

Naghti l-kunsens tieghi.

(L.S.)

GEORGE ABELA  
President

24 ta' Ġunju, 2011

### ATT Nru. X tal-2011

*ATT biex jemenda diversi liġijiet dwar servizzi finanzjarji.*

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

1. It-titolu fil-qosor ta' dan l-Att hu Att tal-2011 biex jemenda Diversi Liġijiet dwar is-Servizzi Finanzjarji. Titolu fil-qosor.

### TAQSIMA I

#### EMENDI TAL-ATT DWAR L-AWTORITÀ GĦAS-SERVIZZI FINANZJARJI TA' MALTA

2. Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali". Emendi tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta. Kap. 330.

3. Fil-paragrafu (f) tas-subartikolu (6) tal-artikolu 6 tal-Att prinċipali, minflok il-kliem "ta' persuna bħal dik, ikunu notifikati fil-Gazzetta" għandhom jidhlu l-kliem "ta' persuna bħal dik inkluża r-raġuni għal dak it-tmiem jew dik ir-riżenja, kif ikun japplika l-każ, ikunu notifikati fil-Gazzetta". Emenda tal-artikolu 6 tal-Att prinċipali.

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Emenda tal-artikolu 16 tal-Att prinċipali.

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

(a) fis-subartikolu (3), minflok il-kliem "penali amministrattiva li ma tkunx ta' iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "penali amministrattiva li ma tkunx ta' iżjed minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

(b) fis-subartikolu (4), minflok il-kliem "għandha tkun dovuta lill-awtorità kompetenti." għandhom jidhlu l-kliem "għandha tkun dovuta lill-Awtorità.";

(ċ) fis-subartikolu (7), minflok il-kliem "l-awtorità kompetenti tista' toħroġ kull twiddib," għandhom jidhlu l-kliem "l-Awtorità tista' toħroġ kull twiddib,"; u

(d) fit-test Malti tas-subartikolu (8), minflok il-kliem "għandha tkun bla ħsara għall-pubblikazzjoni" għandhom jidhlu l-kliem "għandha tkun soġġetta għall-pubblikazzjoni".

Emenda tal-artikolu 17 tal-Att prinċipali.

**5.** Is-subartikolu (2) tal-artikolu 17 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "awtorità jew korp kompetenti barrani" għandhom jidhlu l-kliem "awtorità regolatorja barranija jew korp"; u

(b) fil-proviso mas-subartikolu, minflok il-kliem "li jsir ma' l-awtorità kompetenti." għandhom jidhlu l-kliem "li jsir mal-Awtorità."

Emenda tal-artikolu 20A tal-Att prinċipali.

**6.** L-artikolu 20A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Il-Ministru, li jaġixxi bil-parir ta' l-awtorità kompetenti," għandhom jidhlu l-kliem "Il-Ministru, li jaġixxi bil-parir tal-Awtorità,"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "Il-Ministru, li jaġixxi fuq il-parir ta' l-awtorità kompetenti," għandhom jidhlu l-kliem "Il-Ministru, li jaġixxi bil-parir tal-Awtorità,".

Emenda tal-artikolu 20Ċ tal-Att prinċipali.

**7.** Fil-paragrafu (a) tas-subartikolu (2) tal-artikolu 20Ċ tal-Att prinċipali, minflok il-kliem "u mingħand awtoritajiet

kompetenti," għandhom jidhlu l-kliem "u mingħand awtoritajiet regolatorji barranin oħra," u minflok il-kliem "ma' awtoritajiet kompetenti ta' barra minn Malta, skond il-bżonn;" għandhom jidhlu l-kliem "ma' awtoritajiet regolatorji barranin, kif jista' jkun meħtieġ;".

**8.** Minflok is-subartikolu (18) tal-artikolu 21 tal-Att prinċipali, għandu jidhol dan li ġej:

Emenda tal-artikolu 21 tal-Att prinċipali.

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

## TAQSIMA II

### EMENDI TAL-ATT DWAR *TRUSTS* U *TRUSTEES*

**9.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar *Trusts* u *Trustees*, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att dwar *Trusts* u *Trustees*. Kap. 331.

**10.** L-artikolu 43 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 43 tal-Att prinċipali.

(a) fil-paragrafu (j) tas-subartikolu (7) tiegħu, minflok il-kliem "l-valur nominali individwali tagħhom ma jkunx jeċċedi euro" għandhom jidhlu l-kliem "l-valur nominali tagħhom b'kollox ma jkunx jeċċedi hames euro";

(b) fil-paragrafu (a) tas-subartikolu (9) tiegħu:

(i) minflok is-subparagrafu (i) tiegħu, għandu jidhol dan li ġej:

"(i) sigurtajiet jew interessi oħra fi jew mahruġa minn entità legali Maltija, hlief għal sigurtajiet elenkati jew negozjati fuq suq regolat jew fuq sistema multilaterali stabbiliti f'Malta jew f'gūrisdizzjoni rikonoxxuta; jew";

(ii) fis-subartikolu (ii) tiegħu:

1. minflok il-kliem "proprjetà immobbli f'Malta, (hawnhekk iżjed 'il quddiem imsejja "proprjetà rilevanti") minn *trustees* li ma jkunux awtorizzati, jekk persuna:", għandhom jidhlu l-kliem:

"proprjetà immobbli f'Malta,

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(hawnhekk iżjed 'il quddiem imsejha "proprietà rilevanti") minn *trustees* li ma jkunux awtorizzati, jekk persuna:";

2. minflok il-kliem "l-Awtorità tkun tinhtieg minn żmien għal żmien.", għandhom jidhlu l-kliem "l-Awtorità tkun tinhtieg min żmien għal żmien;

Għall-finijiet ta' dan il-paragrafu:

i. "ġurisdizzjoni rikonoxxuta" tfisser:

(a) Stat ŻEE, Stat Membru tal-UE, jew l-Isvizzera;

(b) kull pajjiż li jkun membru tal-Organizzazzjoni għall-Kooperazzjoni Ekonomika u l-Iżvilupp (OECD);

(ċ) pajjiż li jkun firmatarju tal-Memorandum ta' Ftehim multilaterali IOSCO; jew

(d) kull ġurisdizzjoni oħra li magħha l-Awtorità għandha Memorandum ta' Ftehim fuq is-sigurtajiet;

(ii) "suq regolat" u "sistema multilaterali" għandhom l-istess tifsira li tingħatalhom fl-Att dwar is-Swieq Finanzjarji."; u

(ċ) fil-paragrafu (a) tas-subartikolu (11) tiegħu, minflok il-kliem "l-valur nominali individwali tagħhom ma jkunx jeċċedi euro", għandhom jidhlu l-kliem "l-valur nominali tagħhom b'kollox ma jkunx jeċċedi hames euro".

Emenda tal-artikolu 51 tal-Att prinċipali.

**11.** L-artikolu 51 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (6), minflok il-kliem "multa ta' mhux iktar minn erba' mija u hamsa u sittin elf u tmien mija u sebgħa u erbgħin euro u tmienja u sittin ċenteżmu (465,874.68)" għandhom jidhlu l-kliem "multa ta' mhux iżjed minn erba' mija sitta u sittin elf (466,000) euro"; u

(b) fis-subartikolu (7), minflok il-kliem "ma tistax tkun iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u

erbġha u disgħin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "ma tistax tkun iżjed minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

**12.** Fis-subartikolu (6) tal-artikolu 53 tal-Att prinċipali, minflok il-kliem "mhux iżjed minn sitta u erbghin elf u ħames mija u sebgha u tmenin euro u sebgha u erbghin ċenteżmu (46,587.47)" għandhom jidhlu l-kliem "mhux iżjed minn sebgha u erbghin elf (47,000) euro".

Emenda tal-artikolu 53 tal-Att prinċipali.

### TAQSIMA III

#### EMENDI TAL-ATT DWAR IS-SWIEQ FINANZJARJI

**13.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar is-Swieq Finanzjarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att dwar is-Swieq Finanzjarji. Kap. 345.

**14.** Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali minflok it-tifsira "awtorità kompetenti" għandu jidhul dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

" "awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;"

Kap. 330.

**15.** Fis-subartikolu (2) tal-artikolu 11A tal-Att prinċipali, minflok il-kliem "piena amministrattiva li m'għandhiex tkun aktar minn tlieta u disgħin elf u mija u erbgha u sebghin euro u erbgha u disgħin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "piena amministrattiva li ma tistax tkun aktar minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

Emenda tal-artikolu 11A tal-Att prinċipali.

**16.** Fis-subartikolu (1) tal-artikolu 19 tal-Att prinċipali, minflok il-kliem "ta' mhux iżjed minn tlieta u disgħin elf u mija u erbgha u sebghin euro u erbgha u disgħin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "ta' mhux iżjed minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

Emenda tal-artikolu 19 tal-Att prinċipali.

**17.** Is-subartikolu (5) tal-artikolu 28 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 28 tal-Att prinċipali.

**18.** Fis-subartikolu (3) tal-artikolu 38 tal-Att prinċipali, minflok il-kliem "multa ta' ħdax-il elf u sitt mija u sitta u erbghin euro u sebgha u tmenin ċenteżmu (11,646.87)" għandhom jidhlu l-kliem "multa ta' tnax-il elf (12,000) euro".

Emenda tal-artikolu 38 tal-Att prinċipali.

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Emenda tal-artikolu 39A tal-Att prinċipali.

**19.** Fis-subartikolu (1) tal-artikolu 39A tal-Att prinċipali, minflok il-kliem "ma tkunx ta' iżjed minn tlieta u disghin elf u mija u erbgħa u sebgħin euro u erbgħa u disghin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "ma tistax tkun iżjed minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

Emenda tal-artikolu 41 tal-Att prinċipali.

**29.** Fis-subartikolu (1) tal-artikolu 41 tal-Att prinċipali, minflok il-kliem "multa ta' mhux iżjed minn erba' mija u ħamsa u sittin elf u tmien mija u erbgħa u sebgħin euro u tmienja u sittin ċenteżmu (465,874.68)" għandhom jidhlu l-kliem "erba' mija sitta u sittin elf (466,000) euro".

Emenda tal-artikolu 42 tal-Att prinċipali.

**21.** Fis-subartikolu (2) tal-artikolu 42 tal-Att prinċipali, minflok il-kliem "ta' iżjed minn elf u mija u erbgħa u sittin euro u disgħa u sittin ċenteżmu (1,164.69)." għandhom jidhlu l-kliem "ta' iżjed minn elf u mija u ħamsa u sittin euro (1,165) euro".

#### TAQSIMA IV

##### EMENDI TAL-ATT DWAR SERVIZZI TA' INVESTIMENT

Emenda tal-Att dwar Servizzi ta' Investment. Kap. 370.

**22.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar Servizzi ta' Investment, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 2 tal-Att prinċipali.

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

(a) fis-subartikolu (1) tiegħu:

(i) minflok it-tifsira "awtorità kompetenti" għandu jidhol dan li ġej:

Kap. 330. " "awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, u dan il-korp għandu wkoll iwettaq id-dmirijiet ta' awtorità kompetenti għall-finijiet kollha tad-Direttiva MIFID u d-Direttiva UCITS";

(ii) it-tifsira "Direttiva" għandha tithassar;

(iii) fit-tifsira "Kumpannija ta' Investment Ewropew", minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID";

(iv) fit-tifsira "awtorità regolatorja Ewropea",

minflok il-kliem "l-Artikolu 48 tad-Direttiva biex iwettaq kull wiehed mid-dmirijiet li hemm provdut dwarhom taht id-disposizzjonijiet differenti tad-Direttiva", għandhom jidhlu l-kliem "l-Artikolu 48 tad-Direttiva MIFID u l-Artikolu 97 tad-Direttiva UCITS biex iwettaq kull wiehed mid-dmirijiet li hemm provdut dwarhom taht id-dispożizzjonijiet differenti taż-żewġ Direttivi msemmija";

(v) minnufih wara t-tifsira "detentur ta' liċenza" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Direttiva MIFID" tfisser id-Direttiva 2004/39/KE tal-Parlament Ewropew u tal-Kunsill tal-21 ta' April 2004 dwar is-swieq ta' strumenti finanzjarji li temenda d-Direttivi tal-Kunsill 85/611/KEE u 93/6/KEE u d-Direttiva 2000/12/KE tal-Parlament Ewropew u tal-Kunsill u li tissostitwixxi d-Direttivi tal-Kunsill 93/22/KEE, kif emendati minn żmien għal żmien, u jinkludu kull miżura li timplimenta l-miżuri li jkunu nħarġu jew li jistgħu jinħarġu taħthom;"

(vi) fil-proviso mat-tifsira "kapital azzjonarju kwalifikanti", minflok il-kliem "mal-Anness 1 mad-Direttiva", għandhom jidhlu l-kliem "mal-Anness 1 mad-Direttiva MIFID";

(vii) minnufih wara t-tifsira ġdida "Direttiva MIFID" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Direttiva UCITS" tfisser id-Direttiva 2009/65/KE tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Lulju 2009 dwar il-koordinament ta' liġijiet, regolamenti u dispożizzjonijiet amministrattivi li għandhom x'jaqsmu ma' imprizi għal investiment kollettiv f'titoli trasferibbli (UCITS) (kif magħmula mill-ġdid), kif emendata minn żmien għal żmien, u tinkludi kull miżura ta' implimentazzjoni li tkun inħarġet jew li tista' tinħareġ taħtha;" u

(b) fis-subartikolu (3), minflok il-kliem "tad-Direttiva" għandhom jidhlu l-kliem "tad-Direttiva MIFID u tad-Direttiva UCITS".

**24.** Minflok l-artikolu 2A tal-Att prinċipali, għandu jidhlo dan li ġej:

Sostituzzjoni tal-artikolu 2A tal-Att prinċipali.

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"2A. L-awtorità kompetenti għandha twestaq il-funzjonijiet tagħha taht dan l-Att u, partikolarment, għandha tiżgura konformità mad-dispożizzjonijiet ta' dan l-Att."

Emenda tal-artikolu 10A tal-Att prinċipali.

**25.** Il-paragrafu (b) tas-subartikolu (6) tal-artikolu 10A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subparagrafu (i), minflok il-kelma "id-Direttiva" għandhom jidhlu l-kliem "id-Direttiva MIFID"; u

(b) minflok is-subparagrafu (ii), għandu jidhol dan li ġej:

"(ii) id-Direttiva UCITS;"

Emenda tal-artikolu 12 tal-Att prinċipali.

**26.** Artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (k) tiegħu, minflok il-kliem "htigiet tad-Direttiva" għandhom jidhlu l-kliem "l-htigiet tad-Direttiva MIFID u tad-Direttiva UCITS";

(ii) fil-paragrafu (m) tiegħu, minflok il-kliem "tad-Direttiva fuqhom", għandhom jidhlu l-kliem "tad-Direttiva MIFID u tad-Direttiva UCITS fuqhom";

(iii) fil-paragrafu (n) tiegħu, minflok il-kliem "li taqa' taht id-disposizzjonijiet ta' dan l-Att", għandhom jidhlu l-kliem "li taqa' taht id-disposizzjonijiet ta' dan l-Att u għal dan il-għan biex jipprovdu li xi disposizzjoni ta' xi liġi oħra m'għandhiex tapplika għal hwejjeg li jaqgħu taht dawn ir-regolamenti, u, b'mod partikolari, jistgħu jipprovdu li safejn xi disposizzjoni ta' dawn ir-regolamenti tkun inkonsistenti mad-disposizzjonijiet ta' l-Att dwar il-Kumpanniji, dawk id-disposizzjonijiet għandhom jipprevalu, u d-disposizzjonijiet ta' l-Att dwar il-Kumpanniji m'għandhomx, sa fejn ikunu inkonsistenti, japplikaw";

(iv) il-paragrafi (o) u (p) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (p) u (q) rispettivament;

(v) minnufih wara l-paragrafu (n), għandu jizdied dan il-paragrafu ġdid li ġej:

"(o) jipprovdi li xi korp wiehed jew aktar



minn dawk imsemmija fl-Artikolu 107(3) tad-Direttiva UCITS jista', fl-interess tal-konsumaturi, u kif hemm fil-liġijiet ta' Malta li japplikaw, jiehu azzjoni quddiem il-qrati jew korpi amministrattivi ta' Malta, biex jiżgura li d-dispożizzjonijiet ta' dan l-Att u r-Regoli ta' Servizzi ta' Investiment u regolamenti li jinħarġu taħt dan l-Att u li jittrasponu d-Direttiva UCITS jiġu implimentati"; u

(b) fis-subartikolu (5), minflok il-kliem "multa ta' tlieta u disghin elf u mija u erbgħa u sebghin euro u erbgħa u disghin ċenteżmu (93,174.94)" għandhom jidhlu l-kliem "multa ta' mija u ħamsin elf (150,000) euro".

**27.** Is-subartikolu (2) tal-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 15 tal-Att prinċipali.

(a) fil-paragrafu (f) tiegħu, minflok il-kliem "fl-implimentazzjoni tad-Direttiva", għandhom jidhlu l-kliem "fl-implimentazzjoni tad-Direttiva MIFID u tad-Direttiva UCITS"; u

(b) fil-paragrafu (g) tiegħu, minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID".

