authority may request for this purpose.

(3) Any person engaged by an applicant for a licence to provide professional advice and assistance in connection with such application, or engaged by a licence holder to provide professional advice and assistance on any regulatory matter, and who acts and communicates with the Authority on behalf of such applicant or licence holder, shall conduct due diligence and probity checks on such applicant or licence holder, and shall inform the Authority without delay of any adverse or suspicious information identified which may have a bearing on the fit and proper and suitability assessment conducted by the Authority on such applicant or holder.

(4) Any applicant for a licence, any licence holder and any person providing professional advice or assistance as is mentioned in sub-article (3) who knowingly and with the intention of misrepresenting the suitability and fitness and properness of the applicant or licence holder, submits to the Authority misleading or false information in respect of the suitability and fitness and properness of the applicant or holder of a licence or fails to submit to the Authority any adverse information of which he is aware, which is relevant for the purposes of establishing the suitability of the applicant or licence holder, shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding fifty thousand euro (€50,000).

(5) In this article, licence includes and applies to any licence and authorisation, howsoever designated, issued by the Authority under any law for whose administration the Authority is responsible."

7. Article 5 of the principal Act shall be amended as follows:

Amendment of article 5 of the principal Act.

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

"(1) The main organs of the Authority are the Board of Governors, the Executive Committee, the Regulatory Decisions Committee, the Enforcement Decisions Committee, the Capital Markets Decisions Committee, and the Resolution Committee to the extent that the Authority acts as the Resolution Authority in accordance with article 7B.";

(b) in sub-article (2) thereof the words "It shall be the duty of the organs of the Authority" shall be substituted by the

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words "It shall be the duty of the organs, Directorates and Units of the Authority".

Amendment of article 6 of the principal Act.

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

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

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

"(b) the Chief Executive Officer, who shall not have the right to vote;"

(ii) in paragraph (c) thereof the words "five members or more," shall be substituted by the words "six (6) other members," the words "of financial services." shall be substituted by the words "of financial services;" and the words "The Board of Governors shall choose a Deputy Chairman from amongst its members." shall be deleted;

(iii) immediately after paragraph (c) thereof, as amended, there shall be added the following new paragraph:

"(d) a Deputy Chairperson chosen by the Board of Governors from amongst the members of the Board.";

(b) immediately after sub-article (2) thereof as amended, there shall be added the following new sub-article:

"(2A) Where a vacancy occurs amongst the members of the Board of Governors, a new member shall be appointed in accordance with the provisions of this article. The appointment shall be made as soon as possible and by not later than three (3) months from when the vacancy occurs.";

(c) sub-article (4) thereof shall be substituted by the following new sub-article:

"(4) Where the Chairperson is absent or is unable to exercise the functions and powers of his office and the Prime Minister has not appointed another person to act as Chairperson during the period of absence or inability, the Deputy Chairperson shall carry out the functions of the Chairperson during such period.";

(d) in sub-article (5) thereof the words "shall receive such remuneration as the Minister may from time to time, determine." shall be substituted by the words "shall receive such remuneration as established in their letter of appointment.";

(e) sub-article (6) thereof shall be amended as follows:

(i) paragraph (a) thereof shall be amended as follows:

(ia) in sub-paragraph (vi) thereof the words "business practice or otherwise" shall be substituted by the words "business practice or activity or otherwise" and immediately after the word "competence" there shall be added the words ", integrity";

(ib) in sub-paragraph (viii) thereof the word "office." shall be substituted by the words "office; or";

(ic) immediately after sub-paragraph (viii) of paragraph (a) thereof, as amended, there shall be added the following new sub-paragraph:

"(ix) has been disqualified by any professional or regulatory body; or";

(x) has been found guilty or is being charged with the commission of a "relevant offence" as defined in the Proceeds of Crime Act;";

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(ii) in paragraph (b) thereof the words "is likely to fulfil those responsibilities and" shall be substituted by the words "is likely to fulfil those responsibilities, to his reputation and integrity, and";

(iii) paragraph (d) thereof shall be substituted by the following new paragraph:

"(d) A member of the Board may not be removed from his office by the Prime Minister, or required to resign his office, other than for any of the reasons mentioned in sub-paragraphs (i) to (ix) of paragraph (a), or on the ground of inability to perform the functions of his office, whether due to infirmity of mind or body, or misbehaviour. For the purposes of this paragraph, repeated and

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unjustified failure to attend meetings may be deemed to amount to misbehaviour."

Amendment of article 7 of the principal Act.

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

(a) in sub-article (2) thereof the words "a quorum consisting of not less than three members present at the meeting." shall be substituted by the words "a quorum consisting of not less than four (4) members having the right to vote present at the meeting.";

(b) in sub-article (3) thereof the words "by the Deputy Chairman, or by a member" shall be substituted by the words "by the Deputy Chairperson, or where both the Chairperson and the Deputy Chairperson are absent, by a member"; and

(c) in paragraph (a) of sub-article (5) thereof the words "shall designate a person to act" shall be substituted by the words "shall designate an official of the Authority to act".

Deletion of article 7A of the principal Act.

10. Article 7A of the principal Act shall be deleted.

Substitution of article 7B of the principal Act.

11. Article 7B of the principal Act shall be substituted by the following new article:

"The Resolution Authority and the Resolution Committee.

7B. (1) (a) The Authority shall also act as the Resolution Authority for the purposes of article 3 of the BRRD. The functions of the Resolution Authority shall be carried out through the Resolution Committee established in sub-article (2).

(b) The Authority shall create adequate structural arrangements to ensure operational independence and avoid conflicts of interest between its supervisory and other functions, and its resolution function under this Act.

(2) There shall be a Resolution Committee which shall have all the powers assigned to the Resolution Authority under the BRRD. The composition, powers and functions of the Resolution Committee shall be governed by the provisions set out in the First Schedule and in accordance with any regulations made hereunder. The Resolution Committee shall act independently of the organs of the Authority."

Amendment of article 7C of the principal Act.

12. In article 7C of the principal Act the words "the Authority, through the Resolution Committee," shall be substituted by the words "the Resolution Authority, through the Resolution Committee,".

13. Immediately after article 7C of the principal Act there shall be added the following new article:

Addition of new article to the principal Act.

"The Chief Executive Officer and Deputy Chief Executive Officers.

7D. (1) The Chief Executive Officer shall be appointed by the Board of Governors according to such procedures and on such terms and conditions as the Board may determine.

(2) The Chief Executive Officer shall be responsible for:

(a) the overall operations and performance of the Authority;

(b) the implementation of the objectives, strategy and policies of the Authority;

(c) chairing the Executive Committee;

(d) monitoring and oversight of the Regulatory Decisions Committee, the Capital Markets Decisions Committee, the Enforcement Decisions Committee and all the Directorates and Units of the Authority to ensure the proper and effective implementation of the Authority's functions in terms of law;

(e) the Authority's administrative affairs, including the management and the finances of the Authority, human resources and ancillary services;

(f) establishing and empowering Directorates and Units, and determining the respective remits of the Directorates and Units so established; and

(g) any other matter as may be determined by the Board of Governors.

(3) The Chief Executive Officer shall, after consultation with the Board of Governors, appoint one or more Deputy Chief Executive Officers to assist in the performance of his duties and responsibilities.

(4) A person shall not be eligible to be appointed Chief Executive Officer or Deputy Chief Executive Officer if he is not a fit and proper person to hold such office.

(5) In determining whether a person is a fit and proper person, due regard shall be given to that person's probity, to his competence and soundness of judgement for fulfilling the responsibilities of such office, to his reputation and integrity, and to the diligence with which he is likely to fulfil those responsibilities.

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(6) The Board of Governors may appoint any one of the Deputy Chief Executive Officers of the Authority to act as Acting Chief Executive Officer during the period when the Chief Executive Officer is unable to act, or during any vacancy in the office of the Chief Executive Officer."

Substitution of article 9 of the principal Act.

14. Article 9 of the principal Act shall be substituted by the following new article:

"The Executive Committee.

9. (1) There shall be an Executive Committee which shall be responsible for:

(a) the coordination and monitoring of the statutory and strategic objectives, and policies of the Authority;

(b) ensuring coordination and communication between the different Directorates and Units of the Authority;

(c) approving of regulatory rules made by the Authority and proposed legislation;

(d) proposing policy and other recommendations to the Board of Governors on matters falling within the remit of the Authority; and

(e) any other matter as may be determined by the Chief Executive Officer and the Board of Governors.

(2) The Executive Committee may from time to time delegate in writing any of its functions and powers on such matters and subject to such conditions and modalities as may be specified in the delegation, subject to the terms and duration as determined by the Executive Committee, to the Chief Executive Officer or to one or more of the members of the Executive Committee. Any such delegation shall be approved by the Board of Governors.

(3) The Executive Committee shall consist of the Chief Executive Officer, who shall preside, and the Deputy Chief Executive Officers:

Provided that the Chief Executive Officer may appoint any one or more of the Chief Officers of the Authority to the Executive Committee, as he may deem necessary:

Provided further that the Executive Committee shall consist of not less than five (5) members.

(4) The Chief Executive Officer shall designate one of the officers of the Authority to act as Secretary to the Executive Committee for such period and under such terms and conditions as the Chief Executive Officer shall deem appropriate.

(5) It shall be the duty of the Secretary to make the necessary preparations for the meetings of the Executive Committee and to keep minutes of those meetings.

(6) The quorum required for meetings of the Executive Committee shall consist of not less than four (4) members, which shall include the Chief Executive Officer. The decisions of the Committee shall be taken by a majority of votes of the members present and in the case of an equality of votes the Chief Executive Officer shall have an original and a second or casting vote. The Committee shall regulate its own procedure."

15. Immediately after article 10 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"Regulatory Decisions Committee.

10A. (1) There shall be a Regulatory Decisions Committee which shall be responsible for the implementation of the regulatory framework in the financial services sector and, without prejudice to the generality of the aforesaid, shall in particular be responsible for:

(a) considering and assessing applications for licences and any other authorisations, including applications for their voluntary restriction, modification, suspension or cancellation, and deciding on their approval or rejection;

(b) issuing of licences and any other authorisations;

(c) monitoring and supervising persons licensed or authorised by the Authority in the financial services sector in order to verify their compliance with their regulatory obligations;

(d) considering, assessing and reviewing supervisory findings and recommendations as may be brought before it by the supervisory directorates and confirming, modifying or rejecting such findings and recommendations as it may deem fit;

(e) taking all manner of regulatory decisions and measures as the Authority is by this or any other Act or regulations empowered to take for the purpose of safeguarding, ensuring or restoring compliance with regulatory requirements and, or to safeguard the interests of consumers of financial services and, or the integrity of the financial system, including issuing any directive or directives or taking such other measure as the Regulatory Decisions Committee may deem necessary under the circumstances, and where serious circumstances warrant the taking of immediate action, the said Committee may take urgent and, or precautionary decisions and measures, including to temporarily limit business activities:

Provided that the Regulatory Decisions Committee shall not be empowered to impose any modification, restriction, suspension or cancellation of a licence or any other form of authorisation, or to impose an administrative penalty;

(f) appointing or requiring the appointment of a qualified person, or appointing a skilled person or an inspector or appointing a temporary administrator or appointing a competent person as may be required under any law administered by the Authority for the purpose of advising and assisting a licence or authorisation holder in the conduct of its business or appointing any other person having the required expertise as the Regulatory Decisions Committee may deem necessary to assist the Authority with its supervisory function;

(g) deciding whether any regulatory matter, including a case of non-compliance or of potential breaches of regulatory requirements, or of suspected misconduct or wrongdoing should be referred to the Enforcement Directorate for further review, investigation and, or enforcement action;

(h) engaging with and, or referring to the Resolution Unit and, or the Resolution Committee any matter as the Regulatory Decisions Committee may deem appropriate; and

(i) any other matter as may be determined by the Board of Governors.