**28.** L-artikolu 16A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 16A tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ma tkunx ta' iżjed minn tlieta u disghin elf u mija u erbgħa u sebghin euro u erbgħa u disghin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "ma tkunx ta' iżjed minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ.";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "Regoli ta' Servizzi ta' Investiment jistgħu jkunu jipprovdu għall-imposizzjoni ta' pieni amministrattivi" għandhom jidhlu l-kliem "Pieni amministrattivi"; u

(ii) minflok il-kliem "sew bhala ta' penali stabbiliti, penali għal kull ġurnata, jew it-tnejn flimkien, għal kull ksur tar-Regoli." għandhom jidhlu l-kliem "għandhom jiġu imposti bhala penali stabbilita, penali għal kull ġurnata, jew it-tnejn flimkien.";

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(ċ) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem "Meta jinghalqu l-proċeduri ta' xi appell skond l-artikolu 19, jew inkella jiskadi ż-żmien meħtieġ biex jiġi ppreżentat dak l-appell, l-awtorità kompetenti tista',", għandhom jidhlu l-kliem "L-awtorità kompetenti tista',"; u

(ii) minflok il-kliem "dak l-iżvelar ikun ser jippreġudika lis-swieq finanzjarji jew jikkaġuna dannu sproporzjonat għall-partijiet involuti.", għandhom jidhlu l-kliem "dak l-iżvelar ikun ser jippreġudika lis-swieq finanzjarji, ikun ta' detriment għall-interessi tal-investituri jew jikkaġuna dannu sproporzjonat għall-partijiet involuti.".

Emenda tal-artikolu 16B tal-Att prinċipali.

**29.** Fl-artikolu 16B tal-Att prinċipali, minflok il-kliem "skond disposizzjonijiet li jittrasponu d-Direttiva", għandhom jidhlu l-kliem "skond disposizzjonijiet li jittrasponu d-Direttiva MIFID u d-Direttiva UCITS".

Emenda tal-artikolu 17 tal-Att prinċipali.

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

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID, u għandha teżerċita wkoll is-setgħat u d-dmirijiet tagħha kif provdut fid-Direttiva UCITS";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "li twettaq dmirijietha taħt id-Direttiva." għandhom jidhlu l-kliem "li twettaq dmirijietha u teżerċita s-setgħat tagħha taħt id-Direttiva MIFID u d-Direttiva UCITS.", u

(ii) minflok il-kliem "Skond id-Direttiva", għandhom jidhlu l-kliem "Skont id-Direttiva MIFID u d-Direttiva UCITS";

(ċ) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID", u

(ii) minflok il-kliem "konformement mad-Direttiva" għandhom jidhlu l-kliem "konformement mad-Direttiva MIFID";

(d) fis-subartikolu (7) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "tan-negozju ta' liċenza ta' detenturi ta' servizzi ta' investiment", għandhom jidhlu l-kliem "tan-negozju ta' detenturi ta' liċenza, inklużi impriżi li jkunu qeghdin jikkontribwixxu lejn l-attività kummerċjali ta' UCITS";

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID";

(iii) fil-paragrafu (d) tiegħu, il-kelma "jew" għandha tithassar;

(iv) fil-paragrafu (e) tiegħu, minflok il-kliem "l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta.", għandhom jidhlu l-kliem "l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta; jew"; u

(v) minnufih wara l-paragrafu (e) tiegħu, għandu jiżdied dan il-paragrafu gdid li ġej:

"(f) li jieħdu kull deċiżjoni li jkollha x'taqsam ma' l-implimentazzjoni tad-Direttiva UCITS u d-Direttiva MIFID.";

(e) is-subartikoli (8), (9), (10) u (11) tiegħu għandhom jiġu enumerati mill-gdid bħala s-subartikoli (9), (10), (11) u (12) rispettivament;

(f) minnufih wara s-subartikolu (7) tiegħu, għandu jiżdied dan is-subartikolu gdid li ġej:

"(8) Is-subartikolu (7) ta' dan l-artikolu u l-artikolu 26 m'għandhomx jipprekludu lill-awtorità kompetenti milli tiskambja informazzjoni, kif hemm fid-Direttiva UCITS, ma' awtoritajiet regolatorji Ewropej, meta dik l-informazzjoni jkollha titwassal lil:

(i) awtoritajiet li jkollhom responsabbiltà pubblika għas-superviżjoni ta' istituzzjonijiet ta' kreditu, impriżi ta' investiment, impriżi tal-assigurazzjoni jew organizzazzjonijiet finanzjarji oħra, jew awtoritajiet responsabbli għas-superviżjoni ta' swieq finanzjarji;

(ii) korpi involuti fil-likwidazzjoni jew

falliment ta' UCITS jew imprizi li jikkontribwixxu għall-attività kummerċjali tagħhom, jew korpi involuti fi proċeduri bħal dawk; jew

(iii) persuni li jiġu inkarigati li jwettqu awditjar statutorju tal-kontijiet ta' imprizi tal-assigurazzjoni, istituzzjonijiet ta' kreditu, ditti ta' investment jew istituzzjonijiet finanzjarji oħra.";

(g) fis-subartikolu (9) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "attijiet li jmorru kontra d-disposizzjonijiet tad-Direttiva", għandhom jidhlu l-kliem "attijiet li jmorru kontra d-disposizzjonijiet tad-Direttiva MIFID jew tad-Direttiva UCITS";

(h) fis-subartikolu (11) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "kontra d-disposizzjonijiet tad-Direttiva", għandhom jidhlu l-kliem "kontra d-disposizzjonijiet tad-Direttiva MIFID jew tad-Direttiva UCITS"; u

(i) minnufih wara s-subartikolu (12) tiegħu, kif enumerat mill-ġdid, għandu jżied dan is-subartikolu ġdid li ġej:

"(13) L-awtorità kompetenti għandu jkollha kull setgħa mogħtija lilha bl-Artikolu 101(8) tad-Direttiva UCITS."

Emenda tal-artikolu 17A tal-Att prinċipali.

**31.** L-artikolu 17A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-proviso għas-subartikolu (1) tiegħu, minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID";

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

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

"(2) Jekk, meta ssir talba għall-kooperazzjoni mill-awtorità kompetenti kif hemm fl-Artikolu 101(5) tad-Direttiva UCITS, issir verifika jew investigazzjoni fi Stat Membru minn awtorità regolatorja Ewropea, l-awtorità kompetenti tista' titlob li l-uffiċjali, impjegati jew agenti tagħha stess jakkumpanjaw lill-uffiċjali li jkunu qegħdin jagħmlu l-verifika jew investigazzjoni, u li dawk l-

uffiċjali, impjegati jew aġenti jkunu, madankollu, soġġetti għall-kontroll totali ta' dak l-Istat Membru."; u

(d) is-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(i) fil-paragrafu (b) tiegħu, minflok il-kliem "jew investigazzjoni" għandhom jidhlu l-kliem "jew investigazzjoni, u, tista' wkoll, kif hemm fl-Artikolu 101(5) tad-Direttiva UCITS, titlob li l-uffiċjali, impjegati jew aġenti tagħha stess jakkumpanjaw lill-awtorità regolatorja Ewropea tagħmel il-verifika jew investigazzjoni"; u

(ii) fil-paragrafu (ċ) tiegħu, minflok il-kliem "tippermetti lill-isperturi jew lill-esperti fil-kuntest tat-tifsir ta' l-artikolu 14" għandhom jidhlu l-kliem "tippermetti lill-isperturi jew lill-esperti fil-kuntest tat-tifsir tal-artikolu 14 u lill-udituri fil-kuntest tat-tifsir tal-artikolu 18".

**32.** Fl-artikolu 17B tal-Att prinċipali, minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID, jew mal-awtoritajiet regolatorji Ewropej nominati taħt l-Artikolu 101(1) tad-Direttiva UCITS bil-għan li jwettqu dmirijiet u jeżerċitaw setgħat taħtha".

Emenda tal-artikolu 17B tal-Att prinċipali.

**33.** Minnufih wara s-subartikolu (3) tal-artikolu 19 tal-Att prinċipali, għandu jiżdied dan is-subartikolu ġdid li ġej:

Emenda tal-artikolu 19 tal-Att prinċipali.

"(4) Skond id-Direttiva UCITS, it-Tribunal imsemmi f'dan l-artikolu għandu jkollu wkoll il-kompetenza li jisma' appelli minn kumpanniji Ewropej ta' immaniġġar, li jkunu jeżerċitaw libertà ta' twaqqif jew xi libertà biex ikunu provduti servizzi f'Malta, minn deċiżjonijiet ta' l-awtorità kompetenti sabiex jittiehdu miżuri għal ksur sostnut mill-kumpanniji Ewropej ta' immaniġġar, u l-frazzjonijiet "persuna aggravata" u "appellant" fl-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandha tinkludi l-kumpanniji Ewropej ta' immaniġġar."

**34.** Fl-artikolu 23 tal-Att prinċipali, minflok il-kliem "multa ta' mhux iżjed minn erba' mija u ħamsa u sittin elf u tmien mija u erbgħa u sebghin euro u tmienja u sittin ċenteżmu (465,874.68)" għandhom jidhlu l-kliem "multa ta' mhux iżjed minn erba' mija u sitta u sittin elf (466,000) euro".

Emenda tal-artikolu 23 tal-Att prinċipali.

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Emenda tal-  
artikolu 26 tal-  
Att prinċipali.

35. L-artikolu 26 tal-Att prinċipali għandu jigi emendat kif  
gej:

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (d) tiegħu, minflok il-kliem "l-identità tal-persuni li t-tagħrif ikun jirreferi għalihom", għandhom jidhlu l-kliem "l-identità tal-persuni, inklużi UCITS, il-kumpanniji ta' manigġ tagħhom u kustodji li t-tagħrif ikun jirreferi għalihom"; u

(ii) fil-proviso li hemm miegħu:

1. minflok il-kliem "skond id-Direttiva" għandhom jidhlu l-kliem "skont id-Direttiva MIFID, id-Direttiva UCITS,"; u

2. minflok il-kliem "fondi tal-pensjoni, UCITS," għandhom jidhlu l-kliem "fondi tal-pensjoni,";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva MIFID u tal-Artikolu 102 tad-Direttiva UCITS";

(ċ) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "meta jkun adatt, lil awtoritajiet pubbliċi oħra" għandhom jidhlu l-kliem "meta jkun adatt, lil *clearing houses* rikonoxxuti jew lil xi korp ieħor bħal dawk li jkun qiegħed iwettaq servizzi ta' *clearing* jew tpaċija, lil korpi li jamministraw skemi ta' kumpens, u lil awtoritajiet pubbliċi oħra"; u

(ii) minflok il-kliem "tal-funzjonijiet tagħhom." għandhom jidhlu l-kliem "tal-funzjonijiet tagħhom:", u minnufih wara għandu jiżdied il-proviso ġdid li gej:

"Iżda meta l-iskambju ta' informazzjoni jsir kif hemm fid-Direttiva UCITS, għandu jinkiseb il-kunsens espress tal-awtorità regolatorja Ewropea.";  
u

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

Kap. 373. "(4) Meta uffiċjal jew impjegat ta' detentur ta' liċenza ijkollu għaliex jahseb li xi transazzjoni jew transazzjoni proposta tkun tista' tinvolvi *money laundering* jew finanzjar ta' terroriżmu, huwa għandu jaġixxi b'mod konformi mar-rappurtar u obbligi oħra stabbiliti fir-regolamenti magħmulin taħt l-artikolu 12 tal-Att kontra *Money Laundering*, u kull proċedura u gwida maħruġa tahtu, u dak l-iżvelar ma jkunx jikkostitwixxi ksur ta' kunfidenzjalità."

## TAQSIMA V

### EMENDI TAL-ATT DWAR IL-KUMMERĊ BANKARJU

**36.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kummerċ Bankarju, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda tal-Att  
dwar il-  
Kummerċ  
Bankarju.  
Kap. 371.

**37.** Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, minflok it-tifsira "awtorità kompetenti" għandu jidhol dan li ġej:

Emenda tal-  
artikolu 2 tal-  
Att prinċipali.

Kap. 330. " "awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;"

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

Emenda tal-  
artikolu 3 tal-  
Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jithassar; u

(b) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid rispettivament bħala s-subartikoli (1) u (2).

**39.** Fis-subartikolu (3) tal-artikolu 34 tal-Att prinċipali, minflok il-kliem "ikollu għaliex jahseb li xi transazzjoni jew transazzjoni proposta tkun tista' tinvolvi *money laundering*," għandhom jidhlu l-kliem "ikollu għaliex jahseb li xi transazzjoni jew transazzjoni proposta tkun tista' tinvolvi *money laundering* jew finanzjar ta' terroriżmu,"

Emenda tal-  
artikolu 34 tal-  
Att prinċipali.

**40.** Fil-proviso għas-subartikolu (7) tal-artikolu 35 tal-Att prinċipali, minflok il-kliem "piena amministrattiva ma tistax timponi piena finanzjarja ta' iżjed minn mija u sittax-il elf u erba' mija u tmienja u sittin euro u sebgħa u sittin ċenteżmu (116,468.67)."

Emenda tal-  
artikolu 35 tal-  
Att prinċipali.

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għandhom jidhlu l-kliem "piena amministrattiva ma tistax timponi piena finanzjarja ta' iżjed minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

Emenda tal-Iskeda li tinsab mal-Att prinċipali.

**41.** Fl-Iskeda li tinsab mal-Att prinċipali, minflok it-titolu "Skeda (Artikolu 2(4)) Lista ta' Attivitajiet Addizzjonali", għandu jidhlo it-titolu "Skeda (Artikolu 2(3)) Lista ta' Attivitajiet Addizzjonali".

## TAQSIMA VI

### EMENDI TAL-ATT DWAR ISTITUZZJONIJIET FINANZJARJI

Emenda tal-Att dwar Istituzzjonijiet Finanzjarji. Kap. 376.

**42.** (1) Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar Istituzzjonijiet Finanzjarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) Id-disposizzjonijiet tal-paragrafi (ċ) u (d) tal-artikolu 54 għandhom jitqiesu li ġew fis-seħħ fl-1 ta' Jannar, 2011.

Emenda tal-artikolu 2 tal-Att prinċipali.

**43.** Is-subartikolu (1) tal-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok it-tifsira "aġent" għandu jidhlo dan li ġej:

" "aġent" tfisser persuna li taġixxi f'isem istituzzjoni finanzjarja meta tkun qegħda ttipprovdi dawk is-servizzi elenkati taħt l-Ewwel Skeda, minbarra l-ħruġ ta' flus elettronici;"

(b) minflok it-tifsira "l-awtorità kompetenti" għandu jidhlo dan li ġej:

Kap. 330. "l-awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;"

(ċ) it-tifsira "id-Direttiva" għandha tithassar;

(d) minnufih wara t-tifsira "Bank Ċentrali" għandha tizdied din it-tifsira ġdida li ġejja:

" "Direttiva dwar il-Flus Elettronici" tfisser id-Direttiva 2009/110/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Settembru 2009 dwar il-bidu, prosegwiment u sorveljanza prudenzjali tal-kummerċ ta' istituzzjonijiet ta' flus elettronici li temenda d-Direttivi



2005/60/KE u 2006/48/KE u tħassar id-Direttiva 2000/46/KE, kif tista' tiġi emendata minn żmien għal żmien u tinkludi kull miżura implimentattiva maħruġa jew li tista' tinħareġ taħtha, u "flus elettronici" għandu jkollha t-tifsir mogħti lilha fit-Tielet Skeda;"

(e) minnufih wara t-tifsira ġdida "Direttiva dwar il-Flus Elettronici" għandha tiżdied din it-tifsira ġdida li ġejja:

" "Direttiva dwar Servizzi ta' Pagament" tfisser id-Direttiva 2007/64/KE tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Novembru 2007 dwar servizzi ta' pagament fis-suq intern li temenda d-Direttivi 97/7/KE, 2002/65/KE, 2005/60/KE u 2006/48/KE u tħassar id-Direttiva 97/5/KE, kif tista' tiġi emendata minn żmien għal żmien u tinkludi kull miżura implimentattiva maħruġa jew li tista' tinħareġ taħtha."; u

(f) minnufih wara t-tifsira "licenza" għandha tiżdied din it-tifsira ġdida li ġejja:

" "medja ta' flus elettronici li jibqgħu dovuti" tfisser l-ammont totali medju ta' passiv finanzjarju li għandu x'jaqsam ma' flus elettronici li jinħarġu fi tmiem kull ġurnata kalendarja matul is-sitt xhur kalendarji ta' qabel, kalkolati fl-ewwel ġurnata kalendarja ta' kull xahar kalendarju u applikata għak ix-xahar kalendarju;"

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

Emenda tal-artikolu 3 tal-Att prinċipali.

(a) minflok is-subartikolu (5) tiegħu, għandu jidhol dan li ġej:

Kap. 371. "(5) Ma tistax istituzzjoni finanzjarja li jkollha licenza tirċievi depożiti jew fondi oħra li dwarhom jista' jerga' jsir pagament mill-pubbliku fil-kuntest tal-Att dwar il-Kummerċ Bankarju."; u

(b) minnufih wara s-subartikolu (6), għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

"(7) L-awtorità kompetenti tista', fir-rigward ta' kumpannija liċenzata li jkollha l-uffiċċju prinċipali tagħha f'Malta u li toħroġ flus elettronici f'Malta, tiffinunzja għall-applikazzjoni tad-dispożizzjonijiet kollha jew parti minnhom li għandhom x'jaqsmu ma' htigiet prudenzjali ġenerali, kapital inizjali, fondi tagħha stess u htigiet ta' ħarsien, kif stabbiliti f'dan l-Att u f'kull Regoli ta' Istituzzjonijiet Finanzjarji li japplikaw għal istituzzjonijiet finanzjarji awtorizzati li joħroġu flus elettronici, f'każijiet meta:

(a) l-attivitajiet kummerċjali totali tal-kumpannija jiġġeneraw medja ta' flus elettronici li jibqgħu dovuti li ma teċċedix l-ammont ta' żewġ miljun euro (€2,000,000); u

(b) ebda persuna naturali responsabbli għall-manigġ jew operat tal-kummerċ tal-kumpannija ma tkun instabet ħatja ta' reati li jkollhom x'jaqsmu ma' *money laundering* jew il-finanzjament ta' terroriżmu jew delitti finanzjarji oħra:

Iżda, l-arranġamenti kuntrattwali sottostanti tal-kumpannija għandhom ikunu jipprovdu li l-istrument ta' pagament jew il-kont ta' pagament tal-konsumatur fejn ikunu maħzuna l-flus elettronici jkun soġġett għall-ogħla ammont ta' ħżin ta' mhux iżjed minn mitejn u ħamsin euro (€ 250).