(2) For the purpose of discharging its functions, the Regulatory Decisions Committee shall have all the relevant powers vested in the Authority under this Act or any other Act administered by the Authority.

(3) The Regulatory Decisions Committee may from time-to-time delegate in writing any of its functions and powers, on such matters and subject to such conditions and modalities as may be specified in the delegation, subject to the terms and duration as determined by the said Committee, to one or more of its members, any one or more of the sub-committees as may be established by the Regulatory Decisions Committee or to a Directorate or Unit of the Authority, as may be specified. Any delegation so made shall be approved by the Board of Governors.

(4) The Regulatory Decisions Committee shall consist of:

- (a) the Chief Executive Officer, who shall preside;
- (b) the Deputy Chief Executive Officer responsible for sectoral supervision and the Chief Officers reporting thereto;
- (c) the Deputy Chief Executive Officer responsible for cross-sectoral supervision and the Chief Officers reporting thereto;
- (d) the General Counsel;
- (e) the Chief Officer responsible for strategy and policy; and
- (f) the Chief Officer responsible for digital and information services.

(5) The Chief Executive Officer shall designate one of the members of the Regulatory Decisions Committee to act as Deputy Chairperson who shall preside over the meetings of the said Committee in the absence of the Chief Executive Officer.

(6) The Chief Executive Officer shall designate one of the officers of the Authority to act as Secretary to the Regulatory Decisions Committee for such period and under such terms and conditions as the Chief Executive Officer shall deem appropriate.

(7) It shall be the duty of the Secretary to make the necessary preparations for the meetings of the Regulatory Decisions Committee and to keep minutes of those meetings.

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(8) The quorum required for meetings of the Regulatory Decisions Committee shall consist of not less than six (6) members which shall include the Chief Executive Officer or, in his absence, the designated Deputy Chairperson. The decisions of the said Committee shall be taken by a majority of votes of the members present and in the case of an equality of votes the Chief Executive Officer or the Deputy Chairperson presiding the meeting shall have an original and a second or casting vote. The Committee shall regulate its own procedure.

(9) Without prejudice to the provisions of article 8, the Regulatory Decisions Committee may from time to time authorise one or more senior officers of the Authority to sign a licence, category of licence or any other form of authorisation or decision, as it may deem appropriate.

(10) The Regulatory Decisions Committee shall submit an annual report to the Executive Committee providing statistics and non-case specific information on the conduct of its functions.

Capital Markets
Decisions
Committee.

10B. (1) There shall be a Capital Markets Decisions Committee which shall be responsible for:

(a) implementing the policies on capital markets and admissibility to listing and trading of financial instruments as may be established by the Board of Governors from time to time;

(b) considering, assessing, authorising or rejecting applications for admissibility to listing and trading, or requests for discontinuing or suspending the listing of financial instruments or for derogations from applicable requirements or conditions as may be permitted in accordance with applicable laws, rules and regulations;

(c) approving prospectuses;

(d) approving covered bonds programmes;

(e) ensuring compliance with any requirements or conditions applicable to issuers and set out for listed and traded financial instruments;

(f) monitoring the capital market to ensure market integrity, investor protection and to prevent market abuse;

(g) taking all manner of regulatory decisions and measures as the Authority is by this or any other Act or regulations empowered to take in relation to the capital markets for the purpose of safeguarding, ensuring or restoring compliance with regulatory requirements and, or to safeguard the interests of investors and, or the integrity of the capital market, including issuing any directive or directives or taking such other measure as the Capital Markets Decisions Committee may deem necessary under the circumstances. Where serious circumstances warrant the taking of immediate action, the said Committee may take urgent and, or precautionary decisions and measures, including to temporarily limit business activities:

Provided that the Committee shall not be empowered to withdraw an approval for covered bonds programmes, or remove listed financial instruments from listing and, or trading on an authorised regulated market, or remove financial instruments from trading on an MTF or an OTF, or to appoint a special administrator, or to impose an administrative penalty;

(h) deciding whether a case of non-compliance, or of potential breaches of regulatory requirements, or of suspected market abuse, misconduct or wrongdoing should be referred to the Enforcement Directorate for further investigation and, or enforcement action;

(i) engaging with and, or referring to the Resolution Unit and, or the Resolution Committee any matter as the Capital Markets Decisions Committee may deem appropriate; and

(j) any other matter as may be determined by the Board of Governors.

(2) For the purpose of discharging its functions, the Capital Markets Decisions Committee shall have all the relevant powers vested in the Authority under this Act or any other Act administered by the Authority.

(3) The Capital Markets Decisions Committee may from time to time delegate in writing any of its functions and powers, on such matters and subject to such conditions and modalities as may be specified in the delegation, subject to the terms and duration as determined by the Committee, to one or more of its members, any one or more of the sub-committees as may be established by the Committee or to a Directorate or Unit of the Authority, as may be specified. Any delegation so made shall be approved by the Board of Governors.

(4) The Capital Markets Decisions Committee shall consist of:

- (a) the Chief Executive Officer;
- (b) the Deputy Chief Executive Officer responsible for sectoral supervision;
- (c) the Deputy Chief Executive Officer responsible for cross-sectoral supervision; and
- (d) two (2) members of the Board of Governors, one of whom shall act as Chairperson of the Committee appointed by the Board.

(5) The Chairperson of the Capital Markets Decisions Committee shall designate one of the officers of the Authority to act as Secretary to the Committee for such period and under such terms and conditions as the Chief Executive Officer shall deem appropriate.

(6) It shall be the duty of the Secretary to make the necessary preparations for the meetings of the Capital Markets Decisions Committee and to keep minutes of those meetings.

(7) The quorum required for meetings of the Capital Markets Decisions Committee shall consist of not less than three (3) members, which shall include the Chairperson or, in his absence, the Chief Executive Officer who shall preside. The decisions of the Committee shall be taken by a majority of votes of the members present, and in the case of an equality of votes, the Chairperson or the Chief Executive Officer presiding the meeting shall have an original and a second or casting vote. The Committee shall regulate its own procedure.

(8) The Capital Markets Decisions Committee shall submit an annual report to the Executive Committee providing statistics and non-case specific information on the conduct of its functions."

16. Article 11 of the principal Act shall be substituted by the following new article:

Substitution of article 11 of the principal Act.

"Enforcement Decisions Committee.

11. (1) There shall be an Enforcement Decisions Committee which shall act impartially and independently from the other organs of the Authority and the Resolution Committee. The Enforcement Decisions Committee shall not be subject to any direction or control by any person, authority or body, and shall carry out its functions without any influence or interference.

(2) The Enforcement Decisions Committee shall be responsible for the enforcement of the regulatory framework in the financial services sector and without prejudice to the generality of the aforesaid shall in particular be responsible for:

(a) independently and impartially considering, assessing, and reviewing enforcement cases, the findings of investigations, and recommendations for enforcement action, brought before it by the Enforcement Directorate and confirming, modifying or rejecting such findings and recommendations as it may deem fit;

(b) deciding on whether the entity or person subject to the enforcement action has contravened or failed to comply with any provision of this Act or any other Act administered by the Authority, or with any regulations or rules issued thereunder, or with any regulations or rules transposing the BRRD, or with any provision of any other applicable regulation, or with any of the conditions imposed in a licence or authorisation issued by the Authority or with any directives issued by the Authority, or any other regulatory requirements;

(c) in exercising the Authority's enforcement function, and without prejudice to the provisions of paragraphs (e) and (f) of sub-article (1) of article 10A:

(i) taking all manner of regulatory decisions as the Authority is by this or any other Act or regulations empowered to take for the purpose of imposing and enforcing compliance with regulatory requirements and, or to safeguard the interests of consumers of financial services, investors and, or the integrity of the financial system and the financial markets, including issuing any directive or directives or imposing such other measure as the Enforcement Decisions Committee may deem necessary;

(ii) issuing orders for the freezing of funds and, or other assets including bank accounts as provided by article 16(8), in the name of a licence or authorisation holder or any other third party as may be indicated;

(iii) appointing or requiring the appointment of a qualified person, or appointing a skilled person or an inspector; or appointing a competent person or an administrator as may be required under any law administered by the Authority or appointing any other person having the required expertise as the Enforcement Decisions Committee may deem necessary to assist the Authority with its enforcement function;

(iv) imposing any prohibition or other restrictive measure or limitation of business activities on any person or entity in possession of a licence or authorisation granted by the Authority;

(v) determining that an individual holding a position which requires the Authority's approval is no longer considered to be fit and proper to exercise the functions and duties in respect of which he was approved;

(d) cancelling, suspending, modifying or restricting a licence or any other form of authorisation;

(e) deciding on and imposing administrative penalties on any person that has contravened or failed to comply with any provision of this Act or any other Act administered by the Authority or with any regulations or rules issued thereunder or with any regulations or rules transposing the BRRD, or with any provision of any other applicable regulation, or with any of the conditions imposed in a licence or authorisation issued by the Authority or with any directives issued by the Authority, or any other regulatory requirements;

(f) the suspension or removal of listed financial instruments from listing and, or trading on an authorised regulated market;

(g) the suspension or removal of financial instruments from trading on an MTF or OTF;

(h) approving settlement agreements in terms of article 15A; and

(i) any other matter as may be determined by the Board of Governors.

(3) For the purpose of discharging its functions, the Enforcement Decisions Committee shall have all the relevant powers vested in the Authority under this Act or any other Act administered by the Authority.

(4) The Enforcement Decisions Committee shall consist of the following persons:

(a) the Deputy Chief Executive Officer responsible for enforcement;

(b) the Deputy Chief Executive Officer responsible for legal affairs;

(c) the Deputy Chief Executive Officer responsible for digital and corporate services; and

(d) the Chief Officer responsible for Quality Assurance:

Provided that the Board of Governors shall appoint a Chairperson and a Deputy Chairperson from amongst the members of the Committee.

(5) One of the officers of the Authority shall be designated to act as Secretary to the Committee for such period and under such terms and conditions as the Chief Executive Officer shall deem appropriate.

(6) It shall be the duty of the Secretary to make the necessary preparations for the meetings of the Enforcement Decisions Committee and to keep minutes of those meetings.

(7) The Enforcement Decisions Committee shall not hold its sittings in public. The cases shall be brought before the said Committee by the Enforcement Directorate. The Committee shall hear officers from the Enforcement Directorate, any other officers of the Authority or any other person that may provide relevant information, and the entity or person subject to the enforcement action, prior to taking a decision:

Provided that the entity or person subject to the enforcement action shall have a right to be assisted during any hearing before the Committee.

(8) The quorum required for meetings of the Enforcement Decisions Committee shall consist of not less than three (3) members which shall include the Chairperson. The decisions of the Committee shall be taken by a majority of votes of the members present and in the case of an equality of votes, the Chairperson shall have an original and a second or casting vote.

(9) The Enforcement Decisions Committee shall conduct hearings and take decisions in accordance with rules of natural justice and in accordance with procedures which safeguard the rights of a fair hearing within a reasonable time of any person or entity subject to proceedings before the Committee. Such procedures shall be approved by the Board of Governors and shall be made public. The standard of proof required by the Committee is that of a balance of probabilities.

(10) The Enforcement Decisions Committee shall submit an annual report to the Executive Committee providing statistics and non-case specific information on the conduct of its functions."

Substitution of article 12 of the principal Act.

17. Article 12 of the principal Act shall be substituted by the

following new article:

"Enforcement
Directorate.