(8) Kumpannija li toħroġ flus elettronici li tkun ingħatat rinunzja kif hemm fis-subartikolu ta' qabel dan għandha titnizzel f'registru pubbliku ta' istituzzjonijiet finanzjarji li jinżamm kif hemm fl-artikolu 8D.

(9) L-awtorità kompetenti għandha tiddeċiedi liema attivitajiet imsemmija fit-Tielet Skeda jistgħu jiġu provduti mill-kumpanniji registrati kif hemm fid-dispożizzjonijiet tas-subartikolu (8).

(10) Kumpannija li tkun inghatat rinunzja kif hemm fis-subartikolu (7) għandha:

(a) tinnotifika lill-awtorità kompetenti b'kull bidla fis-sitwazzjoni tagħha li tkun rilevanti għall-kondizzjonijiet stipulati fis-subartikolu (7); u

(b) tirrapporta minn żmien għal żmien, mill-inqas darba fis-sena jew matul kull perjodu iehor li l-awtorità kompetenti tista' tistabilixxi, dwar il-medja ta' flus elettronici tagħha li jibqgħu dovuti:

Iżda, meta l-kondizzjonijiet stipulati fis-subartikolu (7) ma jibqgħux iktar jiġu osservati, il-kumpannija għandha fi żmien tletin gurnata tapplika lill-awtorità kompetenti għal modifika tal-liċenza sabiex tkun tirrifletti ċ-ċirkustanzi l-ġodda tal-kumpannija:

Iżda wkoll meta kumpannija kif imsemmija fil-proviso ta' qabel dan ma tkunx talbet għall-modifika tal-liċenza f'dak il-perjodu, hija tkun projbita milli toħroġ flus elettronici skond dan l-Att.

(11) Kumpannija kif imsemmija fis-subartikolu (7), għandha tiġi ttrattata bħala istituzzjoni finanzjarja awtorizzata li toħroġ flus elettronici imma m'għandhiex tikseb benefiċċju mil-libertà li ttiprovdi servizzi u d-dritt ta' stabbiliment.

(12) Bil-għan li jitwettqu aħjar id-dispożizzjonijiet ta' dan l-artikolu dwar l-għoti ta' rinunzji, l-awtorità kompetenti tista', minn żmien għal żmien, tippubblika Regoli ta' Istituzzjonijiet Finanzjarji li jkunu jorbtu lid-detenturi ta' liċenza kif ikun hemm speċifikat fihom.

(13) Minkejja kull m'hemm provdut f'dan l-artikolu, l-applikazzjoni tad-dispożizzjonijiet tal-Att kontra *Money Laundering* ma jistgħux jiġu rinunzjati."

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Emenda tal-artikolu 5 tal-Att prinċipali.

**45.** Fil-paragrafu (b) tas-subartikolu (4) tal-artikolu 5 tal-Att prinċipali, minflok il-kliem "sabiex tkun tista' tittrasponi aħjar id-dispożizzjonijiet tad-Direttiva" għandhom jidhlu l-kliem "sabiex tkun tista' tittrasponi aħjar id-dispożizzjonijiet tad-Direttiva dwar il-Flus Elettroniċi u tad-Direttiva dwar Servizzi ta' Pagament".

Emenda tal-artikolu 5A tal-Att prinċipali.

**46.** Fis-subartikolu (2) tal-artikolu 5A tal-Att prinċipali, minflok il-kliem "elenkati fit-Tieni Skeda" għandhom jidhlu l-kliem "elenkati fit-Tieni jew fit-Tielet Skeda".

Emenda tal-artikolu 6 tal-Att prinċipali.

**47.** Fil-paragrafu (h) tas-subartikolu (1) tal-artikolu 6 tal-Att prinċipali, minflok il-kliem "fil-kuntest tat-tifsira tat-Tieni Skeda." għandhom jidhlu l-kliem "fil-kuntest tat-tifsira tat-Tieni u t-Tielet Skedi.".

Emenda tal-artikolu 8 tal-Att prinċipali.

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

(a) fil-paragrafu (a) tas-subartikolu (3) tiegħu, minflok il-kliem "minbarra fil-paragrafu 4 tagħha" għandhom jidhlu l-kliem "minbarra fil-paragrafi 4 u 10 tagħha"; u

(b) fis-subartikolu (4), minflok il-kliem "xi istituzzjoni finanzjarja li jkollha liċenza u li tkun qegħda twettaq servizzi ta' pagament" għandhom jidhlu l-kliem "xi istituzzjoni finanzjarja li jkollha liċenza u li tkun qegħda twettaq servizzi ta' pagament jew il-ħruġ ta' flus elettroniċi, jew it-tnejn li huma,".

Emenda tal-artikolu 8A tal-Att prinċipali.

**49.** L-artikolu 8A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4) rispettivament;

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

"(2) Istituzzjoni finanzjarja li tkun awtorizzata toħroġ flus elettroniċi m'għandhiex toħroġ flus elettroniċi permezz ta' aġenti:

Iżda istituzzjoni finanzjarja li tkun awtorizzata toħroġ flus elettroniċi tista', bla ħsara għal dawk il-kondizzjonijiet li jistgħu jiġu stabbiliti mill-awtorità kompetenti, tqassam u ssarraf flus elettroniċi permezz ta' aġenti."; u

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

"(5) Meta l-istituzzjoni finanzjarja li jkollha licenza jew li jkollha awtorizzazzjoni ekwivalenti fi Stat Membru iehor jew fi Stat ŻEE tiġġestixxi l-attivitajiet elenkati fl-Iskedi f'Malta permezz ta' xi fergħa jew billi jqabbd u aġent, l-istituzzjoni finanzjarja għandha ssegwi l-proċeduri stabbiliti f'Regola ta' Istituzzjonijiet Finanzjarji:

Iżda jekk l-awtorità kompetenti jkollha tassew għaliex tissuspetta li, permezz ta' dik il-fergħa jew aġent, ikun qed isir jew ikun sar jew ikun qed jiġi ittentat li jsir xi *money laundering* jew finanzjament ta' terroriżmu, fil-kuntest tad-Direttiva tal-Kunsill 2005/60/KE, jew li l-fatt li jiġu operati dik il-fergħa jew aġent jista' jżid ir-riskju ta' *money laundering* jew il-finanzjament ta' terroriżmu, hija għandha tgħarraf lill-Istat Membru jew lill-Istat ŻEE fejn tkun stabbilita l-istituzzjoni finanzjarja, u tista' tiċhad milli tirreġistra l-fergħa jew l-aġent, jew tista' tirtira r-registrazzjoni tal-fergħa jew ta' l-aġent."

**50.** Is-subartikolu (4) tal-artikolu 8B tal-Att prinċipali għandu jithassar.

Emenda tal-artikolu 8B tal-Att prinċipali.

**51.** Minnufih wara l-artikolu 8D tal-Att prinċipali, għandhom jiżdidu l-artikoli ġodda li ġejjin:

Żjieda ta' artikoli ġodda mal-Att prinċipali.

"Ftuħ ta' fergħat li jkollhom l-uffiċċju prinċipali tagħhom barra mill-Unjoni Ewropea.

8E. (1) Fil-valutazzjoni ta' applikazzjoni għall-ftuħ ta' fergħa minn istituzzjoni finanzjarja awtorizzata biex toħroġ flus elettronici u li jkollha l-uffiċċju prinċipali tagħha barra mill-Komunità, l-awtorità kompetenti ma tistax tapplika d-dispożizzjonijiet li jirriżultaw fi trattament aktar favorevoli minn dak mogħti lil istituzzjoni finanzjarja li jkollha l-uffiċċju prinċipali tagħha barra mill-Komunità.

(2) L-awtorità kompetenti għandha tinnotifika lill-Kummissjoni Ewropea b'kull awtorizzazzjoni għal fergħat ta' istituzzjonijiet finanzjarji li jkollhom l-uffiċċju prinċipali tagħhom barra mill-Komunità kif imsemmi fis-subartikolu (1).

Hruġ u fidi ta' flus elettronici.

8F. (1) Istituzzjonijiet finanzjarji awtorizzati biex joħroġu flus elettronici għandhom joħroġu flus elettronici b'valur ta' parità ma' meta jiġu riċevuti l-flus.

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(2) Istituzzjoni finanzjarja awtorizzata biex toħroġ flus elettronici għandha tiżgura li, f'kull waqt, meta ssir talba mid-detentur, tkun f'pożizzjoni li tifdi l-valur monetarju ta' flus elettronici miżmuma, b'valur ta' parità u mingħajr ebda dewmien.

(3) Bil-għan li jitwettqu aħjar id-dispożizzjonijiet ta' dan l-artikolu u sabiex tkun tista' tittrasponi aħjar id-dispożizzjonijiet tad-Direttiva dwar il-Flus Elettronici fuq il-ħruġ u l-fidi ta' flus elettronici, l-awtorità kompetenti tista', minn żmien għal żmien, tippubblika Regoli ta' Istituzzjonijiet Finanzjarji li jkunu jorbtu lill-istituzzjonijiet finanzjarji awtorizzati biex joħroġu flus elettronici kif ikun hemm speċifikat fihom."

Emenda tal-artikolu 9 tal-Att prinċipali.

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

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem "jew izzid jew tnaqqas, direttament jew indirettament" għandhom jidhlu l-kliem "jew tkompli żżid jew tnaqqas, direttament jew indirettament";

(b) minflok is-subartikolu (4) tiegħu, għandu jidhol dan li ġej:

"(4) (a) Meta persuna tagħmel il-ħsieb li tieħu xi azzjoni kif stipulat fis-subartikolu (1)(a) u (b), dik il-persuna għandha tinnotifika lill-awtorità kompetenti bil-miktub b'dik id-deċiżjoni, fejn tindika xi jkun id-daqs tal-partecipazzjoni fl-ishma li tkun bi ħsiebha jkollha u tipprovdi kull informazzjoni rilevanti kif u bil-mod li l-awtorità kompetenti tista' tkun teħtieġ permezz ta' Regola ta' Istituzzjonijiet Finanzjarji, inkluża l-formola li biha għandha ssir dik in-notifika u l-kriterji adottati mill-awtorità kompetenti meta tkun qegħda tistabbilixxi jekk dik il-persuna tkunx persuna idonea. L-awtorità kompetenti għandha, fi żmien xahrejn minn meta tirċievi dik in-notifika, tagħti l-approvazzjoni tagħha jew xort'oħra u jekk dak il-perjodu jgħaddi mingħajr ma l-awtorità kompetenti tkun innotifikat id-deċiżjoni tagħha, dik id-deċiżjoni għandha titqies li tkun approvazzjoni.

(b) Meta l-partecipazzjoni fl-ishma kwalifikanti tinkiseb minkejja l-oppożizzjoni tal-awtorità kompetenti, l-awtorità kompetenti għandha, mingħajr ma jingħata każ ta' kull sanzjoni oħra li tista' tiġi adottata, tipprovdi dwar is-

sospensjoni tal-eżerċizzju tal-jeddijiet ta' votazzjoni tal-akkwired, in-nullità tal-voti mitfughin jew il-possibilità li daww il-voti jiġu annullati."; u

(ċ) minnufih wara s-subartikolu (5), għandu jizdied is-subartikolu ġdid li ġej:

"(6) L-awtorità kompetenti tista', permezz ta' Regola ta' Istituzzjonijiet Finanzjarji u bla ħsara għal daww il-kriterji li jistgħu jiġu stabbiliti fihom, tipprovdi li d-dispożizzjonijiet kollha ta' dan l-artikolu jew parti minnhom jiġu rinunzjati.".

**53.** Minnufih wara l-artikolu 10 tal-Att prinċipali, għandhom jizdiedu dawn l-artikoli godda li ġejjin:

Żjieda ta' artikoli godda mal-Att prinċipali.

"Ma jistax jingħata mghax.

10A. Hu projbit li jingħata xi mghax jew xi benefiċċju ieħor għall-ammont ta' żmien li matulu istituzzjoni finanzjarja li tkun qegħda tipprovdi s-servizzi elenkati fit-Tielet Skeda żżomm flus elettronici.

Htiġiet ta' ħarsien.

10B. (1) Istituzzjoni finanzjarja għandha tħares il-flejjes kollha li hija tirċievi minn utenti ta' servizzi ta' pagament jew bi skambju għal flus elettronici maħruġa.

(2) Bil-għan li jitwettqu aħjar d-dispożizzjonijiet ta' dan l-Att dwar il-htiġiet ta' ħarsien, l-awtorità kompetenti tista', minn żmien għal żmien, tippublika Regoli ta' Istituzzjonijiet Finanzjarji li jkunu jorbtu lill-istituzzjonijiet finanzjarji awtorizzati biex joħroġu flus elettronici kif ikun hemm speċifikat fihom.".

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

Emenda tal-artikolu 12 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jithassar;

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1);

(ċ) minflok il-paragrafu (b) tas-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(b) jistabbilixxi ċ-ċirkostanzi li taħthom kumpannija tista' tkun eżentata milli teħtieġ liċenza taħt dan l-Att;

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(ċ) jittrasponi, jimplimenta u jagħti seħħ lill-ħtiġiet tad-Direttiva dwar il-Flus Elettronici u d-Direttiva dwar Servizzi ta' Pagament;

(d) jirregola t-trasponiment, implimentazzjoni u kif jingiebu fis-seħħ id-dispożizzjonijiet, il-ħtiġiet, obbligi u impenji li jkollhom x'jaqsmu mar-regolament ta' istituzzjonijiet ta' hlas u istituzzjonijiet ta' flus elettronici li jitnisslu minn sħubija, affiljazzjoni jew relazzjoni ma' organizzazzjonijiet internazzjonali jew reġjonali jew gruppi ta' pajjiżi jew minn xi trattat, konvenzjoni jew ftehim internazzjonali ieħor sew bilaterali, reġjonali jew multilaterali, li Malta tkun parti fih; u

(e) jipprovi li kull liġi oħra, jew kull dispożizzjoni tagħha, m'għandhiex tkun tapplika għal materji li jinkwadraw taħt ir-regolamenti, u, partikolarment, jista' jeżenta attivitajiet li jistgħu jissemmew bl-applikazzjoni ta' kull artikolu jew

Kap. 16. dispożizzjoni tal-Kodiċi Ċivili."; u

(d) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan is-subartikolu ġdid li ġej:

"(2) Regolamenti magħmulin taħt dan l-artikolu jistgħu jsiru bla ħsara għal dawk l-eżenzjonijiet jew kondizzjonijiet li jistgħu jiġu speċifikati fihom, jistgħu jipprovdu b'mod differenti għal kazijiet, ċirkostanzi jew għanijiet differenti u jistgħu jagħtu lill-awtorità kompetenti dawk is-setgħat ta' adattament tar-regolamenti hekk kif jista' jiġi speċifikat ukoll."

Emenda tal-artikolu 13 tal-Att prinċipali.

**55.** L-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (d) tas-subartikolu (1) tiegħu, minflok il-kliem "li ma jkunux dawk elenkati fl-Iskeda" għandhom jidhlu l-kliem "li ma jkunux dawk elenkati fl-Iskedi"; u

(b) minnufih wara s-subartikolu (4) tiegħu, għandu jidied dan is-subartikolu ġdid li ġej:

"(5) Meta l-awtorità kompetenti tkun għamlet użu mir-rinunzja li hemm provdut dwarha fil-artikolu 3(7), hija



għandha:

(a) tinnotifika lill-Kummissjoni Ewropea minnufih b'kull bidla sussegwenti;

(b) tgħarraf lill-Kummissjoni Ewropea bl-għadd ta' persuni legali involuti; u

(ċ) tgħarraf lill-Kummissjoni Ewropea, ta' kull sena, bl-ammont totali ta' flus elettronici li jibqgħu dovuti maħruġ fid-data tal-31 ta' Diċembru ta' kull sena kalendarja."

**56.** Minflok is-subartikolu (3) tal-artikolu 14 tal-Att prinċipali, għandu jidhol dan li ġej:

Emenda tal-artikolu 14 tal-Att prinċipali.

"(3) Istituzzjonijiet finanzjarji li jipprovdu s-servizzi elenkati fil-paragrafi 2 u 3 tat-Tieni Skeda u istituzzjonijiet finanzjarji awtorizzati biex joħorġu flus elettronici li jkunu qegħdin jiġġestixxu l-attivitajiet addizzjonali elenkati fil-paragrafi 2(b) sa (e) tat-Tielet Skeda, għandhom jipprovdu informazzjoni dwar il-kontijiet separati kif speċifikat fir-Regola ta' Istituzzjonijiet Finanzjarji maħruġa mill-awtorità kompetenti. L-informazzjoni dwar il-kontijiet tkun soġġetta għal rapport ta' awditur."

**57.** L-artikolu 20 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 20 tal-Att prinċipali.

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

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "istituzzjonijiet finanzjarji li jkunu qegħdin iwettqu servizzi ta' pagament unikament għall-finijiet supervizorji u regolatorji tagħhom" għandhom jidhlu l-kliem "istituzzjonijiet finanzjarji li jkunu qegħdin iwettqu servizzi ta' pagament jew il-hruġ ta' flus elettronici jew it-tnejn unikament għall-finijiet supervizorji u regolatorji tagħhom";

(ii) minflok il-paragrafu (ċ) tiegħu, għandu jidhol dan li ġej:

"(ċ) awtoritajiet rilevanti oħra msemmija taht id-Direttiva 2007/64/KE, id-Direttiva 2009/110/KE, id-Direttiva 95/46/KE, id-Direttiva 2005/60/KE u leġislazzjoni Komunitarja oħra li tapplika

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għal istituzzjonijiet finanzjarji awtorizzati biex jipprovdu servizzi ta' pagament u biex joħorġu flus elettronici, inklużi miżuri li jirregolaw il-protezzjoni ta' individwi dwar il-proċessar ta' informazzjoni personali u kontra *money laundering* u l-finanzjar ta' terroriżmu."; u

(b) minflok il-proviso għas-subartikolu (3) tiegħu, għandu jidhol dan li ġej:

"Izda l-awtorità kompetenti tista' tiskambja informazzjoni u tikkomunika ma' awtoritajiet regolatorji barranin ohra jew wara li dawn jagħmu talba għaldaqstant jew b'inizjattiva tagħha nnifisha:

Izda wkoll fil-każ ta' tilwimiet bejn il-konsumaturi transkonfini, l-awtorità kompetenti tista' tuża kull setgħa taht dan l-artikolu u għandha tikkoopera u tiskambja informazzjoni bil-għan li tinvestiga u tirisolvi tilwimiet bħal dawk."

Emenda tal-artikolu 23 tal-Att prinċipali.

**58.** Fis-subartikolu (1) tal-artikolu 23 tal-Att prinċipali, minflok il-kliem "piena amministrattiva li ma tistax tkun ta' iżjed minn tlieta u disghin elf u mija u erbgħa u sebgħin euro u erbgħa u disghin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "piena amministrattiva li ma tistax tkun ta' iżjed minn mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

Emenda tal-artikolu 25 tal-Att prinċipali.

**59.** Minflok is-subartikolu (3) tal-artikolu 25 tal-Att prinċipali, għandu jidhol dan li ġej:

"(3) Meta uffiċjal ta' istituzzjoni finanzjarja jkollu għaliex jaħseb li xi transazzjoni jew transazzjoni proposta tkun tista' tinvolvi *money laundering* jew finanzjar ta' terroriżmu, huwa għandu jaġixxi b'mod konformi mar-rappurtar u obbligi ohra stabbiliti fir-regolamenti stabbiliti fir-regolamenti magħmulin taht l-artikolu 12 tal-Att kontra *Money Laundering*, u kull proċedura u gwida maħruġa tahtu, u dak l-iżvelar ma jkunx jikkostitwixxi ksur ta' kunfidenzjalità."

Kap. 373.

Sostituzzjoni tal-artikolu 26 tal-Att prinċipali.

**60.** Minflok l-artikolu 26 tal-Att prinċipali għandu jidhol dan li ġej:

Kap. 330. "26. (1) (a) Minghajr preġudizzju għall-ġeneralità tal-artikolu 20 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, il-*Manager* tal-Ilmenti tal-Konsumaturi jkollu wkoll il-funzjoni li jinvestiga lmenti minn utent ta' servizz ta' pagament u minn detentur ta' flus elettronici li joriginaw minn, jew li jkollhom x'jaqsmu ma', xi kontravvenzjoni allegata minn istituzzjoni finanzjarja tad-dispożizzjonijiet ta' dan l-Att li jimplementaw id-Direttiva dwar Servizzi ta' Pagament u d-Direttiva dwar il-Flus Elettronici.

(b) Id-dispożizzjonijiet tal-artikolu 20 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom ikunu japplikaw, *mutatis mutandis*, għal ilmenti li jsiru taht dan l-artikolu.

(c) Ilmenti kif deskritti fis-subartikolu (1) jistgħu jinkludu lmenti minn partijiet interessati, fil-kuntest tad-Direttiva dwar Servizzi ta' Pagament u tad-Direttiva dwar il-Flus Elettronici, kif ukoll ilmenti minn assoċjazzjonijiet ta' konsumaturi reġistrati kif imfissra fl-Att dwar l-Affarijiet tal-Konsumatur.

Kap. 378. (2) (a) Tilwima bejn utent ta' servizz ta' pagament jew detentur ta' flus elettronici u istituzzjoni finanzjarja tista', fid-diskrezzjoni tal-utent ta' servizz ta' pagament jew ta' detentur ta' flus elettronici, jew jekk ikun hemm ftehim bejn il-partijiet involuti fit-tilwima, sew permezz ta' ftehim bil-miktub jew xort'oħra, tintbagħat għall-arbitraġġ kif hemm fl-Att dwar l-Arbitraġġ. L-awtorità li tahtar u l-amministratur ikun iċ-Ċentru dwar l-Arbitraġġ ta' Malta, u f'dawn it-tilwimiet ikun arbitru wieħed biss li jiġi mahtur.

(b) Persuni li tinhargilhom liċenza taht dan l-Att ikunu marbutin bil-kundizzjoni fil-liċenza tagħhom li tilwima tkun tista' tintbagħat għall-arbitraġġ kif hemm fil-paragrafu (a).

(c) Il-*Manager* tal-Ilmenti tal-Konsumaturi għandu, fir-risposta tiegħu għal ilment, jgħarraf lil min jagħmel l-ilment bil-possibbiltà li t-tilwima tkun tista' tintbagħat għal proċeduri ta' arbitraġġ kif provdut f'dan l-artikolu.

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(3) Azzjoni li tittiehed mill-*Manager* tal-Ilmenti tal-Konsumaturi taht dan l-artikolu għandha tkun mingħajr preġudizzju għad-dritt li jkollu konsumatur, fil-kuntest tal-Att dwar l-Affarijiet tal-Konsumatur, li jippreżenta talba quddiem it-Tribunal għal Talbiet tal-Konsumaturi, mwaqqaf taht dak l-Att, jew li jeżerċita kull dritt ieħor taht dak l-Att."

Kap. 378.

**61.** Minflok l-artikolu 27 tal-Att prinċipali għandu jidhlo dan li ġej:

Sostituzzjoni tal-artikolu 27 tal-Att prinċipali.

"27. L-għan ta' dan l-Att hu, f'parti minnu, biex jimplimenta d-dispożizzjonijiet tad-Direttiva 2007/64/KE tal-Parlament Ewropew u tal-Kunsill dwar servizzi ta' pagament fis-suq intern, partikolarment it-Titoli I, II, Kapitolu 5 tat-Titolu IV u l-Anness u tad-Direttiva 2009/110/KE tal-Parlament Ewropew u tal-Kunsill dwar il-bidu, prosegwiment u sorveljanza prudenzjali tal-kummerċ ta' istituzzjonijiet ta' flus elettronici, u għandu jkun interpretat u applikat skond hekk."

**62.** Minflok l-Ewwel Skeda li tinsab mal-Att prinċipali, għandu jidhlo dan li ġej:

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

#### "L-EWWEL SKEDA

(Artikolu 2)

#### ATTIVITAJIET TA' ISTITUZZJONIJET FINANZJARJI

1. Self (li jinkludi krediti personali, krediti taht *mortgage*, xiri ta' fatturi kemm bi jew mingħajr dritt ta' rikors, finanzjament of transazzjonijiet kummerċjali inkluż *forfeiting*);

2. Self finanzjarju;

3. Kapital ta' sogr u jew riskju;

4. Servizzi ta' pagament kif imfisser fit-Tieni Skeda;

5. Hruġ u amministrazzjoni ta' mezzi ta' pagament oħra (*travellers cheques* u ċedoli bankarji u strumenti bħal dawk) sakemm din l-attività ma tkunx taqa' taht il-punt 4 hawn qabel;

6. Garanziji u rabtiet;

7. Negozju li persuna tagħmel f'isimha jew f'isem il-klijenti:

(a) fi strumenti ta' swieq finanzjarji (ċekkijiet, kambjali, Ċertifikati ta' depożitu u strumenti bħal dawk);

(b) fil-kambju ta' flus barranin;

(ċ) fil-*futures* u *options* finanzjarji;

(d) fl-istrumenti ta' rati ta' kambju u mgħax;

(e) fi strumenti li jistgħu jiġu trasferiti;

8. Sottoskrizzjoni ta' hruġ ta' ishma u parteċipazzjoni f'kull hruġ bħal dak;

9. Senserija ta' flus;

10. Hruġ ta' flus elettronici kif imfisser fit-Tielet Skeda."

**63.** Fil-paragrafu 1 tat-Tieni Skeda li tinsab mal-Att prinċipali, minflok it-tifsira "istituzzjoni ta' pagament" għandu jidhol dan li ġej:

Emenda tat-Tieni Skeda li tinsab mal-Att prinċipali.

" "istituzzjoni ta' pagament" tfisser kumpannija li jkollha liċenza konformi ma' dan l-Att jew li jkollha awtorizzazzjoni ekwivalenti f'xi pajjiż ieħor kif hemm fid-Direttiva dwar Servizzi ta' Pagament, għall-provdiment u eżekuzzjoni ta' servizzi ta' pagament;"

**64.** Minnufih wara t-Tieni Skeda li tinsab mal-Att prinċipali, għandha tizzied din it-Tielet Skeda għida li ġejja:

Żjeda tat-Tielet Skeda mal-Att prinċipali.

## "IT-TIELET SKEDA

(Artikolu 2)

### ISTITUZZJONIJIET FINANZJARJI LI JOHORGU FLUS ELETTRONICI

#### Għan

L-iskop ta' din l-Iskeda hu li jiġu stipulati l-attivitajiet li jistgħu jitwettqu minn istituzzjonijiet finanzjarji li joħorġu flus elettronici skond dan l-Att.

#### Tifsir

1. F'din l-Iskeda, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra, għandhom japplikaw dawn it-tifsiriet li ġejjin -

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"flus elettronici" tfisser valur monetarju maħzun elettrunikament, inkluż b'mod manjetiku, skont talba lil min johroghom u li jinħarġu meta jiġu riċevuti fondi bil-ġħan li jsiru transazzjonijiet b'pagament kif imfissra fil-paragrafu 1 tat-Tieni Skeda u li huma aċċettati minn persuna naturali jew legal minbarra l-istituzzjonijiet finanzjarji li jkunu ħarġu l-flus elettronici;

"istituzzjoni ta' flus elettronici" tfisser istituzzjoni finanzjarja li tkun inħarġitilha liċenza kif hemm f'dan l-Att u li tkun awtorizzata biex toħroġ flus elettronici jew li jkollha awtorizzazzjoni ekwivalenti f'pajjiż iehor kif hemm fid-Direttiva dwar il-Flus Elettronici biex toħroġ flus elettronici.

#### Attivitajiet

2. B'żjieda mal-ħruġ ta' flus elettronici, istituzzjonijiet ta' flus elettronici jistgħu wkoll jipparteċipaw f'kull waħda minn dawn l-attivitajiet li ġejjin:

(a) il-provdiment ta' servizzi ta' pagament elenkati fil-paragrafu 2 tat-Tieni Skeda;

(b) l-ġħoti ta' kreditu li għandu x'jaqsam ma' servizzi ta' pagament msemmija fil-paragrafu 2(d), (e) u (g) tat-Tieni Skeda, meta jkun hemm konformità mal-kondizzjonijiet stipulati fil-paragrafu 3(e) tat-Tieni Skeda;

(ċ) il-provdiment ta' servizzi operattivi u servizzi anċillari li għandhom x'jaqsmu mill-qrib dwar il-ħruġ ta' flus elettronici jew il-provdiment ta' servizzi ta' pagament msemmija fil-punt (a);

(d) it-tħaddim ta' sistemi ta' pagament kif imfissra fit-Tieni Skeda;

(e) attivitajiet minbarra l-ħruġ ta' flus elettronici, wara li titqies il-liġi li tkun tapplika u li tirregola dawk l-attivitajiet.

Kreditu msemmi fil-punt (b) hawn qabel m'għandux jingħata mill-fondi riċevuti bi skambju ta' flus elettronici u miżmuma kif hemm fil-ħtiġiet ordnati ta' ħarsien."

**TAQSIMA VII****EMENDA TAL-ATT DWAR KUMPANNIJI KONTROLLATI  
(PROCEDURA TA' STRALĊ)**

**65.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar Kumpanniji Kontrollati (Proċedura ta' Stralċ), hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att  
dwar  
Kumpanniji  
Kontrollati  
(Proċedura ta'  
Stralċ).  
Kap. 383.

**66.** Fl-artikolu 2 tal-Att prinċipali, minflok it-tifsira "awtorità kompetenti" għandu jidhrol dan li ġej:

Emenda tal-  
artikolu 2 tal-  
Att prinċipali.

" "awtorità kompetenti" tfisser il-korp mahtur  
bħala l-awtorità kompetenti taht u għall-finijiet tal-  
Att dwar il-Kummerċ Bankarju;".

Kap. 371.

**TAQSIMA VIII****EMENDI TAL-ATT DWAR IL-KUMPANNIJI**

**67.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kumpanniji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att  
dwar il-  
Kumpanniji.  
Kap. 386.

**68.** Il-paragrafu (ii) tat-tifsira "Stat Membru tal-Pajjiż" fis-subartikolu (1) ta' l-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-  
artikolu 2 tal-  
Att prinċipali.

(a) minflok il-kliem "għal kull ħruġ ta' sigurtajiet mingħajr ekwità li d-denominazzjoni għal kull unità tammonta għal mill-inqas elf u wieħed euro, u tlieta u sittin ċenteżmu (1,001.63)", għandhom jidhlu l-kliem "għal kull ħruġ ta' sigurtajiet mingħajr ekwità li d-denominazzjoni għal kull unità tammonta għal mill-inqas elf euro (1,000)"; u

(b) minflok il-kliem "iżda l-valur ta' din id-denominazzjoni minima għandu jkun qrib elf u wieħed euro u tlieta u sittin ċenteżmu (1,001.63)", għandhom jidhlu l-kliem "iżda l-valur ta' din id-denominazzjoni minima għandu jkun qrib elf euro (1,000)".

**69.** L-artikolu 170 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-  
artikolu 170 tal-  
Att prinċipali.

(a) is-subartikoli (5), (7) and (8) għandhom jiġu mhassra; u

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(b) is-subartikolu (6) għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5).

Emenda tal-artikolu 420 tal-Att prinċipali.

**70.** Fil-paragrafu (f) tas-subartikolu 3 ta' l-artikolu 420 tal-Att prinċipali, minflok il-kliem "il-borża rikonoxxuta" għandhom jidhlu l-kliem "is-suq regolat".

Emenda tal-artikolu 425 tal-Att prinċipali.

**71.** L-artikolu 425 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (d) tas-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) fis-subparagrafu (i) tiegħu, minflok il-kliem "ta' mhux iżjed minn mitejn u tnejn u tletin elf u disa' mija u sebgħa u tletin euro u erbgħa u tletin ċenteżmu (232,937.34)" għandhom jidhlu l-kliem "ta' mhux iżjed minn mitejn u tletin elf (230,000) euro"; u

(ii) fis-subparagrafu (ii) tiegħu, minflok il-kliem "ta' mhux iżjed minn elfejn u tliet mija u disgħa u għoxrin euro u sebgħa u tletin ċenteżmu (2,329.37), jew penaltajiet ta' nuqqas għal kull jum ta' mhux iżjed minn sitta u erbgħin euro u disgħa u ħamsin ċenteżmu (46.59) għal kull jum" għandhom jidhlu l-kliem "ta' mhux iżjed minn elfejn u tliet mitt (2,300) euro, jew penaltajiet ta' nuqqas għal kull jum ta' mhux iżjed minn ħamsin (50) euro għal kull jum";

(b) is-subartikoli (6) u (7) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (8) u (9) rispettivament; u

(ċ) minnufih wara s-subartikolu (5) tiegħu, għandhom jizdiedu dawn is-subartikoli (6) u (7) ġodda li ġejjin:

"(6) (a) Il-Ministru jista' b'regolamenti jipprovdi dwar ir-reġistrazzjoni ta' provdituri ta' servizzi lil kumpanniji għand ir-Registratur u biex issir aktar regolamentazzjoni ta' dawk il-provdituri. F'dan is-subartikolu, "provdituri ta' servizzi lil kumpanniji" tirreferi għal persuni naturali jew legali li jaħdmu f'illi jipprovdu servizzi dwar il-formazzjoni, tħaddim jew maniġġ ta' kumpanniji u ta' soċjetajiet kummerċjali oħra; inkluż li persuna taġixxi bħala direttur jew f'pożizzjoni amministrattiva simili jew bħala segretarju ta' kumpannija, arrangamenti magħmulin biex persuna oħra taġixxi bħala tali jew biex persuna oħra tipprovdi servizzi *nominee* jew



fiduċjari oħra dwar ishma, li tipprovdi faċilitajiet ta' uffiċċju registrat jew indirizz tan-negozju u tipprovdi kull servizz ieħor anċillari jew relatat.

(b) Mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi, regolamenti magħmulin mill-Ministru bis-saħħa tal-paragrafu (a) jistgħu, partikolarment jippreskrivu:

(i) il-kondizzjonijiet li għandhom jiġu sodisfatti għar-reġistrazzjoni u t-tiġdid relattiv;

(ii) l-għamla, kontenut u mod ta' applikazzjoni għar-reġistrazzjoni;

(iii) id-drittijiet li jistgħu jingabru dwar ir-reġistrazzjoni u t-tiġdid relattiv;

(iv) ir-reati u pjeni amministrattivi għal nuqqas ta' konformità jew kontravvenzjoni ta' xi dispożizzjoni ta' dawn ir-regolamenti magħmula bis-saħħa ta' dan is-subartikolu;

(v) poteri li jiġu eżerċitati mir-Registratur dwar provdituri ta' servizzi lil kumpanniji, inklużi poteri li jinvestiga l-attivitajiet tagħhom u li jeħtieġ li jingħata informazzjoni, li jagħti Direttivi, li joħroġ proċeduri u linji gwida u poteri li jhassar reġistrazzjoni; u

(vi) dwar kull haġa inċidentali jew li għandha x'taqsam ma' xi dispożizzjoni t'hawn qabel.