12. (1) There shall be an Enforcement Directorate whose function shall be to deal with matters of enforcement under the provisions of this Act or any other Act administered by the Authority, or any regulations or rules made thereunder, and without prejudice to the generality of the aforesaid, the Enforcement Directorate shall in particular be responsible for:

(a) considering, assessing and, or investigating any referrals made to it by the Regulatory Decisions Committee, the Capital Markets Decisions Committee, the Resolution Committee, the Chairperson, the Chief Executive Officer, or any of the Directorates of the Authority, including those made following information and, or requests received from local or overseas enforcement, intelligence or regulatory authorities, bodies or other entities, or a network or grouping comprising such local or overseas enforcement or regulatory authorities, bodies or other entities, or both;

(b) considering, assessing and, or investigating reports and, or other information received in connection with breaches of this Act or any other Act administered by the Authority, or any regulations or rules issued thereunder or any other regulatory requirements, or any misconduct or wrongdoing;

(c) conducting administrative investigations in relation to financial services business or activity, whether authorised or otherwise;

(d) establishing potential breaches of any provision of this Act or any other Act administered by the Authority, or any regulations or rules issued thereunder, or any provision of any other applicable regulation, or any regulations or rules transposing the BRRD, or any of the conditions imposed in a licence or authorisation issued by the Authority, or any directives issued by the Authority, or any other regulatory requirements, or potential market abuse, misconduct or wrongdoing;

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(e) establishing the proposed regulatory measures, administrative penalties and, or sanctions;

(f) considering and assessing representations made by licence or authorisation holders or any other person in respect of the potential breaches and proposed regulatory measures, administrative penalties and, or sanctions;

(g) making recommendations for enforcement action to the Enforcement Decisions Committee;

(h) implementing any decision of the Enforcement Decisions Committee, including the making of appropriate arrangements and the carrying out of such actions and procedures as may be necessary for such purpose;

(i) conducting proceedings before the Enforcement Decisions Committee, and representing the Authority in proceedings before the Financial Services Tribunal and the courts; and

(j) carrying out such other duties as may be assigned to it by the Chief Executive Officer.

(2) In carrying out its functions under sub-article (1)(d) to (g), the Enforcement Directorate shall take into account the information and views provided by the Regulatory Decisions Committee, for the purpose of ensuring alignment with the Authority's supervisory and enforcement approach, objectives and policies relevant to the matter under consideration.

(3) The Enforcement Directorate shall, for the purpose of discharging its functions, have all the relevant powers vested in the Authority under this Act or any other Act administered by the Authority.

(4) The Enforcement Directorate shall upon request provide to the Chief Executive Officer, information, documentation, updates and explanations on any enforcement action or matter being conducted by the Directorate."

Substitution of article 12A of the principal Act.

18. Article 12A of the principal Act shall be substituted by the following new article:

"Audit and Risk Committee.

12A. (1) There shall be an Audit and Risk Committee whose function shall be to:

(a) determine whether the governance, controls and risk management processes of the Authority in implementing agreed policies and strategies across the activities of the Authority are adequate, effective and functioning;

(b) determine the remit and role of the Internal Audit Unit;

(c) evaluate the performance of the Internal Audit Unit established under article 12B;

(d) determine the remit and role of the Risk Management Unit and evaluate its performance;

(e) carry out such other functions as may be assigned to it by the Board of Governors.

(2) In carrying out its functions the Audit and Risk Committee shall have all powers necessary to enable it to perform its functions properly, and the provisions of article 12B(4) and (5) shall, *mutatis mutandis*, apply to the Committee.

(3) In carrying out its functions under sub-article (1)(b) and (d), the Audit and Risk Committee shall consult the Chief Executive Officer regarding new tasks and the processes applied throughout the activities of the Authority to ensure full coverage of the activities of the Authority by the Internal Audit Unit and the Risk Management Unit. In so far as its functions under sub-article (1)(c) are concerned, the Audit and Risk Committee shall take into consideration the internal audit plan and any audit quality assurance assessment reports.

(4) The Audit and Risk Committee shall be composed of:

(a) two (2) co-chairpersons and another person appointed by the Board of Governors from amongst its members; and

(b) one (1) person who has relevant expertise and experience, appointed by the Board of Governors.

(5) The co-chairpersons and members shall be appointed for such term, being a period of not more than three (3) years, as may be specified in the letter of appointment. They shall be eligible for reappointment and shall receive such remuneration as the Board of Governors may from time to time, determine.

(6) One (1) of the co-chairpersons shall, in so far as possible, chair meetings of the Committee on internal audit matters while the other co-chairperson shall, in so far as possible, chair meetings of the Committee on risk matters.

(7) The Authority shall consult the Audit and Risk Committee before appointing the most senior officer or officers within the Internal Audit Unit and the Risk Management Unit.

(8) The Audit and Risk Committee shall submit to the Board of Governors an annual audit plan which shall be approved by the said Board.

(9) The Audit and Risk Committee shall report to the Board of Governors on the progress made in its area of competence and on the progress made by the Internal Audit Unit and the Risk Management Unit.

(10) The members of the Audit and Risk Committee shall act in their personal capacity and in their individual judgement, and the Committee shall be independent of the Board of Governors.

(11) The Audit and Risk Committee shall designate one (1) of the officers of the Authority as its Secretary for such period and under such terms and conditions as the Chief Executive Officer shall deem appropriate.

(12) The Audit and Risk Committee shall regulate its own procedure.

(13) The provisions of article 6(6)(a), (b), (d) and (e) shall apply, *mutatis mutandis*, as far as applicable, to the office of the co-chairpersons and the members of the Committee with the substitution of "Audit and Risk Committee" for "Board of Governors", and "Board of Governors" for "Prime Minister".

Amendment of article 12B of the principal Act.

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

(a) in sub-article (1) thereof the words "risk management processes of the Authority." shall be substituted by the words "risk management processes of the Authority and to conduct internal investigations into any failure to comply therewith or with other policies, processes and procedures of the Authority as may be directed by the Board of Governors or the Audit and Risk Committee or the Chief Executive Officer." and the words "Audit Committee" shall be substituted by the words "Audit and Risk Committee";

(b) in sub-article (2) thereof the words "Director of the Unit," shall be substituted by the words "Head of the Unit,";

(c) in sub-article (4) thereof the words "may audit all parts of the Authority," shall be substituted by the words "may audit and investigate all parts of the Authority," and the words "performance of an audit." shall be substituted by the words "performance of an audit or investigation.";

(d) in sub-article (6) thereof for the words "Audit Committee" there shall be substituted the words "Audit and Risk Committee".

20. Article 13 of the principal Act shall be substituted by the following new article:

Substitution of article 13 of the principal Act.

"Officers and employees of the Authority.

13. (1) The Authority may appoint Deputy Chief Executive Officers, Chief Officers, Heads, Deputy Heads and such other officers and employees as it may consider necessary for the efficient discharge of its functions, powers and duties under this Act or any other law. The selection and appointment of the Deputy Chief Executive Officers shall be made by the Chief Executive Officer in consultation with the Board of Governors. The other officers and employees of the Authority shall be selected and appointed by the Chief Executive Officer according to the procedures and on such terms and conditions as the Board of Governors may establish:

Provided that the officers and employees of the Authority shall be appointed on the basis of published criteria that are objective and transparent and shall, at all times, be persons of integrity and good conduct.

(2) The Authority shall put in place policies, rules, prohibitions and arrangements to prevent conflicts of interest of members of staff in accordance with Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC. Such policies, rules, prohibitions and arrangements shall as a minimum apply to conflicts that may arise through:

(a) trading in certain financial instruments;
and

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(b) being employed by, or accepting any kind of contract for the provision of professional services during an established period of time with such entities as shall be identified in policies, rules, prohibitions and arrangements put in place by the Authority.

(3) The policies, rules, prohibitions and arrangements put in place by the Authority:

(a) shall be proportionate to the role and responsibilities of the members of staff and shall apply in such circumstances, provide for such terms and conditions, and apply for such period of time as may be reasonably necessary to prevent conflict of interest by employees and former employees;

(b) shall require members of staff to provide the Authority with a declaration of interest on any of their financial holdings that may raise conflict of interest concerns and to dispose thereof or otherwise, as may be prescribed;

(c) may provide for exceptions, exemptions, derogations and compensation as may be allowed under the Directive mentioned in sub-article (2);

(d) shall not constitute a breach of workers' rights as established in Maltese law or a breach of any fundamental right recognised in the Constitution of Malta or the Charter of Fundamental Rights of the European Union; and

(e) shall not unduly restrict the ability of the Authority to exercise its supervisory functions.

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(4) For the purposes of the Criminal Code and of any provision of a criminal nature in any other law, the members of the Authority, and every officer or employee thereof, shall be deemed to be public officers."

Amendment of article 14 of the principal Act.

21. Article 14 of the principal Act shall be amended as follows:

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

following new sub-article:

"Publication and dissemination of information.

14.(1)The Authority shall arrange for the dissemination and publication in such form and manner as it considers appropriate of such information, regulatory measures and advice as it may consider expedient to give the public about matters relating to the exercise of its functions under this Act or any other enactment.";

(b) in sub-article (2) thereof the words "information or advice," shall be substituted by the words "information, regulatory measures or advice,".

22. Immediately after article 15 of the principal Act there shall be added the following new article:

Addition of new article to the principal Act.

"Settlement agreements.

15A. (1) The Authority may, in its discretion, at any time in the course of an investigation or other action conducted by the Enforcement Directorate, propose or agree to a request, to enter into a settlement agreement with a licence or authorisation holder or a person subject to the enforcement action, in respect of any contravention, breach or failure to comply with any provision of this Act, or any other Act administered by the Authority, any regulations or rules issued thereunder, any conditions imposed in a licence or authorisation issued by the Authority, any directives issued by the Authority, or any European Union law, as applicable.

(2) The Authority shall not enter into a settlement agreement in cases where:

(a) the contravention, breach or failure to comply relates to:

(i) the conduct of unauthorised financial services activity;

(ii) a criminal offence other than an offence under this Act or any other Act administered by the Authority; or

(iii) serious, repeated and systematic breaches of the anti-money laundering and funding of terrorism laws and regulations;

(b) the contravention, breach or failure to comply is such that it could undermine the integrity and, or public confidence in, or otherwise have an adverse impact on, the financial sector or on the reputation of Malta, or is of such a nature that it would not be in the public interest to enter into a settlement agreement;

(c) following an assessment carried out by the Authority, the individual subject to enforcement action is deemed to no longer satisfy the criteria to be regarded fit and proper to carry out a senior position within a licensed entity;

(d) ongoing settlement discussions are interrupted due to lack of interest or lack of cooperation by the licence or authorisation holder or the person subject to the enforcement action;

(e) a minimum of two (2) years has not yet elapsed from the previous execution of a settlement agreement with the same licence or authorisation holder or person:

Provided that the Authority may, on a case by case basis, consider entering into a settlement agreement with the same licence or authorisation holder or person within two (2) years from the execution of a previous settlement agreement, after considering the materiality or otherwise of the breaches in respect of which the first settlement agreement was entered into and the materiality or otherwise of the breaches in respect of which it is proposed to enter into a second settlement agreement:

Provided further that no more than two (2) settlement agreements shall be entered into by the Authority with the same licence or authorisation holder or person involved during a period of two (2) years;

(f) the licence or authorisation holder or the person subject to the enforcement action has once again, in a serious, repeated and systematic manner, committed the same contravention, breach or failure, in respect of which a settlement agreement had previously been entered into; and

(g) a final decision has already been taken on the matter by the Enforcement Decisions Committee:

Provided that the Authority may exceptionally consider entering into a settlement agreement after a final decision has been taken by the Enforcement Decisions Committee, on a case by case basis.