(7) Il-Ministru jista' jagħmel regolamenti biex jittrasponi, jimplimenta u jagħti seħħ lid-dispożizzjonijiet u l-ħtiġiet ta' Direttivi, Regolamenti u kull miżura legiſlattiva oħra tal-Unjoni Ewropea li tkun teħtieġ traspożizzjoni u, jew implimentazzjoni, kif dawn jistgħu jiġu emendati minn żmien għal żmien, inkluża kull miżura implimentattiva li tkun inħarġet jew li tista' tinħareġ taħtha."

**72.** L-artikolu 426 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 426 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "meta tinstab haġja, tista' tehel multa ta' mhux iżjed minn erbat elef u

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sitt mija u tmienja u ħamsin euro u ħamsa u sebghin ċenteżmu (4,658.75)" għandhom jidhlu l-kliem "meta tinstab ħatja, tista' tehel multa ta' mhux iżjed minn mitejn u tletin elf (230,000) euro"; u

(b) fis-subartikolu (2), minflok il-kliem "ta' mhux iżjed minn elfejn u tliet mija u disgħa u għoxrin euro u sebgha u tletin ċenteżmu (2,329.37) u, fejn ikun il-każ, penali oħra ta' sitta u erbgħin euro u disgħa u ħamsin ċenteżmu (46.59) għal kull jum" għandhom jidhlu l-kliem "ta' mhux iżjed minn elfejn u tliet mitt (2,300) euro u, fejn ikun il-każ, penali oħra ta' ħamsin (50) euro għal kull jum".

## TAQSIMA IX

### EMENDI TAL-ATT DWAR IL-KUMMERĊ TAL-ASSIGURAZZJONI

Emenda tal-Att  
dwar il-  
Kummerċ tal-  
Assigurazzjoni.  
Kap. 403.

**73.** Din it-Taqsima temenda u għandha tinqara u tiftiehem ħaġa waħda mal-Att dwar il-Kummerċ tal-Assigurazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-  
artikolu 2 tal-  
Att prinċipali.

**74.** Is-subartikolu (1) tal-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok it-tifsira "awtorità kompetenti" għandu jidhol dan li ġej:

" "awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;" u

(b) fit-tifsira "regola dwar l-assigurazzjoni" minflok il-kliem "maħruġa mill-awtorità kompetenti bis-saħħa ta' l-artikolu 4(3);" għandhom jidhlu l-kliem "maħruġa mill-awtorità kompetenti bis-saħħa tal-artikolu 4(2);".

Emenda tal-  
artikolu 3 tal-  
Att prinċipali.

**75.** Minflok l-artikolu 3 tal-Att prinċipali, għandu jidhol dan li ġej:

"Awtorità kompetenti.

3. Ikun id-dmir tal-awtorità kompetenti li taqdi l-funzjonijiet mogħtijin lilha b'dan l-Att jew taħtu u li tiżgura li persuni awtorizzati li jwettqu l-kummerċ tal-assigurazzjoni f'Malta jew minn Malta jharsu d-dispożizzjonijiet ta' dan l-Att u ta' regolamenti magħmulin taħtu, ma' kull regola dwar l-assigurazzjoni magħmula mill-awtorità kompetenti bis-saħħa ta' dan l-Att u ta' regolamenti magħmulin taħtu u mal-kondizzjonijiet speċifikati fl-awtorizzazzjoni rispettiva tagħhom."

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

Emenda tal-artikolu 4 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jithassar; u

(b) is-subartikoli (2), (3), (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (1), (2), (3) u (4) rispettivament.

**77.** Is-subartikolu (1) tal-artikolu 58 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 58 tal-Att prinċipali.

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "taħt l-artikoli 7, 13 jew 21", għandhom jidhlu l-kliem "taħt l-artikoli 7 jew 21"; u

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "maħruġa jew miżmuma taħt l-artikoli 7, 13 jew 21", għandhom jidhlu l-kliem "maħruġa jew miżmuma taħt l-artikoli 7 jew 21".

**78.** Minflok is-subartikolu (6) tal-artikolu 59 tal-Att prinċipali għandu jidhol dan li ġej:

Emenda tal-artikolu 59 tal-Att prinċipali.

"(6) Meta uffiċjal jew impjegat ta' kumpannija awtorizzata jkollu għaliex jaħseb li xi transazzjoni jew transazzjoni proposta tkun tista' tinvolvi *money laundering* jew finanzjar ta' terroriżmu, huwa għandu jaġixxi b'mod konformi mar-rappurtar u obbligi oħra stabbiliti fir-regolamenti magħmulin taħt l-artikolu 12 tal-Att kontra *Money Laundering*, u kull proċedura u gwida maħruġa taħtu, u dak l-iżvelar ma jkunx jikkostitwixxi ksur ta' kunfidenzjalità."

Kap. 373.

**79.** L-artikolu 64 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 64 tal-Att prinċipali.

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(a) fil-paragrafu (i) tas-subartikolu (1) tiegħu, minflok il-kliem "hekk li dawk il-penalitajiet ma jkunux ta' iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94), dwar kull reat u fil-każ ta' reat kontinwat penali oħra ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) għal kull jum li matulu jkompli r-reat." għandhom jidhlu l-kliem "hekk li dawk il-penalitajiet ma jkunux ta' iżjed minn mija u ħamsin elf (150,000) euro, dwar kull reat u fil-każ ta' reat kontinwat penali oħra ta' mhux iżjed minn mitejn u tletin (230) euro għal kull jum li matulu jkompli r-reat."; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "tista' tehel penali ta' mhux inqas minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) u mhux iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94), dwar kull reat u fil-każ ta' reat kontinwat penali oħra ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) għal kull jum li matulu jkompli r-reat." għandhom jidhlu l-kliem "tista' tehel penali ta' mhux inqas minn mitejn u tletin (230) euro u ta' mhux iżjed minn mija u ħamsin elf (150,000) euro, dwar kull reat u fil-każ ta' reat kontinwat penali oħra ta' mhux iżjed minn mitejn u tletin (230) euro għal kull jum li matulu jkompli r-reat".

Emenda tal-  
artikolu 67 tal-  
Att prinċipali.

**80.** L-artikolu 67 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tas-subartikolu (5) tiegħu, minflok il-kliem "ma għandhomx jipprovdu għal multa ta' inqas minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) jew iktar minn mija u sittax-il elf u erba' mija u tmienja u sittin euro u sebgħa u sittin ċenteżmu (116,468.67)." għandhom jidhlu l-kliem "ma għandhomx jipprovdu għal multa ta' inqas minn mitejn u tletin (230) euro jew iktar minn mija u sittax-il elf (116,000) euro."; u

(b) fis-subartikolu (6) tiegħu:

(i) minflok l-ewwel proviso għal dak is-subartikolu, għandu jidhol dan li ġej:

"Izda penali amministrattiva ma tistax tkun aktar minn penali finanzjarja ta' mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ, u, meta dak il-ksur jew nuqqas ta' konformità jkompli, penali oħra ta'

mhux iżjed minn mija u sittax-il euro (116) għal kull jum li matulu jkompli l-ksur jew in-nuqqas ta' konformità"; u

(ii) fit-tieni proviso, minflok il-kliem "ma tista', f'ebda każ, tkun iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "ma tista', f'ebda każ, tkun iżjed minn mija u hamsin elf (150,000) euro."

**81.** Fis-subartikolu (8) tal-artikolu 69 tal-Att prinċipali, minflok il-kliem "Ir-riferenzi kollha għad-direttivi dwar l-assigurazzjoni maħruġa mill-awtorità kompetenti taht l-artikolu 4(3) f'licenzi, avvizi, deċiżjonijiet jew atti oħra li saru jew ġew meħuda mill-awtorità kompetenti" għandhom jidhlu l-kliem "Ir-riferenzi kollha f'licenzi, avvizi, deċiżjonijiet jew atti oħra magħmulin jew meħudin mill-awtorità kompetenti, għal direttiva dwar l-assigurazzjoni maħruġa mill-awtorità kompetenti,".

Emenda tal-artikolu 69 tal-Att prinċipali.

## TAQSIMA X

### EMENDI TAL-ATT DWAR IL-PREVENZJONI TA' ABBUŻ FIS-SWIEQ FINANZJARJI

**82.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji. Kap. 476.

**83.** Fit-test Inġliż tas-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, fit-tifsira "l-awtorità kompetenti" il-kliem "as appointed in terms of artikolu 2 of the Financial Markets Act and artikolu 2A of the Investment Services Act" għandhom jithassru.

Emenda tal-artikolu 2 tal-Att prinċipali.

**84.** Fl-ewwel proviso mal-paragrafu (a) tas-subartikolu (1) tal-artikolu 19 tal-Att prinċipali, minflok il-kliem "ta' tlettax-il elf u disa' mija u sitta u sebgħin euro u erbgħa u għoxrin ċenteżmu (13,976.24) fis-sena" għandhom jidhlu l-kliem "ta' erbatax-il elf euro (14,000) fis-sena".

Emenda tal-artikolu 19 tal-Att prinċipali.

**85.** Fis-subartikolu (1) tal-artikolu 22 tal-Att prinċipali, minflok il-kliem "li ma tistax taqbez it-tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94)." għandhom jidhlu l-kliem "li ma tistax taqbez l-mija u hamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

Emenda tal-artikolu 22 tal-Att prinċipali.

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Emenda tal-artikolu 24 tal-Att prinċipali.

**86.** L-artikolu 24 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (5) tiegħu, minflok il-kliem "multa ta' mhux inqas minn elfejn u tliet mija u disgħa u għoxrin euro u sebgħa u tletin ċenteżmu (2,329.37) u mhux iżjed minn disa' mija u wiehed u tletin elf u seba' mija u disgħa u erbgħin euro u sitta u tletin ċenteżmu (931,749.36)" għandhom jidhlu l-kliem "multa ta' mhux inqas minn elfejn u ħames mitt (2,500) euro u mhux iżjed minn disa' mija u erbgħin elf (940,000) euro";

(b) fis-subartikolu (6) tiegħu, minflok il-kliem "multa ta' mhux iżjed minn ħdax-il elf u sitt mija u sitta u erbgħin euro u sebgħa u tmenin ċenteżmu ( 11,646.87)" għandhom jidhlu l-kliem "multa ta' mhux iżjed minn tnax-il elf euro (12,000)"; u

(ċ) fis-subartikolu (7) tiegħu, minflok il-kliem "multa ta' mhux iżjed minn ħdax-il elf u sitt mija u sitta u erbgħin euro u sebgħa u tmenin ċenteżmu (11,646.87)" għandhom jidhlu l-kliem "multa ta' mhux iżjed minn tnax-il elf euro (12,000)".

Emenda tal-artikolu 25 tal-Att prinċipali.

**87.** Is-subartikolu (3) tal-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "multa ta' tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94)" għandhom jidhlu l-kliem "multa ta' ħamsa u disgħin elf (95,000) euro"; u

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "multa ta' tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94)" għandhom jidhlu l-kliem "multa ta' mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ."

## TAQSIMA XI

### EMENDA TAL-ATT DWAR IS-SECURITISATION

Emenda tal-Att dwar is-*Securitisatio*n. Kap. 484.

**88.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar is-*Securitisatio*n, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda tal-artikolu 2 tal-Att prinċipali.

**89.** Fl-artikolu 2 tal-Att prinċipali, minflok it-tifsira "l-awtorità kompetenti" għandu jidhol dan li ġej:

Kap. 330. "l-awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;"

## TAQSIMA XII

### EMENDA TAL-ATT DWAR L-INTERMEDJARJI FL-ASSIGURAZZJONI

**90.** Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar l-Intermedjarji fl-Assigurazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-Att  
dwar l-  
Intermedjarji fl-  
Assigurazzjoni.  
Kap. 487.

**91.** Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, minflok it-tifsira "awtorità kompetenti" għandu jidhol dan li ġej:

Emenda tal-  
artikolu 2 tal-  
Att prinċipali.

Kap. 330. "l-awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;"

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

Emenda tal-  
artikolu 3 tal-  
Att prinċipali.

(a) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) L-awtorità kompetenti għandha twettaq il-funzjonijiet tagħha taħt dan l-Att u, partikolarment, għandha tiżgura konformità mad-dispożizzjonijiet ta' dan l-Att."; u

(b) fis-subartikolu (2) tiegħu:

(i) minflok l-ewwel proviso tal-paragrafu (h) tiegħu għandu jidhol dan li ġej:

"Iżda l-penali amministrattiva ma tistax tkun akbar minn penali finanzjarja ta' mija u ħamsin elf (150,000) euro għal kull ksur jew nuqqas ta' konformità, skond il-każ, u, meta dak il-ksur jew nuqqas ta' konformità jkompli, penali oħra ta' mhux iżjed minn mija u sittax-il euro (116) għal kull jum li matulu jkompli l-ksur jew in-nuqqas ta' konformità:";

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(ii) fit-tieni proviso tal-paragrafu (h) tiegħu, minflok il-kliem "ma tista', f'edba każ, tkun iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94);" għandhom jidhlu l-kliem "ma tista', f'edba każ, tkun iżjed minn mija u ħamsin elf (150,000) euro;"; u

(iii) fil-paragrafu (i) tiegħu, minflok il-kliem "liema penalitajiet ma jkunux inqas minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) u mhux iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94), dwar kull reat u dwar reat kontinwat penali oħra ta' mhux iżjed minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) għal kull jum li matulu jkompli r-reat;" għandhom jidhlu l-kliem "u dawk il-penalitajiet ma jkunux inqas minn mitejn u tletin (230) euro u mhux iżjed minn mija u ħamsin elf (150,000) euro, dwar kull reat u dwar reat kontinwat penali oħra ta' mhux iżjed minn mitejn u tletin (230) euro għal kull jum li matulu jkompli r-reat;"

Emenda tal-  
artikolu 46 tal-  
Att prinċipali.

**93.** Minflok is-subartikolu (6) tal-artikolu 46 tal-Att prinċipali, għandu jidhlo dan li ġej:

Kap. 373.

"(6) Meta uffiċjal jew impjegat ta' kumpannija iskritta, jew persuna reġistrata jew iskritta, jew uffiċjal jew impjegat ta' dik il-persuna, ikollu għaliex jaħseb li xi attività jew attività proposta tista' tinvolvi *money laundering*, huwa għandu jaġixxi b'mod konformi mar-rappurtar u obbligi oħra stabbiliti fir-regolamenti magħmulin taht l-artikolu 12 tal-Att kontra *Money Laundering*, u kull proċedura u gwida maħruġa tahtu, u dak l-iżvelar ma jkunx jikkostitwixxi ksur ta' kunfidenzjalità."

Emenda tal-  
artikolu 53 tal-  
Att prinċipali.

**94.** Is-subartikolu (1) tal-artikolu 53 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tiegħu, minflok il-kliem "ma għandhomx jipprovdu għal multa ta' inqas minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) u iktar minn mija u sittax-il elf u erba' mija u tmienja u sittin euro u sebgħa u sittin ċenteżmu (116,468.67);" għandhom jidhlu l-kliem "m'għandhomx jipprovdu għal multa ta' inqas minn mitejn u tletin (230) euro jew iktar minn mija u sittax-il elf (116,000) euro;"; u



(b) fil-paragrafu (ċ) tiegħu, minflok il-kliem "ma għandhomx jipprovdu għal multa ta' inqas minn mija u sittax-il euro u sebgħa u erbgħin ċenteżmu (116.47) jew iktar minn mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94) għal kull jum li matulu r-reat ikompli." għandhom jidhlu l-kliem "m'għandhomx jipprovdu għal multa ta' inqas minn mija u sittax-il (116) euro jew jew iktar minn mitejn u tletin (230) euro għal kull jum li matulu jkompli r-reat."

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 366 tal-15 ta' Ġunju, 2011.

MICHAEL FRENDO  
*Speaker*

PAULINE ABELA  
*Skrivan tal-Kamra tad-Deputati*

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I assent.

(L.S.)

GEORGE ABELA  
President

24th June, 2011

**ACT No. X of 2011**

*AN ACT to amend various financial services laws.*

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:-

Short title.

**1.** The short title of this Act is the Various Financial Services Laws (Amendment) Act, 2011.

**PART I**

**AMENDMENTS TO THE MALTA FINANCIAL SERVICES  
AUTHORITY ACT**

Amendment of  
the Malta  
Financial  
Services  
Authority Act.  
Cap. 330.

**2.** This Part amends and shall be read and construed as one with the Malta Financial Services Authority Act, hereinafter in this Part referred to as "the principal Act".

Amendment of  
article 6 of the  
principal Act.

**3.** In paragraph (f) of sub-article (6) of article 6 of the principal Act, for the words "of any such person, shall be notified in the Gazette" there shall be substituted the words "of any such person including the reason for such termination or resignation, as applicable, shall be notified in the Gazette".

**4.** Article 16 of the principal Act shall be amended as follows: Amendment of article 16 of the principal Act.

(a) in sub-article (3) thereof, for the words "an administrative penalty which may not exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)." there shall be substituted the words "an administrative penalty which may not exceed one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be.";

(b) in sub-article (4) thereof, for the words "shall be due to the competent authority." there shall be substituted the words "shall be due to the Authority.";

(c) in sub-article (7) thereof, for the words "the competent authority may issue reprimands," there shall be substituted the words "the Authority may issue reprimands,"; and

(d) in the Maltese text of sub-article (8) thereof, for the words "għandha tkun bla ħsara għall-pubblikazzjoni" there shall be substituted the words "għandha tkun soġġetta għall-pubblikazzjoni".