(3) A settlement agreement shall be approved by the Enforcement Decisions Committee. The agreement shall be in writing and shall be binding on the Authority and the licence or authorisation holder or person involved. It shall establish the terms and conditions of the agreement and shall include:

(a) a description of the contraventions, breaches or failures committed, and their acceptance by the licence or authorisation holder or person involved;

(b) the specific regulatory action and, or measures agreed to be imposed by the Authority and the actions agreed to be undertaken by the licence or authorisation holder or person involved to remedy the contraventions, breaches or failures committed and to ensure compliance with the applicable legal and regulatory frameworks within such timeframes as shall be established by the Authority;

(c) the amount of the administrative penalty, if any, applicable to the breaches, and the amount of the administrative penalty as may be reduced in terms of the agreement and the terms and conditions for the payment thereof; and

(d) a waiver by the licence or authorisation holder or person involved of any right to appeal or to otherwise challenge any administrative penalty imposed, and the findings and measures agreed with the Authority.

(4) Where a settlement agreement is not entered into due to lack of interest or lack of cooperation by the licence or authorisation holder or the person subject to the enforcement action, or within such time as may be determined by the Authority, the Authority shall proceed with the imposition of the administrative penalty in the full amount it was intent on imposing and such other measures as it is empowered by law to impose and as it may deem necessary.

(5) Where a licence or authorisation holder or the person subject to the enforcement action fails without reasonable justification to pay the reduced administrative penalty, if any, within such time as established in the settlement agreement and, or to comply with the terms of the agreement:

(a) the licence or authorisation holder or the person involved shall forfeit any concession or other benefit arising from the agreement, including the reduction in the administrative penalty, if any, and the full unreduced penalty shall become due and payable to the Authority;

(b) the Authority shall, by notice in writing, require the licence or authorisation holder or the person involved to pay the amount of the full unreduced administrative penalty, if any, due to the Authority and, or to comply with the specific regulatory actions and, or measures imposed by the Authority in the settlement agreement and, or the actions agreed to be undertaken by the licence or authorisation holder or the person involved to remedy the contraventions, breaches and, or failures committed and to ensure compliance with the applicable legal and regulatory frameworks within such timeframes as shall be established by the Authority; and

(c) the Authority may, by notice in writing, take such other regulatory actions or measures as the Authority is by this Act or any other Act empowered to take, and as may be deemed necessary in the circumstances, including issuing directives in writing requiring the licence or authorisation holder or the person involved to do or to refrain from doing any act, including such prohibitions, restrictions and limitations under such conditions as may be specified in the directives.

(6) Without prejudice to the provisions of sub-article (5), where a licence or authorisation holder or the person subject to the enforcement action fails to comply with the terms of the settlement agreement, the Authority may institute an action before the Civil Court First Hall to recover from the licence or authorisation holder or the person involved any administrative penalty due and payable, and to enforce compliance with the terms of the agreement.

(7) The Authority shall establish policies, rules and procedures in relation to settlement agreements, including policies on the reduction of administrative penalties and on the information to be published upon execution of the settlement agreement. Such policies and rules shall be approved by the Board of Governors and shall be made public.

(8) The provisions of this article shall be without prejudice to any other powers that may be exercised by the Authority in terms of this Act or any other law."

23. Article 16 of the principal Act shall be substituted by the following new article:

Substitution of article 16 of the principal Act.

"Powers of the Authority.

16. (1) In the exercise of its functions under this Act or any other law or any regulations or rules made thereunder, and without prejudice to any other right or power under this or any other law or any regulations made thereunder, the Authority shall have the rights and powers provided in this article.

(2) (a) The Authority shall have the power and right to:

(i) reasonable access and entry to any business premises and, or offices of a licence or authorisation holder;

(ii) access and process any relevant information, documentation, data and, or records in whatever form held by a licence or authorisation holder or by any other person, including any person with whom the licence or authorisation holder may have or may have had any outsourcing arrangement for the retention of data, where the Authority has reasonable cause to believe that such person is in possession of relevant information, documentation, data and, or records. The power and right of access and processing in accordance with this sub-paragraph shall include access to data on customers' assets and financial transactions, telephonic or other communication records, and access to any other information relating or pertaining to the activities licensed or authorised by the Authority or otherwise falling under its supervisory or regulatory functions:

Provided that where a licence or authorisation holder outsources the retention of data to a third party, such licence or authorisation holder shall irrevocably authorise the Authority in writing to access any such data held by such third party as it may deem necessary for the exercise of its regulatory functions;

(iii) request from a licence or authorisation holder or from any other person, including any person with whom the licence or authorisation holder may have or may have had any outsourcing arrangement for the retention of data, such information and data relating or pertaining to the activities licensed or authorised by the Authority, as the Authority may deem necessary for the purpose of the exercise of its functions under this or any other law. Upon a written request by the Authority, a licence or authorisation holder or such other person shall promptly provide the Authority with any information and data that it may request.

(b) Licence or authorisation holders shall have a duty to keep all information, documentation, data and, or records in a safe place and in a secure manner and shall ensure that all information, documentation, data and, or records, wherever and howsoever kept, are accessible by the Authority at all times and without delay.

(c) Any person submitting information and data to the Authority shall have a duty to ensure that such information and data is correct and up to date, and shall submit such information and data within such time or date, and in such form and format, in such manner and by such means or method, including in electronic format by electronic transmission and through such electronic system and, or portal, accompanied where required, by a qualified electronic signature, as may be specified and required by the Authority.

(d) In this sub-article "licence or authorisation holder" shall include a person who has formerly held a licence or authorisation, and the employees and officials of such licence or authorisation holder.

(3) (a) The right of the Authority to obtain information and data from a licence or authorisation holder, or from any of the officials or employees of such holder, or from any other person, shall not be restricted, obstructed or precluded in any manner. Any gagging or similar confidentiality obligation or other restrictive condition arising from the legal or contractual relationship between a licence or authorisation holder and his officials or employees or any other person, shall, in so far as it is contrary to these provisions and impedes or restricts the right of the Authority to receive information and data required in the pursuance of its regulatory functions and duties arising under this or any other Act, be null and void.

(b) A licence or authorisation holder, or any of the officials or employees of such holder, or any other person, may not raise any contractual gagging restriction or similar prohibition or other confidentiality obligation arising or alleged to arise under contract law or otherwise refuse to comply with a request for information and data from the Authority, and no action for breach of contract and no disciplinary measure may be taken, directly or indirectly, by a licence or authorisation holder against any of its officials or employees or any other person for providing the Authority with any information and data required by the Authority.

(c) For the purposes of this sub-article:

(i) "information and data" shall include explanations and other forms of assistance; and

(ii) "employees" and "officials" shall include former employees and officials.

(4) Any person or entity holding a licence or any other form of authorisation granted by the Authority to provide any form of financial service falling under the regulatory and supervisory functions of the Authority, and the directors and managers, by whatever name designated, or any other persons who are or have been in charge of the operations or activities of any entity as aforesaid, or any person who is carrying out or has carried out a financial service without the required licence or authorisation shall, for the purpose of safeguarding the public interest in the effective regulation of financial services, have a duty to assist and collaborate with the Authority in order to enable it to discharge its regulatory functions including to supervise compliance with the applicable licence, authorisation or approval conditions and regulatory requirements.

(5) In the exercise of its functions under this Act or any other law, the Authority may:

(a) take all manner of regulatory decisions and measures as the Authority is by this or any other Act or regulations empowered to take, as it may deem necessary and appropriate, for the purpose of safeguarding, ensuring or restoring, or enforcing compliance with regulatory requirements and, or to safeguard the interests of consumers of financial services, investors and, or the integrity of the financial system and the capital markets;

(b) issue a directive in writing requiring a person to do or to refrain from doing any act, including prohibitions, restrictions and limitation of business activities, subject to such conditions as may be specified in the directive; and any person to whom or to which the directive 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; and

(c) cancel, suspend, modify or restrict a financial services licence or any other authorisation granted by the Authority.

(6) Without prejudice to the powers conferred to the Authority under this Act or any other law, in the exercise of its functions and whenever deemed necessary or expedient, the Authority may appoint any of the following to assist it in the fulfilment of any of its functions and, or to carry out such tasks as the Authority may determine, under such terms and conditions as the Authority may direct:

(a) a qualified person, to serve various purposes, including:

(i) conducting analyses on specific areas of concern;

(ii) assessing risks from unexpected events requiring immediate action;

(iii) gathering information on trends and risks;

(iv) implementing remedial actions following compliance reviews;

(v) undertaking preventive measures to reduce risks, and

(vi) assessing proposals for significant changes in a firm's business model or governance:

Provided that the Authority may also require a qualified person to be appointed by a licence holder or other person;

(b) a skilled person who, in the opinion of the Authority possesses the expertise necessary to provide the assistance required by the Authority. Where a skilled person is appointed in terms of this sub-article, the following provisions shall apply:

(i) the person in relation to whom the skilled person is appointed shall co-operate with the skilled person and provide any information and documentation, as may be required, by such skilled person in the fulfilment of his appointment;

(ii) the Authority may require the skilled person, *inter alia*, to provide it with a report relating to the assistance provided to the Authority in terms of his appointment; and

(iii) a report drawn up by the skilled person in terms of sub-paragraph (ii) and endorsed by the Authority in writing, shall for all purposes have the same effect as a document drawn up by the Authority:

Provided that where a skilled person is appointed to draw up an independent report, this provision shall not apply with respect to such independent report;

(c) a competent person, or an administrator, special administrator or temporary administrator, or an inspector as may be required under any law administered by the Authority;

(d) such other person who in the opinion of the Authority possesses the expertise required to assist the Authority in the performance of its regulatory functions and to carry out such tasks as the Authority may direct.

(7) (a) The Authority may for the purpose of making the appointments in terms of sub-article (6), issue rules or guidelines outlining procedures and requirements, including the powers, duties, and obligations of the appointee.

(b) All fees and expenses related to such appointments, including fees charged by the appointee, shall be paid by the individual or entity for whom the appointment is made, unless otherwise determined by the Authority.

(c) For the better carrying out of its functions under this Act or any other law, and to ensure that the Authority is able to make the appointments mentioned in sub-article (6) in a timely and effective manner, the Authority shall, for the purpose of making such appointments, be exempt from the provisions of any rules and regulations on the public procurement of services as may be in force from time to time.

(8) In the exercise of its functions and powers under this or any other law, for the purpose of safeguarding, preserving and preventing the dissipation of funds and other assets, in the interests of consumers of financial services and investors, the Authority shall have the right to issue orders for the freezing of funds and, or other assets including bank accounts in the name of the licence or authorisation holder or any other third party as may be indicated for such time and under such conditions as the Authority may establish in writing. The order may also prohibit a licence or authorisation holder or such other third party from transferring, disposing or losing possession of any such funds or assets. The Authority may communicate such orders to a foreign enforcement or supervisory authority and request assistance for the execution of such orders outside of Malta. Such orders may also be issued at the request of a foreign enforcement or supervisory authority. The Authority may exercise the powers in accordance with this sub-article notwithstanding the provisions of articles 17A and 17B and any provision as may be contained in any other law.

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- (9) (a) (i) Where it has been determined by a relevant regulatory, supervisory, intelligence, law enforcement and, or judicial authority that a holder of a licence or other authorisation has committed a serious, repeated or systematic breach of the Prevention of Money Laundering Act, any regulations made thereunder, or any procedures or guidance issued in terms of the said Act or any such regulations, or any EU anti-money laundering and counter funding of terrorism legislation or other enforceable rules or technical standards, without prejudice to the functions and powers of such other relevant regulatory, supervisory, intelligence, law enforcement, or judicial authority, the Authority may on the basis of such determination immediately proceed to take such regulatory action and measures in respect of the said licence or authorisation holder in accordance with its powers under this Act, as it may deem necessary under the circumstances.