**5.** Sub-article (2) of article 17 of the principal Act shall be amended as follows: Amendment of article 17 of the principal Act.

(a) in paragraph (a) thereof, for the words "a foreign competent authority or body" there shall be substituted the words "an overseas regulatory authority or body"; and

(b) in the proviso thereto, for the words "concluded with the Competent Authority." there shall be substituted the words "concluded with the Authority.".

**6.** Article 20A of the principal Act shall be amended as follows: Amendment of article 20A of the principal Act.

(a) in sub-article (1) thereof, for the words "The Minister, acting on the advice of the competent authority," there shall be substituted the words "The Minister, acting on the advice of the Authority,"; and

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(b) in sub-article (2) thereof, for the words "The Minister, acting on the advice of the competent authority," there shall be substituted the words "The Minister, acting on the advice of the Authority,".

Amendment of article 20C of the principal Act.

**7.** In paragraph (a) of sub-article (2) of article 20C of the principal Act, for the words "and from other competent authorities," there shall be substituted the words "and from other overseas regulatory authorities," and for the words "with overseas competent authorities, as may be necessary;" there shall be substituted the words "with overseas regulatory authorities, as may be necessary;".

Amendment of article 21 of the principal Act.

**8.** For sub-article (18) of article 21 of the principal Act, there shall be substituted the following:

"(18) 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.".

## PART II

### AMENDMENTS TO THE TRUSTS AND TRUSTEES ACT

Amendment of the Trusts and Trustees Act. Cap. 331.

**9.** This Part amends and shall be read and construed as one with the Trusts and Trustees Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 43 of the principal Act.

**10.** Article 43 of the principal Act shall be amended as follows:

(a) in paragraph (j) of subarticle (7) thereof, for the words "their individual nominal value does not exceed one euro" there shall be substituted the words "their aggregate nominal value does not exceed five euro";

(b) in paragraph (a) of subarticle (9) thereof:

(i) for sub-paragraph (i) thereof, there shall be substituted the following:

"(i) securities or interests in or issued by a Maltese legal entity, other than securities which are listed or traded on a regulated market or on a multilateral system established in Malta or in a recognised jurisdiction; or";

(ii) in sub-paragraph (ii) thereof:

1. for the words "immovable property in Malta (hereafter referred to as "relevant property") by trustees who are not authorised shall be permitted only if a person –", there shall be substituted the words:

"immovable property in Malta,

(hereafter referred to as "relevant property") by trustees who are not authorised shall be permitted only if a person -";

2. for the words "by the Authority from time to time.", there shall be substituted the words "by the Authority from time to time;

For the purposes of this paragraph:

(i) "recognised jurisdiction" shall mean:

(a) an EEA State, an EU Member State, or Switzerland;

(b) any country that is a member of the Organisation for Economic Co-operation and Development (OECD);

(c) a country that is a signatory of the IOSCO Multilateral Memorandum of Understanding; or

(d) any other jurisdiction with whom the Authority has a Memorandum of Understanding covering securities;

(ii) "regulated market" and "multilateral system" shall have the same meaning assigned to them by the Financial Markets Act.<sup>Cap. 345.</sup>; and

(c) in paragraph (a) of subarticle (11) thereof, for the words "their individual nominal value does not exceed one euro", there shall be substituted the words "their aggregate nominal value does not exceed five euro".

**11.** Article 51 of the principal Act shall be amended as follows:

Amendment of article 51 of the principal Act.

(a) in sub-article (6) thereof, for the words "fine (*multa*)

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not exceeding four hundred and sixty-five thousand and eight hundred and seventy-four euro and sixty-eight cents (465,874.68)" there shall be substituted the words "fine (*multa*) not exceeding four hundred and sixty-six thousand (466,000) euro"; and

(b) in sub-article (7) thereof, for the words "may not exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)." there shall be substituted the words "may not exceed one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be."

Amendment of article 53 of the principal Act.

**12.** In sub-article (6) of article 53 of the principal Act, for the words "not more than forty-six thousand and five hundred and eighty-seven euro and forty-seven cents (46,587.47)" there shall be substituted the words "not more than forty-seven thousand (47,000) euro".

### PART III

#### AMENDMENTS TO THE FINANCIAL MARKETS ACT

Amendment of the Financial Markets Act. Cap. 345.

**13.** This Part amends and shall be read and construed as one with the Financial Markets Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

**14.** In sub-article (1) of article 2 of the principal Act for the definition "competent authority" there shall be substituted the following:

" "competent authority" means the Malta Financial Services Authority established by the  
Cap. 330. Malta Financial Services Authority Act;"

Amendment of article 11A of the principal Act.

**15.** In sub-article (2) of article 11A of the principal Act, for the words "an administrative penalty which may not exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (€93,174.94)." there shall be substituted the words "an administrative penalty which may not exceed one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be."

Amendment of article 19 of the principal Act.

**16.** In sub-article (1) of article 19 of the principal Act, for the words "not exceeding ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)." there shall be substituted the words "not exceeding one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be."

- 17.** Sub-article (5) of article 28 of the principal Act shall be deleted. Amendment of article 28 of the principal Act.
- 18.** In sub-article (3) of article 38 of the principal Act, for the words "fine (*multa*) of eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87)" there shall be substituted the words "fine (*multa*) of twelve thousand (12,000) euro". Amendment of article 38 of the principal Act.
- 19.** In sub-article (1) of article 39A of the principal Act, for the words "may not exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)." there shall be substituted the words "may not exceed one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be.". Amendment of article 39A of the principal Act.
- 20.** In sub-article (1) of article 41 of the principal Act, for the words "fine (*multa*) not exceeding four hundred and sixty-five thousand and eight hundred and seventy-four euro and sixty-eight cents (465,874.68)" there shall be substituted the words "four hundred and sixty-six thousand (466,000) euro". Amendment of article 41 of the principal Act.
- 21.** In sub-article (2) of article 42 of the principal Act, for the words "in excess of one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69)." there shall be substituted the words "in excess of one thousand and one hundred and sixty-five (1,165) euro.". Amendment of article 42 of the principal Act.

## PART IV

### AMENDMENTS TO THE INVESTMENT SERVICES ACT

- 22.** This Part amends and shall be read and construed as one with the Investment Services Act, hereinafter in this Part referred to as "the principal Act". Amendment of the Investment Services Act. Cap. 370.
- 23.** Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.
- (a) in sub-article (1) thereof:
- (i) for the definition "competent authority" there shall be substituted the following:

Cap. 330. " "competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act, which body shall also carry out the duties as competent authority for all purposes of the MIFID Directive and the UCITS Directive;"

(ii) the definition "Directive" shall be deleted;

(iii) in the definition "European investment firm", for the words "of the Directive", there shall be substituted the words "of the MIFID Directive";

(iv) in the definition "European regulatory authority", for the words "Article 48 of the Directive to carry out each of the duties provided for under the different provisions of the Directive", there shall be substituted the words "Article 48 of the MIFID Directive and Article 97 of the UCITS Directive to carry out each of the duties provided for under the different provisions of both said Directives";

(v) immediately after the definition "Member State" there shall be inserted the following new definition:

" "MIFID Directive" means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;"

(vi) in the proviso to the definition "qualifying shareholding", for the words "Annex 1 to the Directive", there shall be substituted the words "Annex 1 to the MIFID Directive";



(vii) immediately after the definition "subsidiary" there shall be inserted the following new definition:

" "UCITS Directive" means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast), as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;"; and

(b) in sub-article (3) thereof, for the word "Directive" there shall be substituted the words "MIFID Directive and the UCITS Directive".

**24.** For article 2A of the principal Act, there shall be substituted the following:

Substitution of article 2A of the principal Act.

"2A. The competent authority shall carry out its functions under this Act and, in particular, shall ensure compliance with the provisions of this Act."

**25.** Paragraph (b) of sub-article (6) of article 10A of the principal Act shall be amended as follows:

Amendment of article 10A of the principal Act.

(a) in sub-paragraph (i) thereof, for the words "the Directive" there shall be substituted the words "the MIFID Directive"; and

(b) for sub-paragraph (ii) thereof, there shall be substituted the following:

"(ii) the UCITS Directive;".

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

Amendment of article 12 of the principal Act.

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

(i) in paragraph (k) thereof, for the words "requirements of the Directive" there shall be substituted the words "requirements of the MIFID Directive and the UCITS Directive";

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(ii) in paragraph (m) thereof, for the words "Directive thereon", there shall be substituted the words "MIFID Directive and UCITS Directive thereon";

(iii) in paragraph (n) thereof, for the words "within the terms of this Act" there shall be substituted the words "within the terms of this Act and for this purpose to provide that any provision in any other law shall not apply to matters falling under the regulations, and, in particular, may provide that in so far as any of the provisions of the regulations are inconsistent with the provisions of the Companies Act, such provisions shall prevail, and the provisions of the Companies Act shall, to the extent of the inconsistency, not apply";

(iv) paragraphs (o) and (p) thereof shall be renumbered (p) and (q) respectively;

(v) immediately after paragraph (n) thereof, there shall be added the following new paragraph:

"(o) provide that any one or more of the bodies mentioned in Article 107(3) of the UCITS Directive may, in the interests of consumers, and in accordance with the applicable laws of Malta, take action before the courts or administrative bodies of Malta, to ensure that the provisions of this Act and the Investment Services Rules and regulations issued hereunder transposing the UCITS Directive are implemented"; and

(b) in sub-article (5) thereof, for the words "fine (*multa*) of ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)" there shall be substituted the words "fine (*multa*) of one hundred and fifty thousand (150,000) euro".

Amendment of article 15 of the principal Act.

**27.** Sub-article (2) of article 15 of the principal Act shall be amended as follows:

(a) in paragraph (f) thereof, for the words "in the implementation of the Directive", there shall be substituted the words "in the implementation of the MIFID Directive and the UCITS Directive"; and

(b) in paragraph (g) thereof, for the words "of the Directive", there shall be substituted the words "of the MIFID Directive".

**28.** Article 16A of the principal Act shall be amended as follows:

Amendment of article 16A of the principal Act.

(a) in sub-article (1) thereof, for the words "may not exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)." there shall be substituted the words "may not exceed one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be.";

(b) in sub-article (2) thereof:

(i) for the words "Investment Services Rules may provide for the imposition of administrative penalties" there shall be substituted the words "Administrative penalties"; and

(ii) for the words "whether in the form of a fixed penalty, a daily penalty, or both, for any breach of the Rules." there shall be substituted the words "may be imposed in the form of a fixed penalty, a daily penalty, or both.";

(c) in sub-article (4) thereof:

(i) for the words "Upon conclusion of any appeal proceedings in terms of article 19, or the lapse of time required to lodge an appeal, the competent authority may", there shall be substituted the words "The competent authority may"; and

(ii) for the words "such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.", there shall be substituted the words "such disclosure would seriously jeopardise the financial markets, be detrimental to the interests of investors or cause disproportionate damage to the parties involved.".

**29.** In article 16B of the principal Act, for the words "in terms of any provisions which transpose the Directive", there shall be substituted the words "in terms of any provisions which transpose the MIFID Directive and the UCITS Directive".

Amendment of article 16B of the principal Act.

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Amendment of  
article 17 of the  
principal Act.

**30.** Article 17 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "of the Directive", there shall be substituted the words "of the MIFID Directive, and it shall also exercise its powers and duties as provided for in the UCITS Directive";

(b) in sub-article (2) thereof:

(i) for the words "carrying out its duties under the Directive." there shall be substituted the words "carrying out its duties and exercising its powers under the MIFID Directive and the UCITS Directive.", and

(ii) for the words "In terms of the Directive", there shall be substituted the words "In terms of the MIFID Directive and the UCITS Directive";

(c) in sub-article (3) thereof:

(i) for the words "of the Directive", there shall be substituted the words "of the MIFID Directive", and

(ii) for the words "pursuant to the Directive" there shall be substituted the words "pursuant to the MIFID Directive";

(d) in sub-article (7) thereof:

(i) in paragraph (a) thereof, for the words "the business of investment services licence holders", there shall be substituted the words "the business of licence holders, including undertakings contributing towards the business activity of UCITS";

(ii) in paragraph (b) thereof, for the words "of the Directive", there shall be substituted the words "of the MIFID Directive";

(iii) in paragraph (d) thereof, the word "or" shall be deleted;

(iv) in paragraph (e) thereof, for the words "Malta Financial Services Authority Act.", there shall be substituted the words "Malta Financial Services Authority Act; or"; and

(v) immediately after paragraph (e) thereof, there shall be inserted the following new paragraph:

"(f) in taking any decision in the implementation of the UCITS Directive and the MIFID Directive.";

(e) sub-articles (8), (9), (10) and (11) thereof shall be renumbered as sub-articles (9), (10), (11) and (12) respectively;

(f) immediately after sub-article (7) thereof, there shall be added the following new sub-article:

"(8) Sub-article (7) hereof and article 26 shall not preclude the competent authority from exchanging information, in terms of the UCITS Directive, with European regulatory authorities, where that information is to be divulged to:

(i) authorities with public responsibility for the supervision of credit institutions, investment undertakings, insurance undertakings or other financial organisations, or authorities responsible for the supervision of financial markets;

(ii) bodies involved in the liquidation or bankruptcy of UCITS or undertakings contributing towards their business activity, or bodies involved in similar procedures; or

(iii) persons charged with carrying out statutory audits of the accounts of insurance undertakings, credit institutions, investment firms or other financial institutions.";

(g) in sub-article (9) thereof, as renumbered, for the words "acts contrary to the provisions of the Directive", there shall be substituted the words "acts contrary to the provisions of the MIFID Directive or the UCITS Directive";

(h) in sub-article (11) thereof, as renumbered, for the words "contrary to the provisions of the Directive", there shall be substituted the words "contrary to the provisions of the MIFID Directive or the UCITS Directive"; and

(i) immediately after sub-article (12) thereof, as renumbered, there shall be inserted the following new sub-article:

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"(13) The competent authority shall have the powers conferred upon it by Article 101(8) of the UCITS Directive."

Amendment of article 17A of the principal Act.

**31.** Article 17A of the principal Act shall be amended as follows:

(a) in the proviso to sub-article (1) thereof, for the words "of the Directive", there shall be substituted the words "of the MIFID Directive";

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

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

"(2) If, upon the request for cooperation by the competent authority in terms of Article 101(5) of the UCITS Directive, a verification or an investigation is carried out in a Member State by a European regulatory authority, the competent authority may request that its own officers, employees or agents accompany the officials carrying out the verification or investigation, and such officers, employees or agents shall, however, be subject to the overall control of such Member State.";

(d) sub-article (3) thereof, as renumbered, shall be amended as follows:

(i) in paragraph (b) thereof, for the words "or investigation" there shall be substituted the words "or investigation, and, it may also, in terms of Article 101(5) of the UCITS Directive, request that its own officers, employees or agents accompany the European regulatory authority in carrying out the verification or investigation"; and

(ii) in paragraph (c) thereof, for the words "allow inspectors or experts within the meaning of article 14" there shall be substituted the words "allow inspectors or experts within the meaning of article 14 and auditors within the meaning of article 18".

**32.** In article 17B of the principal Act, for the words "of the Directive", there shall be substituted the words "of the MIFID Directive, or with European regulatory authorities designated under Article 101(1) of the UCITS Directive for the purpose of carrying out duties and exercising powers thereunder".

Amendment of article 17B of the principal Act

**33.** Immediately after subarticle (3) of article 19 of the principal Act, there shall be added the following new subarticle:

Amendment of article 19 of the principal Act.

"(4) In pursuance of the UCITS Directive, the Tribunal referred to in this article shall also have the competence to hear appeals by European management companies, exercising a freedom of establishment or a freedom to provide services in Malta, from decisions of the competent authority to take measures for breaches incurred by European management companies and the phrases "aggrieved person" and "appellant" in article 21 of the Malta Financial Services Authority Act shall include European management companies."

**34.** In article 23 of the principal Act, for the words "fine (*multa*) not exceeding four hundred and sixty-five thousand and eight hundred and seventy-four euro and sixty-eight cents (465,874.68)" there shall be substituted the words "fine (*multa*) not exceeding four hundred and sixty six thousand (466,000) euro".

Amendment of article 23 of the principal Act.

**35.** Article 26 of the principal Act shall be amended as follows:

Amendment of article 26 of the principal Act.

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

(i) in paragraph (d) thereof, for the words "identity of any persons to whom the information relates", there shall be substituted the words "identity of any persons, including UCITS, their management companies and custodians to whom the information relates"; and

(ii) in the proviso thereof:

1. for the words "in accordance with the Directive" there shall be substituted the words "in accordance with the MIFID Directive, the UCITS Directive,"; and

2. for the words "pension funds, UCITS," there shall be substituted the words "pensions funds,";

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(b) in sub-article (2) thereof, for the words "of the Directive", there shall be substituted the words "of the MIFID Directive and of Article 102 of the UCITS Directive";

(c) in sub-article (3) thereof:

(i) for the words "where appropriate, to other public authorities" there shall be substituted the words "where appropriate, to recognised clearing houses or other similar body performing clearing or settlement services, to bodies which administer compensation schemes, and to other public authorities"; and

(ii) for the words "their functions." there shall be substituted the words "their functions:", and immediately thereafter there shall be added the following new proviso:

"Provided that where the exchange of information is carried out in terms of the UCITS Directive, the express consent of the European regulatory authority shall be obtained."; and

(d) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

"(4) Where an officer or an employee of a licence holder has reason to believe that a transaction or a proposed transaction could involve money laundering or the funding of terrorism, he shall act in compliance with the reporting and other obligations set out in the regulations made under article 12 of the Prevention of Money Laundering Act and any procedures and guidance issued thereunder, and such disclosure shall not constitute a breach of confidentiality."