(ii) Where on the basis of information received from a regulatory, supervisory, intelligence, law enforcement and, or judicial authority, the Authority has reasonable cause to believe or suspect that a holder of a licence or other authorisation may be or may have acted in breach of the Act, the regulations made thereunder, procedures, guidance issued in accordance with the said Act or EU legislation, rules or technical standards referred to in paragraph (a)(i), without prejudice to the functions and powers of any other competent regulatory, supervisory, intelligence, law enforcement, or judicial authority, the Authority may take such action and measures in respect of the said licence or authorisation holder in accordance with its powers under this Act or any other law, as it may deem necessary under the circumstances, for the purpose of ensuring compliance with licence or authorisation conditions and prudential regulatory requirements and, or to safeguard the interests of consumers of financial services, investors and, or the integrity of the financial system and capital markets.

(b) Where an individual, holding a position which requires the Authority's approval, has caused or contributed to a breach as is mentioned in paragraph (a)(i), the Authority may, without prejudice to any other power or function conferred to it under this Act or any other law, issue a directive prohibiting, temporarily or otherwise, or suspending, such individual from exercising any such functions and duties in connection with their position as mentioned under this paragraph as may be determined by the Authority, with the same licence or authorisation holder mentioned in paragraph (a)(i), or with any other holder of a licence or other authorisation issued by the Authority, or with any person otherwise falling under the Authority's supervisory or regulatory functions.

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(10) In the exercise of its functions and powers under this or any other law, the Authority may request and may be assisted by local or foreign law enforcement authorities, intelligence agencies or authorities, regulators and, or supranational authorities.

(11) The Authority may, for the better carrying out of the provisions of this Act or any other Act administered by it, or any other function as may be assigned to it from time to time, issue and publish rules regulating the procedures and duties of persons licensed or authorised by it or falling under its regulatory or supervisory functions. Such rules may:

(a) stipulate additional requirements and conditions in relation to activities of such persons, the conduct of their business, their relations with customers, the public and other parties, their responsibilities to the Authority, reporting requirements, financial resources, capital adequacy and related requirements, and any other matters as the Authority may consider appropriate;

(b) provide for the returns, statements and notices to be made or given for any purposes in regard to which the Authority exercises supervisory or regulatory functions, or any other function as may be assigned to it, under this Act or any other Act, and the form and contents thereof; and

(c) prescribe the information that such persons are to submit to the Authority:

Provided that such rules shall be binding on all licence and authorisation holders and other persons as may be specified therein.

(12) (a) Without prejudice to any other powers that may be exercised by the Authority in terms of this Act or of any other law, where the Authority determines that any person has breached or failed to comply with any provision of this Act or any other Act administered by the Authority, or with any regulations or rules issued thereunder, or with any of the provisions of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector, or with any of the provisions of Articles 5, 6 or 7 of the Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, or with any of the conditions imposed in a licence or authorisation issued by the Authority or with any directives issued by the Authority, the Authority may by notice in writing impose an administrative penalty which may not exceed one hundred and fifty thousand euro (€150,000) in respect of each individual breach, infringement or failure to comply, as the case may be. The Authority shall ensure that administrative penalties imposed in accordance with this sub-article are effective, dissuasive and proportionate.

(b) Where circumstances so warrant, the Authority may issue reprimands or warnings or take other regulatory or corrective measures as may be deemed warranted by the circumstances and the nature and seriousness of the breach and wrongdoing.

(c) Where a notice as referred to in paragraph (a) has not been appealed, or where such notice has been appealed, within fifteen (15) days of the determination by the Financial Services Tribunal of such appeal, the administrative penalty as contained in the notice or as reduced or increased by the decision of the Tribunal shall be due to the Authority. Upon the service of a copy of the notice or the decision, as the case may be, by means of a judicial act on the person indicated in the notice or decision, the said notice or decision shall constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

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(13) (a) Any enforcement decision or measure of whatever type, including reprimands or warnings, imposed by the Authority, in accordance with any law for whose administration the Authority is responsible, shall be published in such medium and in such manner and for such duration as may be deemed warranted by the circumstances and the nature and seriousness of the breach or wrongdoing. The Board of Governors may from time to time establish policies and guidelines regarding the publication of decisions, measures, sanctions and administrative penalties.

(b) Such publication shall include information on the type and nature of the breach if any, and the reason for the imposition of the decision, measure, sanction or administrative penalty, and the identity of the person on whom the decision, measure, sanction or administrative penalty is imposed. The publication shall be made without undue delay after such person is informed of the decision, measure, sanction or administrative penalty:

Provided that in cases where an appeal has been filed by the person on whom such decision, measure, sanction or administrative penalty has been imposed, the Authority shall, without undue delay, also publish information on the status of the appeal and the outcome thereof.

(c) Notwithstanding the provisions of paragraph (b), the Authority may publish information on an anonymous basis, in any of the following circumstances:

(i) where the administrative penalty imposed does not exceed an amount as may be established in policies established by the Board of Governors;

(ii) where publication would jeopardise the stability of financial markets or on-going supervision, or criminal investigations;

(iii) where publication would cause, insofar as may be determined, disproportionate damage to the person or entity involved:

Provided that publication on an anonymous basis shall be an exceptional measure which must be justified, and shall be approved by the Enforcement Decisions Committee in accordance with the Authority's publication policies:

Provided further that in the circumstances referred to in sub-paragraphs (ii) and (iii), the Authority may postpone publication for such period of time until such circumstances cease and, in the circumstances referred to in sub-paragraph (ii), if such circumstances so warrant, the Authority may decide not to publish any information.

(d) This sub-article shall be without prejudice to any provision on the publication or otherwise of any enforcement decision or measure which may be provided for in any other Act administered by the Authority or in any regulations made thereunder, or in European Union legislation.

(14) In the exercise of its functions in accordance with this or any other law, the Authority may use and apply any of its powers and rights under this article to persons or entities whose licence or authorisation has been suspended or cancelled or voluntarily surrendered to the Authority, until such time as there are no outstanding regulatory matters and the legitimate rights of interested consumers have been fulfilled."

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Addition of new articles to the principal Act.

24. Immediately after article 16A of the principal Act there shall be added the following new articles:

"Obstruction of the Authority.

16B. Any person who through a wilful act or omission obstructs the Authority in the performance of its functions in accordance with this Act or any other Act shall, without prejudice to any liability under any other law, be guilty of an offence against this Act and shall be liable on conviction to a fine (*multa*) not exceeding fifty thousand euro (€50,000).

Collection, retention and processing of personal data.
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16C. (1) (a) Any processing of personal data conducted by the Authority shall fully comply with the provisions of the GDPR and the Data Protection Act, including the regulations made thereunder.

(b) The Authority shall collect, retain and process personal data as necessary and required for the purpose of the performance of all its functions and, or the exercise of any of its powers under this Act, including the regulations made thereunder, or any other law and shall store and process such data by any means, including electronic means and systems.

(2) The Authority may process personal data for a purpose other than that for which it was collected where such other purpose is compatible, in accordance with Article 6(4) of the GDPR, with the original purpose for which the personal data was collected, including where such other processing is necessary and proportionate for the performance of any of its regulatory functions, for the prevention, detection or investigation of breaches of regulatory requirements, or for the exercise of any other legal obligation or function in the public interest as assigned to the Authority by law.

(3) (a) The Authority may process personal data for such period of time and in accordance with such policies as may be established by the Authority for this purpose.

(b) Without prejudice to any time limits provided for by any law for storing or erasing data, the Authority shall establish appropriate time limits for the erasure of personal data or for a periodic review of the need for the storage of personal data.

(c) In establishing appropriate time limits for the storage and erasure of personal data, the Authority shall take into consideration its regulatory obligations and the purpose for which the data has been collected; and where personal data has been collected for the purpose of a licence or authorisation issued by the Authority, it shall be considered necessary to retain and process such data throughout the duration of the validity of such licence or authorisation and for such additional period as may be required by law or necessary to address audit, regulatory, supervisory or legal obligations directly related to such licence or authorisation, after which the data shall be securely erased or anonymised.

(4) Without prejudice to sub-articles (5) to (8), the Authority may restrict the rights and obligations established in Articles 12 to 22 and Article 34 of the GDPR, as well as Article 5 of the GDPR in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22 of the GDPR, where such restriction is necessary and proportionate to safeguard against:

(a) any hindrance to the Authority in the performance of its functions and, or the exercise of its powers at law, including the enforcement of laws regulating financial services and the prevention, detection and investigation of any breach of such law;

(b) any hindrance to any process, procedure, investigation, inquiry, assessment, scheme, application or settlement being undertaken by the Authority in the performance of its functions and, or the exercise of its powers at law;

(c) any hindrance to the achievement by the Authority of a regulatory objective which is in the public interest;

(d) any hindrance to the imposition or recovery of any administrative penalties, fees or charges due to the Authority in accordance with the provisions of this Act or any other applicable law;

(e) the unlawful disclosure of any information that has been acquired by the Authority in the discharge of its functions; or

(f) any hindrance or prejudice with respect to the establishment, exercise or defence of a legal claim and, or legal proceedings, including any anticipated legal claim or proceedings, to which a data subject is or may be a party, and which are or may be instituted under any law, whether before any competent court, tribunal or body having judicial or quasi-judicial powers:

Provided that where the Authority anticipates a legal claim and, or legal proceedings, the Authority shall be responsible for, and be able to demonstrate that based on factual and specific circumstances, such legal claim and, or legal proceedings are reasonably likely to arise:

Provided further that before applying any restriction, the Authority shall conduct a necessity and proportionate assessment and shall be able to demonstrate that the application of the restriction is necessary and proportionate.

(5) The data protection officer appointed by the Authority shall be duly consulted and in a timely manner, with respect to any such restriction as referred to in sub-article (4), both prior to and throughout the duration of such restriction.

(6) Where a restriction as referred to in sub-article (4) applies, the Authority shall notify the data subject in writing, of the rights and obligations being restricted, the reasons for such restriction, and his right to submit a data protection complaint with the IDPC:

Provided that the provisions of this sub-article shall not apply where such notification would prejudice the safeguarding of the relevant objective established in sub-article (3).

(7) The Authority shall periodically review the decision applying a restriction as referred to in sub-article (4) and assess the necessity and proportionality thereof to ensure that the justification for the restriction is still valid:

Provided that where the reason for the restriction no longer applies, the Authority shall lift the restriction without undue delay.

(8) The Authority shall keep a record of any such restriction as referred to in sub-article (4) and the reasons for such restriction and it shall, whenever so required by the IDPC, furnish the said IDPC with a copy of such record.

(9) Words and expressions used in this article which are also used in the GDPR, but which are not defined in this Act, shall have the same meaning as in the GDPR.

(10) For the purposes of this article:

(a) "GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as may be amended from time to time, and includes any implementing measures that may have been or may be issued thereunder;

(b) "IDPC" means the Information and Data Protection Commissioner and shall have the same meaning as that assigned to "Commissioner" in accordance with the Data Protection Act;

(c) "processing" shall have the same meaning as that assigned to it in accordance with Article 4(1) of the "GDPR".

Cap. 586.

25. Article 17 of the principal Act shall be amended as follows:

Amendment of article 17 of the principal Act.