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## PART V

### AMENDMENTS TO THE BANKING ACT

Amendment of  
the Banking  
Act.  
Cap. 371.

**36.** This Part amends and shall be read and construed as one with the Banking act, hereinafter in this Part referred to as "the principal Act".



**37.** In sub-article (1) of article 2 of the principal Act, for the definition "competent authority" there shall be substituted the following: Amendment of article 2 of the principal Act.

" "competent authority" means the Malta  
Financial Services Authority established by the  
Cap. 330. Malta Financial Services Authority Act;"

**38.** Article 3 of the principal Act shall be amended as follows: Amendment of article 3 of the principal Act.

(a) sub-article (1) thereof shall be deleted; and

(b) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (1) and (2) respectively.

**39.** In sub-article (3) of article 34 of the principal Act, for the words "has reason to believe that a transaction or a proposed transaction could involve money laundering," there shall be substituted the words "has reason to believe that a transaction or a proposed transaction could involve money laundering or the funding of terrorism,". Amendment of article 34 of the principal Act.

**40.** In the proviso to sub-article (7) of article 35 of the principal Act, for the words "an administrative penalty may not impose a financial penalty greater than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67)." there shall be substituted the words "an administrative penalty may not impose a financial penalty greater than one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be." Amendment of article 35 of the principal Act.

**41.** In the Schedule to the principal Act, for the title "Schedule (Article 2(4)) List of Additional Activities", there shall be substituted the title "Schedule (Article 2(3)) List of Additional Activities". Amendment of the Schedule to the principal Act.

## PART VI

### AMENDMENTS TO THE FINANCIAL INSTITUTIONS ACT

**42.** (1) This Part amends and shall be read and construed as one with the Financial Institutions Act, hereinafter in this Part referred to as "the principal Act". Amendment of the Financial Institutions Act. Cap. 376.

(2) The provisions of paragraphs (c) and (d) of article 54 shall be deemed to have come into force on the 1st January, 2011.

**43.** Sub-article (1) of article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

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(a) for the definition "agent" there shall be substituted the following:

" "agent" means a person who acts on behalf of a financial institution in providing those services listed under the First Schedule, other than issuing electronic money;"

(b) immediately after the definition "agent" there shall be added the following new definition:

" "average outstanding electronic money" means the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month;"

(c) for the definition "the competent authority" there shall be substituted the following:

Cap. 330. " "the competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;"

(d) the definition "the Directive" shall be deleted;

(e) immediately after the definition "EEA State" there shall be inserted the following new definition:

" "Electronic Money Directive" means Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, as may be amended from time to time and includes any implementing measures that have been issued or may be issued thereunder, and "electronic money" shall have the meaning assigned to it in the Third Schedule;" and

(f) immediately after the definition "payment institution" there shall be inserted the following new definition:

" "Payment Services Directive" means Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, as may be amended from time to time and includes any implementing measures that have been issued or may be issued thereunder."

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

Amendment of article 3 of the principal Act.

(a) for sub-article (5) thereof, there shall be substituted the following:

Cap. 371. "(5) A licensed financial institution may not take deposits or other repayable funds from the public within the meaning of the Banking Act."; and

(b) immediately after sub-article (6) thereof, there shall be added the following new sub-articles:

"(7) The competent authority may, in relation to a licensed company whose head office is in Malta and that issues electronic money in Malta, waive the application of all or part of the provisions relating to general prudential requirements, initial capital, own funds and safeguarding requirements, as set out in this Act and in any Financial Institutions Rules applying to financial institutions authorised to issue electronic money, in cases where:

(a) the total business activities of the company generate an average outstanding electronic money that does not exceed the amount of two million euro (€ 2,000,000); and

(b) none of the natural persons responsible for the management or operation of the company's business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes:

Provided that, the underlying contractual arrangements of the company shall provide that the payment instrument or payment account of the consumer where the electronic money is stored is subject to a maximum storage amount of not more than two hundred and fifty euro (€ 250).

(8) A company that issues electronic money which has been granted a waiver in terms of the preceding sub-article shall be entered into a public register of financial institutions held in accordance with article 8D.

(9) The competent authority shall determine which of the activities in the Third Schedule may be provided by the companies registered in accordance with the provisions of sub-article (8).

(10) A company that has been granted a waiver in terms of sub-article (7) shall:

(a) notify the competent authority of any change in its situation which is relevant to the conditions laid down in sub-article (7); and

(b) report periodically, at least annually or during any other period which the competent authority may determine, on its average outstanding electronic money:

Provided that, where the conditions laid down in sub-article (7) are no longer met, the company shall within thirty calendar days apply to the competent authority for a modification of the licence to reflect the new circumstances of the company:

Provided further that where a company as referred to in the preceding proviso has not sought for the modification of the licence within such period, it shall be prohibited from issuing electronic money in accordance with this Act.

(11) A company as referred to in sub-article (7) shall be treated as a financial institution authorised to issue electronic money but shall not benefit from the freedom to provide services and the right of establishment.

(12) For the better carrying out of the provisions of this article on the granting of waivers, the competent authority may, from time to time, publish Financial Institutions Rules which shall be binding on licence holders as specified therein.

Cap. 373. (13) Notwithstanding anything provided for in this article, the application of the provisions of the Prevention of Money Laundering Act shall not be waived."

**45.** In paragraph (b) of sub-article (4) of article 5 of the principal Act, for the words "to better transpose the provisions of the Directive" there shall be substituted the words "to better transpose the provisions of the Electronic Money Directive and the Payment Services Directive".

Amendment of article 5 of the principal Act.

**46.** In sub-article (2) of article 5A of the principal Act, for the words "listed in the Second Schedule" there shall be substituted the words "listed in the Second or the Third Schedule".

Amendment of article 5A of the principal Act.

**47.** In paragraph (h) of sub-article (1) of article 6 of the principal Act, for the words "within the meaning of the Second Schedule." there shall be substituted the words "within the meaning of the Second and Third Schedules."

Amendment of article 6 of the principal Act.

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

Amendment of article 8 of the principal Act.

(a) in paragraph (a) of sub-article (3) thereof, for the words "other than paragraph 4 thereof" there shall be substituted the words "other than paragraphs 4 and 10 thereof"; and

(b) in sub-article (4) thereof, for the words "any licensed financial institution carrying out payment services" there shall be substituted the words "any licensed financial institution carrying out payment services or issuing electronic money, or both,".

**49.** Article 8A of the principal Act shall be amended as follows:

Amendment of article 8A of the principal Act.

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(a) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (3) and (4) respectively;

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

"(2) A financial institution authorised to issue electronic money shall not issue electronic money through agents:

Provided that a financial institution authorised to issue electronic money may, subject to such conditions as may be established by the competent authority, distribute and redeem electronic money through agents."; and

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

"(5) Where the financial institution licensed or holding an equivalent authorisation in another Member State or EEA State carries out the activities listed in the Schedules in Malta through a branch or by engaging an agent, the financial institution shall follow the procedures laid out in a Financial Institutions Rule:

Provided that if the competent authority has reasonable grounds to suspect that, through such branch or agent, money laundering or terrorist financing, within the meaning of Council Directive 2005/60/EC, is being or has been committed or attempted, or that the engagement of such branch or agent could increase the risk of money laundering or terrorist financing, it shall inform the Member State or EEA State in which the financial institution is established, and may refuse to register the branch or agent, or may withdraw the registration of the branch or agent."

Amendment of article 8B of the principal Act.

**50.** Sub-article (4) of article 8B of the principal Act shall be deleted.

Addition of new articles to the principal Act.

**51.** Immediately after article 8D of the principal Act, there shall be added the following new articles:

"Opening of branches having their head office outside the European Union.

8E. (1) In the assessment of an application for the opening of a branch by a financial institution authorised to issue electronic money and having its head office outside the Community, the competent authority may not apply provisions which result in more favourable treatment than that accorded to a financial institution having its head office within the Community.

(2) The competent authority shall notify the European Commission of all authorisations for branches of financial institutions having their head office outside the Community as stated in sub-article (1).

Issuance and redeemability of electronic money.

8F. (1) Financial institutions authorised to issue electronic money shall issue electronic money at par value on the receipt of funds.

(2) A financial institution authorised to issue electronic money shall ensure that, at any moment, upon request by the holder thereof, it is in a position to redeem the monetary value of any electronic money held, at par value and without delay.

(3) For the better carrying out of the provisions of this article and to better transpose the provisions of the Electronic Money Directive on issuance and redeemability of electronic money, the competent authority may, from time to time, publish Financial Institutions Rules which shall be binding on financial institutions authorised to issue electronic money as specified therein."

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

Amendment of article 9 of the principal Act.

(a) in paragraph (a) of sub-article (1) thereof, for the words "or to increase or reduce, directly or indirectly" there shall be substituted the words "or to further increase or reduce, directly or indirectly";

(b) for sub-article (4) thereof, there shall be substituted the following:

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"(4) (a) Where a person intends to take any action as set out in sub-article (1)(a) and (b), such person shall notify the competent authority in writing of any such decision, indicating the size of the intended shareholding and providing any relevant information as and in the manner that the competent authority may by a Financial Institutions Rule require, including the form in which such notification shall be made and the criteria adopted by the competent authority in determining whether such person is a suitable person. The competent authority shall, within two months of receiving such notification, give its approval or otherwise and if such period elapses without the competent authority having notified its decision, such decision shall be deemed to be an approval.

(b) Where the qualifying shareholding is acquired despite the opposition of the competent authority, the competent authority shall, regardless of any other sanction which may be adopted, provide for the suspension of the exercise of the voting rights of the acquirer, the nullity of the votes cast or the possibility of annulling those votes."; and

(c) immediately after sub-article (5) thereof, there shall be inserted the following new sub-article (6):

"(6) The competent authority may, by means of a Financial Institutions Rule and subject to such criteria as may be established therein, provide that all or part of the provisions of this article be waived."

Addition of new articles to the principal Act.

**53.** Immediately after article 10 of the principal Act, there shall be inserted the following new articles:

"Prohibition of interest.

10A. The granting of interest or of any other benefit related to the length of time during which a financial institution providing the services listed in the Third Schedule holds electronic money shall be prohibited.

Safeguarding requirements.

10B. (1) A financial institution shall safeguard all funds received from payment services users or in exchange for electronic money that has been issued.



(2) For the better carrying out of the provisions of this Act on safeguarding requirements, the competent authority may, from time to time, publish Financial Institutions Rules which shall be binding on financial institutions authorised to issue electronic money as specified therein."

**54.** Article 12 of the principal Act shall be amended as follows: Amendment of article 12 of the principal Act.

(a) sub-article (1) thereof shall be deleted;

(b) sub-article (2) thereof shall be renumbered as sub-article (1);

(c) for paragraph (b) of sub-article (1) thereof, as renumbered, there shall be substituted the following:

"(b) determine the circumstances under which a company may be exempted from requiring a licence under this Act;

(c) transpose, implement and give effect to the requirements of the Electronic Money Directive and the Payment Services Directive;

(d) regulate the transposition, implementation and giving effect to the provisions, requirements, obligations and commitments relating to the regulation of payment institutions and electronic money institutions arising out of membership of, affiliation to or relationship with international or regional organisations or groupings of countries or out of any treaty, convention or other international agreement whether bilateral, regional or multilateral, to which Malta is a party; and

(e) provide that any other law, or any provision thereof, shall not apply to matters falling under the regulations, and, in particular, may exempt activities as may be designated from the application of any article or provision of the Civil Code."; and

Cap. 16.

(d) immediately after sub-article (1) thereof, as renumbered, there shall be inserted the following new sub-

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article:

"(2) Regulations made under this article may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different cases, circumstances or purposes and may give to the competent authority such powers of adaptation of the regulations as may also be so specified."

Amendment of article 13 of the principal Act.

**55.** Article 13 of the principal Act shall be amended as follows:

(a) in paragraph (d) of sub-article (1) thereof, for the words "other than those listed in the Schedule" there shall be substituted the words "other than those listed in the Schedules"; and

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

"(5) Where the competent authority has availed itself of the waiver provided for in article 3(7), it shall:

(a) notify the European Commission forthwith of any subsequent change;

(b) inform the European Commission of the number of legal persons concerned; and

(c) inform the European Commission, on an annual basis, of the total amount of outstanding electronic money issued as at 31 December of each calendar year."

Amendment of article 14 of the principal Act.

**56.** For sub-article (3) of article 14 of the principal Act, there shall be substituted the following:

"(3) Financial institutions providing the services listed in paragraphs 2 and 3 of the Second Schedule and financial institutions authorised to issue electronic money carrying out the additional activities listed in paragraphs 2(b) to (e) of the Third Schedule, shall provide separate accounting information as specified in a Financial Institutions Rule issued by the competent authority. The accounting information shall be subject to an auditor's report."

Amendment of article 20 of the principal Act.

**57.** Article 20 of the principal Act shall be amended as follows:

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

(i) in paragraph (a) thereof, for the words "financial institutions carrying out payment services solely for their supervisory and regulatory purposes" there shall be substituted the words "financial institutions carrying out payment services or issuing electronic money or both solely for their supervisory and regulatory purposes";

(ii) for paragraph (c) thereof, there shall be substituted the following:

"(c) other relevant authorities designated under Directive 2007/64/EC, Directive 2009/110/EC, Directive 95/46/EC, Directive 2005/60/EC and other Community legislation applicable to financial institutions authorised to provide payment services and to issue electronic money, including measures regulating the protection of individuals with regard to the processing of personal data and the prevention of money laundering and funding of terrorism."; and

(b) for the proviso to sub-article (3) thereof, there shall be substituted the following:

"Provided that the competent authority may exchange information and communicate with other overseas regulatory authorities either upon their request or on its own initiative:

Provided further that in the case of cross-border consumer disputes, the competent authority may use any of its powers under this article and shall co-operate and exchange information for the purpose of investigating and resolving any such disputes."

**58.** In sub-article (1) of article 23 of the principal Act, for the words "an administrative penalty which may not exceed ninety-three thousand and one hundred seventy four euro and ninety-four cents (€93,174.94)." there shall be substituted the words "an administrative penalty which may not exceed one hundred and fifty thousand (€150,000) euro for each infringement or failure to comply, as the case may be."

Amendment of article 23 of the principal Act.

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Amendment of article 25 of the principal Act.

**59.** For sub-article (3) of article 25 of the principal Act, there shall be substituted the following:

Cap. 373.

"(3) Where an officer of a financial institution has reason to believe that a transaction or a proposed transaction could involve money laundering or the funding of terrorism, he shall act in compliance with the reporting and other obligations set out in the regulations made under article 12 of the Prevention of Money Laundering Act and any procedures and guidance issued thereunder, and such disclosure shall not constitute a breach of confidentiality."

Substitution of article 26 of the principal Act.

**60.** For article 26 of the principal Act there shall be substituted the following:

Cap. 330.

"26. (1) (a) Without prejudice to the generality of article 20 of the Malta Financial Services Authority Act, the Consumer Complaints Manager shall also have the function of investigating complaints from a payment service user and a holder of electronic money arising out of, or in connection with, any alleged infringement by a financial institution of the provisions of this Act implementing the Payment Services Directive and the Electronic Money Directive.

(b) The provisions of article 20 of the Malta Financial Services Authority Act shall, *mutatis mutandis*, apply to complaints made under this article.

Cap. 378.

(c) Complaints as described in sub-article (1) may include complaints from interested parties, within the meaning of the Payment Services Directive and the Electronic Money Directive, as well as complaints from registered consumer associations as defined in the Consumer Affairs Act.

Cap. 387. (2) (a) A dispute between a payment service user or a holder of electronic money and a financial institution may, at the discretion of the payment service user or a holder of electronic money, or if agreed between the parties involved in the dispute, whether by written agreement or otherwise, be referred to arbitration in accordance with the Arbitration Act. The appointing authority and administrator shall be the Malta Arbitration Centre, and only one arbitrator shall be appointed in such disputes.

(b) Reference of a dispute to arbitration in accordance with paragraph (a) shall be one of the conditions of a licence of persons licensed under this Act.

(c) The Consumer Complaints Manager shall, when replying to a complaint, inform the complainant of the possibility of having the dispute settled through arbitration proceedings in terms of this article.

Cap. 378. (3) Any action taken by the Consumer Complaints Manager under this article shall be without prejudice to the right of a consumer, within the meaning of the Consumer Affairs Act, to submit a claim to the Consumer Claims Tribunal established under that Act, or to exercise any other rights under that Act."

**61.** For article 27 of the principal Act there shall be substituted the following:

Substitution of article 27 of the principal Act.

"27. The objective of this Act is, in part, to implement the provisions of Directive 2007/64/EC of the European Parliament and of the Council on payment services in the internal market, in particular Titles I, II, Chapter 5 of Title IV and the Annex and of Directive 2009/110/EC of the European Parliament and of the Council on the taking up, pursuit and prudential supervision of the business of electronic money institutions and shall be interpreted and applied accordingly."

**62.** For the First Schedule to the principal Act, there shall be substituted the following:

Amendment of the First Schedule to the principal Act.

## "FIRST SCHEDULE

(Article 2)

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## ACTIVITIES OF FINANCIAL INSTITUTIONS

1. Lending (including personal credits, mortgage credits, factoring with or without recourse, financing of commercial transactions including forfeiting);
2. Financial leasing;
3. Venture or risk capital;
4. Payment services as defined in the Second Schedule;
5. Issuing and administering other means of payment (travellers cheques and bankers' drafts and similar instruments) in so far as this activity is not covered by point 4 above;
6. Guarantees and commitments;
7. Trading for own account or for account of customers in:
  - (a) money market instruments (cheques, bills, Certificates of deposit and similar instruments);
  - (b) foreign exchange;
  - (c) financial futures and options;
  - (d) exchange and interest rate instruments;
  - (e) transferable instruments;
8. Underwriting share issues and participation in such issues;
9. Money broking;
10. Issuing of electronic money as defined in the Third Schedule."