(a) the marginal note thereof shall be substituted by the following new marginal note:

"Disclosure and exchange of information.";

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

"(1) Other than for the proper discharge of their duties or functions under this or any other Act, or as may be otherwise provided in any other law, the members of the Board of Governors or of any other organ of the Authority, and the officers and employees of the Authority, and any agent, expert or other person appointed by the Authority to assist it in the exercise of its regulatory function, and the officers and employees thereof, shall treat any information

acquired in the discharge of their duties as confidential and shall not, directly or indirectly, disclose such information to any other person, except with the consent of the person who had divulged the information. For the purposes of this sub-article, "employees" and "officers" shall also include former employees and officers.";

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

"(1a) Any officer or employee of the Authority, or an agent, expert or other person appointed by the Authority to assist it in the exercise of its regulatory function, or any officer or employee thereof, whether still in the service of the Authority or otherwise who, in any circumstance discloses to a third party any information or documents acquired in the performance of his duties, the exercise of his functions, or any information or document relating to the affairs of the Authority, other than as provided in this article, shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding fifty thousand euro (€50,000), or to imprisonment for a term not exceeding two (2) years, or to both such fine and imprisonment.";

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

(i) in paragraph (a) thereof the words "and the registration of commercial partnerships" shall be deleted;

(ii) in paragraph (b) thereof the words "local or overseas enforcement or regulatory authorities," shall be substituted by the words "local or overseas law enforcement, intelligence, prosecutorial, judicial or regulatory authorities," and the words "comprising such local or overseas enforcement or regulatory authorities," shall be substituted by the words "comprising such local or overseas authorities,";

(iii) in paragraph (c) thereof the words "regulatory, supervisory, judicial, registration or licensing function" shall be substituted by the words "regulatory, supervisory, registration or licensing function";

(iv) in the proviso thereof the words "with the Authority." shall be substituted by the words "with the Authority:" and immediately thereafter there shall be

added the following new proviso:

"Provided further that any request for disclosure of information shall be accompanied by a formal and clear justification, outlining the purpose of the request and demonstrating its relevance and necessity in relation to a particular matter or transaction. Requests should be limited to specific details necessary to fulfil the stated purpose and the requesting party shall precisely identify the information sought. Information shall only be provided once the justification and specificity are deemed satisfactory in accordance with applicable legal standards and organizational policies.";

(e) immediately after sub-article (2) thereof, as amended, there shall be added the following new sub-articles:

"(2a) Without prejudice to the provisions of sub-articles (2b) and (4), the Authority may provide and disclose regulatory information and documentation acquired in the exercise of its functions to a court or tribunal in the course of judicial proceedings.

(2b) Notwithstanding the provisions of any other law:

(a) the Authority shall not be obliged to provide or disclose any information or document requested by any court or tribunal, authority, body, entity or person where the Authority has reasonable grounds to believe that the provision or disclosure of the information or document requested may prejudice, undermine or impede any regulatory, supervisory or enforcement action being carried out or which the Authority intends to carry out:

Provided that the reasons for any refusal to provide or disclose any information or document under this sub-article shall be clearly explained to the court, tribunal, authority, body, entity or person requesting the information:

Provided further that where the request to provide or disclose information or documents is made by a court or tribunal and the court or tribunal

are not satisfied with the reasons provided by the Authority, the court or tribunal may nevertheless order the giving of evidence and, or the submission of such information or document *in camera*;

(b) the Authority shall not be obliged and shall not provide or disclose to a court, tribunal, authority, body, entity or person, any information or document that has been obtained by or provided to the Authority by way of or in the form of intelligence, or which was otherwise classified as secret when obtained or provided to the Authority, without the prior written authorisation to do so from the provider of such information or document:

Provided that any provision or disclosure of any information or document as aforesaid shall be subject to, and shall be received and retained under absolute confidentiality and secrecy, and shall not be disclosed by the recipient to any other third party:

Provided further that where such information or document is provided or disclosed to a court or tribunal, the giving of evidence and the submission of such information or document shall be carried out *in camera*:

Provided further that where upon a request by the Authority, the court is satisfied that the disclosure of any information or document as aforesaid may prejudice national interest or security, public interest, or international relations, the court may order that such information or document shall not be disclosed:

(c) the Authority shall not be obliged by a court or tribunal, in civil proceedings to which it is not a party, to provide any confidential information or document to any person claiming to have a legitimate interest therein or any other pretended right thereto where the court or tribunal is satisfied that the disclosure and, or provision of such information or document are regulated by specific laws, rules or regulations that establish who shall be entitled, the conditions to be satisfied and the procedures applicable, to obtain such information

or document;

(d) for the purpose of safeguarding the confidentiality of proceedings of the Authority's decision-making bodies and the Authority's operational autonomy and independence, the Authority shall not be obliged to provide or disclose to a court, tribunal, authority, body, entity or person any document, representing correspondence with regulatory, supervisory, intelligence, enforcement and other competent authorities, internal communications and records of internal deliberations or meetings."; and

(f) in sub-article (3) thereof immediately after the words "the European Central Bank (ECB)," there shall be added the words "the European Anti-Money Laundering Authority (AMLA),".

26. Immediately after article 19 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"Mystery shopping.

19A. (1) Without prejudice to the powers conferred on the Authority under this Act or any other law, the Authority shall, for the better performance of its functions and to safeguard the interests of consumers of financial services, have the power to purchase services, under a cover identity, from any person licensed or otherwise authorised by it, or who otherwise carries out activities falling under the Authority's regulatory or supervisory functions, hereinafter referred to as "mystery shopping".

(2) The Authority may in accordance with its powers at law, take any such action as it may deem necessary, based on the findings resulting from such mystery shopping.

(3) In the exercise of its power under sub-article (1), the Authority shall not induce or cause any person to commit any unlawful act or an act that would constitute a contravention or breach of, or failure to comply with the applicable legal and regulatory framework, which act such person would have otherwise been unlikely or unwilling to commit.

C 3904

(4) The Authority may establish policies, rules and procedures for the better carrying out of, and to better implement, the provisions of this article. Such policies and rules shall be made public.

Address, notices and electronic communication.

19B. (1) Every licence or authorisation holder shall provide the Authority with a valid email address and physical address and shall be obliged to promptly notify the Authority in writing of any changes thereto.

(2) A notice, document or any other form of communication required to be delivered or given to, or served on a licence or authorisation holder, or any other person, by this Act or any other Act administered by the Authority, shall be deemed to be delivered if:

(a) it has been delivered or sent by post to the last known physical address; or

(b) it has been sent by email to the last known email address;

irrespective of whether or not a delivery confirmation is received by the Authority in relation to such notice, document, or other form of communication.

(3) Without prejudice to the previous sub-articles, the Authority may implement any form of electronic system as it may deem necessary for the better exercise of its functions under this Act and any other law, including for the purpose of communication, delivery and exchange of information, documents and data between licence or authorisation holders and the Authority and the licence and authorisation holders shall communicate with the Authority through such a system as the Authority may direct.

Electronic signatures.

19C. (1) Any document supplied to the Authority, which is required to be authenticated, shall be so authenticated either by a hand-written signature or by a qualified electronic signature, as may be instructed by the Authority, from time to time.

(2) For the purposes of this article, "qualified electronic signature" shall be an electronic signature as defined in Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC."

Amendment of article 20A of the principal Act.

27. Sub-article (4) of article 20A of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof the words "for each infringement or failure to comply" shall be substituted by the words "in respect of each individual breach, infringement or failure to comply";

(b) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) administrative penalties and fines higher than one hundred and fifty thousand euro (€150,000), as may be deemed necessary or appropriate in respect of any contravention of or failure to comply with any EU legislation or any regulations made under this article to transpose or to give effect to any EU legislation."

28. Article 20D of the principal Act shall be amended as follows:

Amendment of article 20D of the principal Act.

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

"(ca) to provide for, and to regulate the payment by any person of, any such fees and charges payable to the Resolution Authority in respect of any matter provided for, by or under this Act or any regulations made under this article, including the drawing up of resolution plans, as may be prescribed;" and

(b) in sub-article (2) thereof the words "the Authority," shall be substituted by the words "the Resolution Authority,".

29. Article 21 of the principal Act shall be substituted by the following:

Substitution of article 21 of the principal Act.

"Financial Services Tribunal.

21. (1) There shall be an independent tribunal to be called the "Financial Services Tribunal", in this Act also referred to as "the Tribunal", which shall exercise and perform the functions and powers assigned to it by law.

(2) The Tribunal shall consist of one or more panels, and each shall consist of a Chairperson and two (2) other members, as may be appointed by the Minister.

(3) The Minister shall, from time to time and according to necessity, appoint not less than two (2), substitute members, which number shall be within the discretion of the Minister. Any substitute members shall satisfy the criteria established in sub-articles (4) or (5), as applicable and shall also be subject to sub-articles (6), (7), (8) and (9). In case of a vacancy in the composition of any panel of the Tribunal or for the reasons contemplated in sub-article (16) or due to indisposition of any member of any panel, including the Chairperson, the Minister shall appoint a substitute member in accordance with the schedule, who satisfies the requisites of the vacancy according to sub-articles (4) or (5), as the case may be, and sub-article (6).

(4) The Chairperson of any panel of the Tribunal shall be an advocate who for a period of, or periods amounting in the aggregate to, not less than twelve (12) years has served as an advocate in Malta or has served as a judge or magistrate in Malta, or partly so practised and partly so served.

(5) Without prejudice to any other provision in any other law related to the composition of the Tribunal or to the qualifications of its members, the two (2) other members of any panel of the Tribunal shall be persons who in the opinion of the Minister possess the necessary expertise and experience in the business or regulation of financial services, or finance.

(6) (a) A person shall not be eligible to be appointed and to serve as Chairperson or member of any panel of the Tribunal if he:

(i) is the holder of a licence or other authorisation issued by the Authority or otherwise falls under the regulatory or supervisory functions of the Authority, or is a director, an officer, or an employee of such holder of a licence or other authorisation;

(ii) is a member of the House of Representatives;

(iii) is legally incapacitated or interdicted;

(iv) has been declared bankrupt or has made a composition or arrangement with his creditors;

(v) has breached any provision made by or under any law appearing to be drafted for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice concerned with regard to the provision of financial services or in the management of companies;

(vi) has engaged in any business practice which the Minister deems to be deceitful, oppressive or otherwise improper, whether unlawful or otherwise, or which otherwise reflects discredit on his method of conducting business or professional activities;

(vii) has engaged in or been associated with any other business practice or activity or otherwise conducted himself in such a manner as to cast doubt on his competence, integrity, or soundness of judgement;

(viii) has been disqualified by any professional or regulatory body;

(ix) has a financial or other interest as is likely to have a prejudicial effect on the discharge of his functions; or

(x) has been found guilty or is being charged with the commission of a "relevant offence" as defined in the Proceeds of Crime Act; or

(xi) for some other reason is not a fit and proper person to hold such office.

(b) In determining whether a person is a fit and proper person, the Minister shall have regard to such person's probity, his competence and soundness of judgement for fulfilling the responsibilities of such office, his reputation and integrity and to the diligence with which he is likely to fulfil those responsibilities.

(7) The Chairperson and the other members of any panel of the Tribunal shall hold office for a term of five (5) years and may not be removed during their term of office other than for any of the reasons mentioned in sub-article (6)(a)(i) to (x) or on grounds of proved inability to perform the functions of their office whether arising from infirmity of body or mind or any other cause, or proved misbehaviour.

(8) The Chairperson and other members of any panel of the Tribunal shall receive such remuneration as may be determined in their instrument of appointment and such remuneration shall be paid out of the Consolidated Fund.

(9) The remuneration referred to in sub-article (8) shall not be altered during the tenure of office of a member by whom it is receivable, except for such changes as may from time to time be required to preserve at all times during the tenure of office between the proportion of the remuneration and the salary of a judge of the superior courts, as existed on the date of the appointment.

(10) The procedure for an appeal to the Tribunal in accordance with the provisions of sub-articles (13) and (14) shall be by means of written pleadings. The appeal application shall explain clearly the grounds for the appeal and shall be filed with the Tribunal by not later than thirty (30) days from the date on which the notice of the decision or act in question has been served to the aggrieved person. The Tribunal shall serve on the competent authority by not later than fifteen (15) days from the filing of the appeal and the competent authority shall have thirty (30) days from the date on which it was served with the appeal to file its reply.

(11) The application shall include all the evidence, including every sworn affidavit and documents that the aggrieved party intends to submit to the Tribunal, together with all the written pleadings in support of the appeal. The reply by the competent authority shall similarly include all the evidence, including every sworn affidavit, document and written pleadings it intends to submit in its defence. The application, reply, written pleadings, sworn affidavits, evidence and other documents shall be filed in the registry of the Tribunal.

(12) (a) The Tribunal shall proceed to deal with the appeal before it with utmost urgency and shall appoint the appeal for hearing at an early date, which date shall in no case be later than three (3) months from the date of the filing of the appeal.

(b) The appeal shall be decided within twelve (12) months from the date appointed for the first hearing of the appeal and no adjournment beyond the said twelve (12) months shall be granted, except for one adjournment for an exceptional and justified reason to be recorded by the Tribunal, and in any case such adjournment shall be for a date not later than three (3) months following the said twelve (12) months.

(13) The Tribunal shall hear appeals from decisions of the competent authority and shall have full jurisdiction to review such decisions on points of law and fact:

Provided that no appeal shall lie from any decision imposing an administrative penalty not exceeding one thousand euro (€1,000) and from any reprimand or warning.

(14) The Tribunal shall also hear appeals from decisions of the Resolution Authority and shall have full jurisdiction to review such decisions on both points of law and fact:

Provided that with respect to an appeal from a decision of the Resolution Authority to take a crisis management measure, the Tribunal shall use the complex economic assessments of the facts carried out by the Resolution Authority as a basis for its own assessment of such decision:

Provided further that the complex nature of such economic assessments shall not prevent the Tribunal from examining whether the evidence relied on by the Resolution Authority is factually accurate, reliable and consistent, and whether such evidence contains all relevant information which should be taken into account in order to assess a complex situation, and whether it is capable of substantiating the conclusions drawn therefrom.

(15) The Tribunal shall ensure that the hearing of all its sittings and the delivery of all its decisions are open and accessible to the public, including by electronic or other viable means of communication, as it deems appropriate, unless the Tribunal does not deem, after having regard to the exceptional nature of the matter before it, the Tribunal deems it fit and proper to conduct the proceedings or any part thereof behind closed doors and in any such case the decision of the Tribunal shall always be delivered in public.

(16) The Chairperson or any member of any panel of the Tribunal may be challenged or may abstain from sitting in a case in those circumstances that would disqualify a judge in a civil lawsuit, and in such case the Chairperson or member shall be substituted by another member appointed by the Minister in accordance with sub-article (3):

Cap. 403. Provided that for the purposes of insurance business, such member is to be substituted by another member appointed by the Minister, who shall have the knowledge and experience required in accordance with article 57(1) of the Insurance Business Act.

(17) The Tribunal shall have the power to summon witnesses and to administer the oath thereto, and to appoint any expert as it may deem necessary for the determination of the case before it.

(18) (a) In addition to the written pleadings, sworn affidavits, evidence and documents submitted, the Tribunal may, whenever under the circumstances it shall deem it expedient so to do, allow the parties to file an additional written pleading within such times as the Tribunal shall direct.

(b) The Tribunal may also allow or request any of the parties to give oral evidence or to reply to any questions or to clarify any matters, whenever it deems that it is expedient to do so in the circumstances, before handing down its decision:

Provided that the Tribunal shall disallow any evidence which it considers to be irrelevant or superfluous.

(19) Upon the hearing of an appeal, filed before it under any law, the Tribunal shall have the power -

(a) to confirm, annul or vary the decision of the competent authority or the Resolution Authority under the relevant law and to give directions within its powers under this Act or any other law to the said competent authority or the Resolution Authority to implement the decision of the Tribunal;

(b) subject to the provisions of article 17, to require the production of any document or other information;

(c) to order the payment of costs and expenses by any party to the appeal.

(20) In the absence of any rules, the Tribunal may regulate its own procedure and may:

(a) take all such measures and issue all such orders as it deems appropriate to ensure the proper conduct of the sittings of the Tribunal, including by electronic or other viable means of communication;

(b) allow the filing of documents in proceedings before it and the notification thereof to the parties, to take place by electronic means and in such format as it may deem appropriate;

(c) communicate with the parties by electronic means or by conventional mail, at its discretion;

(d) receive all acts, including appeals and replies thereto, by the transmission of the original duly signed act, by electronic means;

(e) receive the fee prescribed by electronic payment or other means; and

(f) hold and conduct the hearing of its sittings and give its decisions by such electronic or other viable means of communication, as it deems appropriate:

Provided that any failure or damage to electronic or other means of communication, including video-conferencing systems, shall not render the hearing null and void:

Provided further that service by electronic mail shall be deemed to have been effected on the date on which the act was transmitted by electronic means:

Provided further that the Chairperson of the Tribunal may direct that the use of electronic means shall apply to the entire proceedings in respect of any particular appeal, including the filing and service of acts and documents, and the conduct of hearing of sittings.

(21) There shall lie an appeal to the Court of Appeal on questions of law only from a decision of the Tribunal. An appeal shall be made by not later than twenty (20) days from the date of the decision of the Tribunal. In the determination of such an appeal, the Court of Appeal shall have all the powers of the Tribunal to make orders.

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(22) The Minister may make regulations governing the procedure and fees for bringing and conducting appeals before the Tribunal, provided that in the absence of such regulations and subject to the rules of natural justice, the Tribunal shall regulate its own procedure.

(23) The Minister responsible for justice, in consultation with the Minister responsible for finance, may by regulations made under this sub-article establish the fees payable in the registry of the court in relation to the filing of judicial acts in connection with appeals to the Court of Appeal under this article:

Cap. 12. Provided that until such fees are so established by the said Minister, the fees listed in Schedule A to the Code of Organization and Civil Procedure shall apply.

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

Provided that any decision to cancel a licence or authorisation 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 on the date on which the appeal is abandoned:

Provided further that where an appeal is related to a decision of the Resolution Authority to take a crisis management measure:

(a) the filing of an appeal from such decision shall not entail any automatic suspension of the effects of the challenged decision; and

(b) the decision of the Resolution Authority shall be immediately enforceable and it shall give rise to a rebuttable presumption that a suspension of its enforcement would be against the public interest.

(25) In this article, "competent authority" refers to the Authority under this Act and under any other law for the purposes of which it is appointed as the competent authority."

Addition of new article to the principal Act.

30. Immediately after article 21 of the principal Act, as

substituted, there shall be added the following new article:

"Registry of
the Financial
Services
Tribunal.

21A. (1) There shall be a registry to serve the Financial Services Tribunal which shall be known as the "Registry of the Financial Services Tribunal".

(2) (a) The Registry shall be a depository competent to receive all acts, written pleadings and other documents which, in accordance with this Act and any other law are to be filed with the Tribunal. Any provision in any law which makes reference to the filing of any act or document with the Tribunal shall be construed as a reference to the filing of such act or document with the registry herein established:

Provided that any acts, written pleadings and other documents filed by electronic means shall, for all intents and purposes of law, be deemed to have been filed directly in the registry and any copy thereof issued by the registry shall, for all intents and purposes of law, be deemed to be the original.

(b) All acts, written pleadings and documents filed with the Tribunal as of the date of its establishment shall be transferred to the registry and the archives of the Tribunal.

(3) (a) The Minister shall appoint a person to act as the "Executive Director of the Registry of the Financial Services Tribunal".

(b) The Executive Director shall be a person who in the opinion of the Minister is fit and proper to hold such office and who possesses qualifications, experience and the competence required for fulfilling the responsibilities of such office. In determining whether a person is a fit and proper person, the Minister shall have regard to such person's probity, his reputation and integrity, and the diligence with which he is likely to fulfil his responsibilities.

C 3914

(c) The Minister may by regulations prescribe the functions, powers and duties to be performed by the Executive Director, the qualifications and criteria for appointment and all matters ancillary thereto.

(4) The executive director shall be the head of the Registry and shall be responsible for the management and administration of the registry and the archives, and for all matters necessary for the proper functioning of the Tribunal. The Executive Director may be assisted by such other officers and staff as the Minister may determine.

(5) Without prejudice to the functions, powers and duties as may, by regulations, be vested in him, the executive director shall:

(a) receive and register all acts, written pleadings and other documents which shall be filed with the Tribunal in accordance with any law;

(b) keep a register of all cases and proceedings before the Tribunal;

(c) register the orders and decisions of the Tribunal;

(d) keep a record and minutes of the proceedings during sittings and, or hearings of the Tribunal;

(e) register any verbal request to the Tribunal made by any party to the proceedings;

(f) issue certified true copies of any act or document existing in the registry, including such acts or documents which may have been filed by electronic means; and

(g) keep a register with the e-mail addresses of all persons participating in the appeal proceedings and such register shall be available to all persons participating in the said appeal.

(6) The Executive Director shall be responsible for the service and the execution of any acts and other orders given by the Tribunal and to perform such other duties as may be assigned to him by the Chairperson of the Tribunal.

(7) The Executive Director shall be responsible for the safekeeping of all acts and documents filed in the registry.

(8) In the conduct of his duties, the Executive Director shall report to and receive instructions from the Chairperson of the Tribunal in relation to any proceedings before the Tribunal and in relation to any act and, or document forming part of such proceedings.

(9) The Tribunal shall maintain archives, including in electronic form, in which the records, acts, written pleadings and documents of cases and proceedings of the Tribunal shall be deposited. The Minister may make regulations governing the archives and their management.

(10) The Executive Director shall be responsible for the administration of the archives and for the proper storage of documents therein, access thereto, the making and authentication of copies and for all other matters relating to the archives.

(11) The Minister may by regulations, prescribe all the matters necessary for the proper functioning of the registry."

31. In paragraph (d) of article 22 of the principal Act the words "the Authority." shall substituted by the words "the Authority:" and immediately thereafter there shall be added the following new proviso:

Amendment of article 22 of the principal Act.

"Provided that income derived from the payment of administrative penalties shall be transferred to the Consolidated Fund."

32. Article 23 of the principal Act shall be amended as follows:

Amendment of article 23 of the principal Act.

(a) in sub-article (1) thereof the words "The Executive Committee" shall be substituted by the words "The Chief Executive Officer";

(b) in sub-article (4) thereof the words "the Executive Committee may adopt supplementary estimates" shall be substituted by the words "the Chief Executive Officer may cause to be prepared supplementary estimates".

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Amendment of article 28 of the principal Act.

33. In article 28 of the principal Act the words "as soon as may be but not later than six (6) months" shall be substituted by the words "as soon as may be, but not later than six (6) months".

Substitution of article 29 of the principal Act.

34. Article 29 of the principal Act shall be substituted by the following new article:

"Exemption from liability.

29. (1) The Authority, the members of the Board of Governors when acting in any function assigned to the Board under any provision of this Act, any body or other organ of the Authority, including any committee or sub-committee established under this Act, and any member or officer of such body or organ and the officers and employees of the Authority, shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any such function, or otherwise in the exercise of their official duties, unless the act or omission is shown to have been done or omitted to be done, as the case may be, through wilful misconduct.

(2) Without prejudice to the provisions of sub-article (1), in case of any judicial proceedings against any member of the Board of Governors, or any member or officer of any body or organ of the Authority or of any committee or sub-committee established under this Act, or against any officer or employee of the Authority, concerning a claim for damages for any act done or omitted to be done in the discharge or purported discharge of their function or otherwise in the exercise of their official duties, the applicable provisions of the Holders of Public Office and Public Entities (Responsibility) Act shall also apply.

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(3) For the purposes of this article:

(a) the phrase "this Act" shall include any other Act administered by the Authority and any regulations or rules made thereunder; and

(b) the phrases "members", "any member or officer" and "officers and employees" shall include former members, any former member or officer and former officers and employees, respectively:

Provided their act or omission has been done or omitted to be done in the discharge of their functions, or otherwise in the exercise of their official duties during such period of time when they were serving the Authority, and it is shown that the act or omission has not been done or omitted to be done, as the case may be, through wilful misconduct."

35. Immediately after article 31 of the principal Act there shall be added the following new article:

Addition of new article to the principal Act.

"Additional transitory provisions and construction of references.

32. (1) Any decision taken by the Executive Committee or by any sub-committee thereof, or by any official of the Authority to whom the Executive Committee has delegated decision making powers, prior to the date of the coming into force of this article, shall continue to apply.

(2) Any decision regarding the approval of prospectuses and admissibility to listing, taken by the Board of Governors or by any committee, sub-committee or official of the Authority to whom the Board of Governors has delegated decision making powers prior to the date of the coming into force of this article, shall continue to apply.

(3) For purposes of this article, the term "decision" shall include licences issued, approvals and authorisations granted, and any regulatory action taken.

(4) Any reference in any law to the Audit Committee shall be read and construed as a reference to the Audit and Risk Committee as defined in article 2."

36. The First Schedule to the principal Act shall be amended as follows:

Amendment of the First Schedule to the principal Act.

(a) item 2 thereof shall be substituted by the following new item:

"The Resolution Committee.

2. (1) The Resolution Committee shall carry out the functions of the Resolution Authority. The Committee shall ensure full and complete adherence to the requirements and obligations prescribed by regulations made under this Act, either directly or in collaboration with European and third-country resolution authorities, and may, for such purposes, exercise any of its powers under this Act and any regulations made thereunder.

(2) The Resolution Committee shall be composed of five (5) persons as follows:

(a) two (2) members appointed by the Board of Governors from amongst its members;

(b) the Deputy Chief Executive Officer

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responsible for enforcement;

(c) the Deputy Chief Executive Officer responsible for legal affairs; and

(d) a person appointed by the Minister responsible for finance.

The Board of Governors shall appoint a Chairperson and a Deputy Chairperson from amongst the members of the Committee.

(3) (a) The Resolution Committee shall act independently of the organs and Units of the Authority.

(b) The Resolution Committee shall report to the Board of Governors on its objectives and the conduct of its functions.

(4) The quorum required for meetings of the Resolution Committee shall consist of not less than three (3) members, which shall include the Chairperson or, in his absence, the Deputy Chairperson. Decisions of the Committee shall be taken by a majority of votes of the members present, and in the case of an equality of votes, the Chairperson or Deputy Chairperson presiding the meeting shall have an original and a second or casting vote. The Committee shall otherwise regulate its own procedures.

(5) The Chairperson of the Resolution Committee shall designate an official of the Authority to act as a secretary to the Resolution Committee for such period of time and under such terms and conditions as the Chief Executive Officer shall deem appropriate.

(6) It shall be the duty of the Secretary to make the necessary preparations for the meetings of the Resolution Committee and to keep minutes of those meetings.

(7) The Resolution Committee may invite any person, including from the Central Bank of Malta and from any other local competent authority, body or entity, and may require any officer of the Resolution Unit or of the Authority to attend a meeting of the Resolution Committee

and to take part in the discussion.";

(b) item 4 thereof shall be substituted by the following new item:

"Functions and powers of the Resolution Committee.

4. (1) Without prejudice to any other function or power conferred to it by this Act or any other law or regulations, it shall be the function of the Resolution Committee to:

(a) review and decide upon the recommendations made to it by the Resolution Unit established in accordance with this Schedule, in relation to resolution decisions;

(b) liaise and consult, on matters relating to budgets and resources, with the Authority;

(c) exchange information, where necessary, with the Authority;

(d) carry out such other functions which are assigned to it by this Act or any regulations made thereunder;

(e) apply resolution measures when an institution is failing or is likely to fail;

(f) cooperate closely with and consult the Authority in the preparation, planning and application of resolution decisions, and in all other instances where any such cooperation or consultation is required by the CRD, by the BRRD or by the CRR;

(g) cooperate closely with and consult authorities, both local or overseas, in order to coordinate resolution measures to protect financial stability in all affected Member States and EEA States and, when a cross-border group is failing or likely to fail, to achieve the most effective outcome for the group as a whole and in all other instances where any such cooperation or consultation is required by the CRD, by the BRRD or by the CRR;

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(h) cooperate with European resolution authorities and third country resolution authorities on matters relating to resolution;

(i) set up a resolution financing arrangement through mandatory contributions from institutions;

(j) communicate to the Board of Governors its resolution decisions which requires implementation;

(k) implement the resolution decisions referred to in paragraph (j);

(l) assist the Resolution Authority on any matter falling under this Part, on which the Resolution Authority seeks assistance.

(2) In carrying out its general functions, the Resolution Committee shall:

(a) ensure that no conflict of interest shall arise with the supervisory and other functions of the Authority;

(b) obtain the approval in writing of the Minister, after informing the Board of Governors and the Central Bank of Malta, prior to taking any decisions that may have a direct fiscal impact or which have systemic implications;

(c) notify the Minister, after having informed the Board of Governors, of any decisions taken by it in accordance with this Act.

(3) The Resolution Committee shall have all the necessary powers to enable it to perform its functions and to ensure the effective implementation of the provisions of the BRRD.

(4) The Resolution Committee shall:

(a) collect the contributions from institutions towards the resolution financing arrangements;

(b) make referrals to the Enforcement Directorate recommending the imposition of administrative penalties on:

(i) institutions, for failure to comply with the decisions addressed to them;

(ii) any person whose conduct, in the opinion of the Resolution Committee, amounts to a breach of any of the provisions of this Act or any regulations or Rules issued thereunder transposing the BRRD;

(iii) any person who has failed to comply with a directive issued by the Resolution Committee under this Act or any regulations or Rules issued thereunder transposing the BRRD; and

(c) publish, collect and recover any administrative penalties imposed in accordance with this item.

(5) The Resolution Committee shall also have the power to appoint a special manager and an independent valuer in accordance with the requirements under the Recovery and Resolution Regulations.";

S.L. 330.09.

(c) immediately after item 4 thereof, as substituted, there shall be added the following new item:

"Administrative penalties.

4A. (a) Any breach of any of the provisions of this Act or of any regulations or Rules issued thereunder transposing the BRRD and any failure to comply with a directive issued by the Resolution Committee under this Act or under any regulations or Rules transposing the BRRD shall be subject to an administrative penalty of:

(i) up to twice the amount of the benefit derived from the breach, where that benefit can be determined;

(ii) in the case of a natural person, up to five million euro (€5,000,000); or

(iii) in the case of a legal person, up to ten per cent (10%) of the total annual net turnover of the undertaking in the preceding business

year, including the gross income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees receivable in accordance with Article 316 of the CRR. In the case of a subsidiary of a parent undertaking, the relevant turnover shall be the turnover resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year.

(b) Where the Resolution Authority decides to impose an administrative penalty as referred to in this item and such decision has not been appealed, or where such decision has been appealed, within fifteen (15) days of the determination of such appeal, the administrative penalty if confirmed, or as reduced or increased on appeal, shall be due to the Resolution Authority. Upon the service of a copy of the decision imposing the penalty or that of the appeal, as the case may be, by means of a judicial act on the person indicated in the decision, the said decision shall constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure. The Resolution Authority may institute proceedings before the civil courts to recover as a debt an amount of administrative penalty due to it:

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Provided that income derived from the payment of administrative penalties shall be transferred to the Consolidated Fund.

(c) The imposition by the Resolution Authority of an administrative penalty in accordance with this item shall be without prejudice to the consequences of any other act or omission of the offender under civil or criminal law:

Provided that in all cases where the Resolution Authority imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission also constitutes also a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.";

(d) item 5 thereof shall be amended as follows:

(i) sub-item (1) thereof shall be substituted by the following new sub-item:

"(1)The Resolution Authority shall publish, on its official website and in any other media as it considers appropriate, any administrative penalty or penalties for any breaches of the provisions of the BRRD imposed by the Resolution Authority under the provisions of this Act and of any regulations made or Rules issued thereunder. Such publications shall include information on the type and nature of the breach and the identity of the person on whom the administrative penalty is imposed. The publication shall be made without undue delay after such person is informed of those penalties:

Provided that in cases where an appeal has been filed by the person on whom such administrative penalty has been imposed, the Authority shall, without undue delay, also publish on its official website and in any other media as it considers appropriate, information on the status of the appeal and the outcome thereof.";

(ii) sub-item (2) thereof shall be amended as follows:

- the words "The Authority shall publish the administrative penalties for any breaches of the provisions of the BRRD, imposed by the Resolution Committee" shall be substituted by the words "The Resolution Authority shall publish the administrative penalties for any breaches of the provisions of the BRRD, imposed by the Resolution Authority";

- the first proviso thereof shall be substituted by the following new proviso:

"Provided that publication on an anonymous basis shall be an exceptional measure which needs to be justified by the Resolution Committee:";

(iii) in sub-item (3) thereof the words "the Authority", wherever they occur, shall be substituted by

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the words "the Resolution Authority";

(e) item 6 thereof shall be deleted;

(f) item 8 thereof shall be amended as follows:

(i) in sub-item (1) thereof the words "There shall be a Resolution Unit" shall be substituted by the words "There shall be within the Authority, a Resolution Unit";

(ii) sub-item (2) shall be substituted by the following new sub-item:

"(2) The Resolution Unit shall report and provide such information, documentation, updates and explanations on the activities and developments within its area of competence, to the Resolution Committee, the Chairperson of the Resolution Authority and the Chief Executive Officer, as may be requested.";

(iii) in sub-item (3) thereof the words "Director of the Office" shall be substituted by the words "Head of the Unit";

(iv) paragraph (d) of sub-paragraph (4) thereof shall be substituted by the following new paragraph:

"(d) cooperate, liaise and exchange information, as necessary, with the other Units and Directorates of the Authority.";

(g) in item 9 thereof the words "remedies for a wrongful decision or action by the Resolution Committee" shall be substituted by the words "remedies for an annulled decision or action";

(h) in paragraph (f) of sub-item (1) of item 11 thereof the words "under this Schedule." shall be substituted by the words "under this Schedule:" and immediately thereafter there shall be added the following new proviso:

"Provided that income derived from the payment of administrative penalties shall be transferred to the Consolidated Fund."

Objects and Reasons

The objects and reasons of this Bill are to provide for the structural reform of the Malta Financial Services Authority, including changes to the functions of the Executive Committee, the establishment of the Regulatory Decisions Committee and the Capital Markets Decisions Committee, and the reform of the Enforcement Decisions Committee and the Enforcement Directorate, to strengthen the independence and autonomy of the Authority, to provide for additional regulatory powers of the Authority and new offences under the Act and to strengthen the independence and effectiveness of the Financial Services Tribunal.