Amendment of  
the Second  
Schedule to the  
principal Act.

**63.** In paragraph 1 of the Second Schedule to the principal Act, for the definition "payment institution" there shall be substituted the following:

" "payment institution" means a company that has been licensed in accordance with this Act or that holds an equivalent authorisation in another country in terms of the Payment Services Directive, to provide and execute payment services;"

**64.** Immediately after the Second Schedule to the principal Act, there shall be inserted the following new Third Schedule:

Addition of a  
Third Schedule  
to the principal  
Act.

### "THIRD SCHEDULE

(Article 2)

#### FINANCIAL INSTITUTIONS ISSUING ELECTRONIC MONEY

##### Objective

The purpose of this Schedule is to set out the activities that may be undertaken by financial institutions that issue electronic money in terms of this Act.

##### Interpretation

1. In this Schedule, unless the context otherwise requires, the following definitions shall apply -

"electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in paragraph 1 of the Second Schedule and which is accepted by a natural or legal person other than the financial institutions that issued the electronic money;

"electronic money institution" means a financial institution that has been licensed in accordance with this Act and authorised to issue electronic money or that holds an equivalent authorisation in another country in terms of the Electronic Money Directive to issue electronic money.

##### Activities

2. In addition to issuing electronic money, electronic money institutions may also engage in any of the following activities:

(a) the provision of payment services listed in paragraph 2 of the Second Schedule;

(b) the granting of credit related to payment services referred to in paragraph 2(d), (e) and (g) of the Second Schedule, where the conditions laid down in paragraph 3(e) of the Second Schedule are met;

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(c) the provision of operational services and closely related ancillary services in respect of the issuing of electronic money or to the provision of payment services referred to in point (a);

(d) the operation of payment systems as defined in the Second Schedule;

(e) business activities other than the issuance of electronic money, having regard to the applicable law regulating such activities.

Credit referred to in point (b) above shall not be granted from the funds received in exchange of electronic money and held in accordance with safeguarding requirements prescribed."

## PART VII

### AMENDMENT OF THE CONTROLLED COMPANIES (PROCEDURE FOR LIQUIDATION) ACT

Amendment of  
the Controlled  
Companies  
(Procedure for  
Liquidation)  
Act.  
Cap. 383.

**65.** This Part amends and shall be read and construed as one with the Controlled Companies (Procedure for Liquidation) Act, hereinafter in this Part referred to as "the principal Act".

Amendment of  
article 2 of the  
principal Act.

**66.** In article 2 of the principal Act, for the definition "competent authority" there shall be substituted the following:

" "competent authority" means the body appointed as the competent authority under and for the purposes of the Banking Act";

Cap. 371.

## PART VIII

### AMENDMENTS TO THE COMPANIES ACT

Amendment of  
the Companies  
Act.  
Cap. 386.

**67.** This Part amends and shall be read and construed as one with the Companies Act, hereinafter in this Part referred to as "the principal Act".

Amendment of  
article 2 of the  
principal Act.

**68.** Paragraph (ii) of the definition "home Member State" in sub-article (1) of article 2 of the principal Act shall be amended as follows:

(a) for the words "for any issues of non-equity securities whose denomination per unit amounts to at least one thousand and one euro and sixty-three cents (1,001.63)" there shall be



substituted the words "for any issues of non-equity securities whose denomination per unit amounts to at least one thousand euro (1,000)"; and

(b) for the words "provided that the value of such minimum denomination is nearly equivalent to one thousand and one euro and sixty-three cents (1,001.63)", there shall be substituted the words "provided that the value of such minimum denomination is nearly equivalent to one thousand euro (1,000)".

**69.** Article 170 of the principal Act shall be amended as follows:

Amendment of article 170 of the principal Act.

(a) sub-articles (5), (7) and (8) thereof shall be deleted; and

(b) sub-article (6) thereof shall be renumbered as sub-article (5).

**70.** In paragraph (f) of sub-article (3) of article 420 of the principal Act, for the words "the recognised stock exchange" there shall be substituted the words "the regulated marke".

Amendment of article 420 of the principal Act.

**71.** Article 425 of the principal Act shall be amended as follows:

Amendment of article 425 of the principal Act.

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

(i) in sub-paragraph (i) thereof, for the words "of not more than two hundred and thirty-two thousand and nine hundred and thirty-seven euro and thirty-four cents (232,937.34)" there shall be substituted the words "of not more than two hundred and thirty thousand (230,000) euro"; and

(ii) in sub-paragraph (ii) thereof, for the words "not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37), or daily default penalties not exceeding forty-six euro and fifty-nine cents (46.59) for every day" there shall be substituted the words "not exceeding two thousand and three hundred (2,300) euro, or daily default penalties not exceeding fifty (50) euro for every day";

(b) sub-articles (6) and (7) thereof shall be renumbered as sub-articles (8) and (9) respectively; and

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(c) immediately after sub-article (5) thereof, there shall be inserted the following new sub-articles (6) and (7):

"(6) (a) The Minister may by regulations provide for the registration of company services providers with the Registrar and for the further regulation of such providers. In this sub-article, "company services providers" refers to natural or legal persons which by way of business provide services in respect of the formation, operation or management of companies and other commercial partnerships; including acting as director or in a similar administrative position or as company secretary, arranging for another person to act as such or for another person to provide nominee or other fiduciary services in respect of shares, providing registered office or business address facilities and providing any other ancillary or related services.

(b) Without prejudice to the generality of the foregoing, regulations made by the Minister in virtue of paragraph (a) may, in particular prescribe:

(i) the conditions to be satisfied for registration and for the renewal thereof;

(ii) the form, content and manner of application for registration;

(iii) the fees that may be levied in relation to the registration and renewal thereof;

(iv) offences and administrative penalties for failure to comply with, or for any contravention of, any provision of the regulations made by virtue of this sub-article;

(v) powers exercisable by the Registrar in respect of company services providers, including powers to investigate their activities and to require information, to give directives, to issue procedures and guidelines and powers to cancel registration; and

(vi) for any matter incidental to or connected with any of the above.

(7) The Minister may make regulations to transpose, implement and give effect to the provisions and requirements of Directives, Regulations and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder."

**72.** Article 426 of the principal Act shall be amended as follows:

Amendment of article 426 of the principal Act.

(a) in sub-article (1) thereof, for the words "shall on conviction be liable to a fine (*multa*) of not more than four thousand and six hundred and fifty-eight euro and seventy-five cents (4,658.75)" there shall be substituted the words "shall on conviction be liable to a fine (*multa*) of not more than two hundred and thirty thousand (230,000) euro"; and

(b) in sub-article (2) thereof, for the words "of not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) and, where applicable, to a further penalty of forty-six euro and fifty-nine cents (46.59) for every day" there shall be substituted the words "of not more than two thousand and three hundred (2,300) euro and, where applicable, to a further penalty of fifty (50) euro for every day".

## PART IX

### AMENDMENTS TO THE INSURANCE BUSINESS ACT

**73.** This Part amends and shall be read and construed as one with the Insurance Business Act, hereinafter in this Part referred to as "the principal Act".

Amendment of the Insurance Business Act. Cap. 403.

**74.** Sub-article (1) of article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) for the definition "competent authority" there shall be substituted the following:

" "competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;"

Cap. 330. and

(b) in the definition "insurance rule" for the words "issued by the competent authority in virtue of article 4(3);" there shall be substituted the words "issued by the competent

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authority in virtue of article 4(2);".

Amendment of  
article 3 of the  
principal Act.

**75.** For article 3 of the principal Act, there shall be substituted the following:

"Competent  
authority.

3. It shall be the duty of the competent authority to carry out the functions assigned to it by or under this Act and to ensure that persons authorised to carry on the business of insurance in or from Malta comply with the provisions of this Act and of any regulations made thereunder, with any insurance rule made by the competent authority in virtue of this Act and of any regulations made thereunder and with the conditions specified in their respective authorisation."

Amendment of  
article 4 of the  
principal Act.

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

(a) sub-article (1) thereof shall be deleted; and

(b) sub-articles (2), (3), (4) and (5) thereof shall be renumbered as sub-articles (1), (2), (3) and (4) respectively.

Amendment of  
article 58 of the  
principal Act

**77.** Sub-article (1) of article 58 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof, for the words "under articles 7, 13 or 21", there shall be substituted the words "under articles 7 or 21"; and

(b) in paragraph (b) thereof, for the words "issued or held under articles 7, 13 or 21", there shall be substituted the words "issued or held under articles 7 or 21".

Amendment of  
article 59 of the  
principal Act.

**78.** For sub-article (6) of article 59 of the principal Act there shall be substituted the following:

"(6) Where an officer or an employee of an authorised company has reason to believe that a transaction or a proposed transaction could involve money laundering or the funding of terrorism, he shall act in compliance with the reporting and other obligations set out in the regulations made under article 12 of the Prevention of Money Laundering Act and any procedures and guidance issued thereunder, and such disclosure shall not constitute a breach of confidentiality."

Cap. 373.

**79.** Article 64 of the principal Act shall be amended as follows: Amendment of article 64 of the principal Act.

(a) in paragraph (i) of sub-article (1) thereof, for the words "being penalties not exceeding ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94), in respect of any offence and in respect of a continuing offence of a further penalty and not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) for each day during which the offence continues." there shall be substituted the words "being penalties not exceeding one hundred and fifty thousand (150,000) euro, in respect of any offence and in respect of a continuing offence of a further penalty and not exceeding two hundred and thirty (230) euro for each day during which the offence continues."; and

(b) in sub-article (2) thereof, for the words "shall be liable to a penalty of not less than two hundred and thirty-two euro and ninety-four cents (232.94) and not exceeding ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94), in respect of each offence and in the case of a continuing offence to a further penalty not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) for each day during which the offence continues." there shall be substituted the words "shall be liable to a penalty of not less than two hundred and thirty (230) euro and not exceeding one hundred and fifty thousand (150,000) euro, in respect of each offence and in the case of a continuing offence to a further penalty not exceeding two hundred and thirty (230) euro for each day during which the offence continues.".

**80.** Article 67 of the principal Act shall be amended as follows: Amendment of article 67 of the principal Act.

(a) in paragraph (b) of sub-article (5) thereof, for the words "shall not provide for a fine (*multa*) of less than two hundred and thirty-two euro and ninety-four cents (232.94) or greater than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67)." there shall be substituted the words "shall not provide for a fine (*multa*) of less than two hundred and thirty (230) euro or greater than one hundred and sixteen thousand (116,000) euro."; and

(b) in sub-article (6) thereof:

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(i) for the first proviso thereto, there shall be substituted the following:

"Provided that an administrative penalty may not be greater than a financial penalty of one hundred and fifty thousand (150,000) euro in respect of each infringement or failure to comply, as the case may be, and, where such infringement or failure to comply continues, a further penalty not exceeding one hundred and sixteen (116) euro for each day during which the infringement or failure to comply continues:"; and

(ii) in the second proviso thereto, for the words "may, in no case, exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)." there shall be substituted the words "may, in no case, exceed one hundred and fifty thousand (150,000) euro."

Amendment of article 69 of the principal Act.

**81.** In sub-article (8) of article 69 of the principal Act, for the words "Any reference to an insurance directive issued by the competent authority in virtue of article 4(3) in any licence, notice, decision or other act made or taken by the competent authority" there shall be substituted the words "Any reference in any licence, notice, decision or other act made or taken by the competent authority, to an insurance directive issued by the competent authority,".

## PART X

### AMENDMENTS TO THE PREVENTION OF FINANCIAL MARKETS ABUSE ACT

Amendment of the Prevention of Financial Markets Abuse Act. Cap. 476.

**82.** This Part amends and shall be read and construed as one with the Prevention of Financial Markets Abuse Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

**83.** In sub-article (1) of article 2 of the principal Act, in the definition "the competent authority" the words "as appointed in terms of article 2 of the Financial Markets Act and article 2A of the Investment Services Act" shall be deleted.

Amendment of article 19 of the principal Act.

**84.** In the first proviso to paragraph (a) of sub-article (1) of article 19 of the principal Act, for the words "of thirteen thousand and nine hundred and seventy-six euro and twenty-four cents (13,976.24) every year" there shall be substituted the words "of fourteen thousand (14,000) euro every year".

**85.** In sub-article (1) of article 22 of the principal Act, for the words "not exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94)." there shall be substituted the words "not exceed one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be.".

Amendment of article 22 of the principal Act.

**86.** Article 24 of the principal Act shall be amended as follows:

Amendment of article 24 of the principal Act.

(a) in sub-article (5) thereof, for the words "fine (*multa*) of not less than two thousand and three hundred and twenty-nine euro and thirty seven cents (2,329.37) and not exceeding nine hundred and thirty one thousand and seven hundred and forty-nine euro and thirty-six cents (931,749.36)" there shall be substituted the words "fine (*multa*) of not less than two thousand and five hundred (2,500) euro and not exceeding nine hundred forty thousand (940,000) euro";

(b) in sub-article (6) thereof, for the words "fine (*multa*) not exceeding eleven thousand and six hundred and forty -six euro and eighty-seven cents (11,646.87)" there shall be substituted the words "fine (*multa*) not exceeding twelve thousand (12,000) euro"; and

(c) in sub-article (7) thereof, for the words "fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87)" there shall be substituted the words "fine (*multa*) not exceeding twelve thousand (12,000) euro".

**87.** Sub-article (3) of article 25 of the principal Act shall be amended as follows:

Amendment of article 25 of the principal Act.

(a) in paragraph (a) thereof, for the words "a fine (*multa*) of ninety-three thousand and one hundred and seventy four euro and ninety-four cents (93,174.94)" there shall be substituted the words "a fine (*multa*) of ninety-five thousand (95,000) euro"; and

(b) in paragraph (b) thereof, for the words "a fine of ninety-three thousand and one hundred and seventy four euro and ninety-four cents (93,174.94)." there shall be substituted the words "a fine of one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may be.".

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## PART XI

### AMENDMENT OF THE SECURITISATION ACT

Amendment of  
the  
Securitisation  
Act.  
Cap. 484.

**88.** This Part amends and shall be read and construed as one with the Securitisation Act, hereinafter in this Part referred to as "the principal Act".

Amendment of  
article 2 of the  
principal Act.

**89.** In article 2 of the principal Act, for the definition "the competent authority" there shall be substituted the following:

"the competent authority" means the Malta  
Financial Services Authority established by the  
Cap. 330. Malta Financial Services Authority Act;".

## PART XII

### AMENDMENTS TO THE INSURANCE INTERMEDIARIES ACT

Amendment of  
the Insurance  
Intermediaries  
Act.  
Cap. 487.

**90.** This Part amends and shall be read and construed as one with the Insurance Intermediaries Act, hereinafter in this Part referred to as "the principal Act".

Amendment of  
article 2 of the  
principal Act.

**91.** In sub-article (1) of article 2 of the principal Act, for the definition "competent authority" there shall be substituted the following:

"competent authority" means the Malta  
Financial Services Authority established by the  
Cap. 330. Malta Financial Services Authority Act;".

Amendment of  
article 3 of the  
principal Act.

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

(a) for sub-article (1) thereof, there shall be substituted the following:

"(1) The competent authority shall carry out its functions under this Act and, in particular, shall ensure compliance with the provisions of this Act."; and

(b) in sub-article (2) thereof:

(i) for the first proviso of paragraph (h) thereof there shall be substituted the following:

"Provided that, an administrative penalty may not be greater than a financial penalty of one hundred and fifty thousand (150,000) euro for each infringement or failure to comply, as the case may



be, and, where such infringement or failure to comply continues, a further penalty not exceeding one hundred and sixteen (116) euro for each day during which the infringement or failure to comply continues:";

(ii) in the second proviso of paragraph (h) thereof, for the words "may, in no case, exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94);" there shall be substituted the words "may, in no case, exceed one hundred and fifty thousand (150,000) euro;" and

(iii) in paragraph (i) thereof, for the words "being penalties of not less than two hundred and thirty-two euro and ninety-four cents (232.94) and not exceeding ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94), in respect of any offence and in respect of a continuing offence of a further penalty not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) for each day during which the offence continues;" there shall be substituted the words "being penalties of not less than two hundred and thirty (230) euro and not exceeding one hundred and fifty thousand (150,000) euro, in respect of any offence and in respect of a continuing offence of a further penalty not exceeding two hundred and thirty (230) euro for each day during which the offence continues;".

**93.** For sub-article (6) of article 46 of the principal Act, there shall be substituted the following:

Amendment of article 46 of the principal Act.

Cap. 373.

"(6) When an officer or an employee of an enrolled company, or a person registered or enrolled, or an officer or an employee of such person, has reason to believe that an activity or proposed activity could involve money laundering, he shall act in compliance with the reporting and other obligations set out in the regulations made under article 12 of the Prevention of Money Laundering Act and any procedures and guidance issued thereunder, and such disclosure shall not constitute a breach of confidentiality.".

**94.** Sub-article (1) of article 53 of the principal Act shall be amended as follows:

Amendment of article 53 of the principal Act.

(a) in paragraph (b) thereof, for the words "shall not

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provide for a fine (*multa*) of less than two hundred and thirty-two euro and ninety-four cents (232.94) or greater than one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67);" there shall be substituted the words "shall not provide for a fine (*multa*) of less than two hundred thirty (230) euro or greater than one hundred sixteen thousand (116,000) euro;"; and

(b) in paragraph (c) thereof, for the words "shall not provide for a fine (*multa*) of less than one hundred and sixteen euro and forty-seven cents (116.47) or greater than two hundred and thirty-two euro and ninety-four cents (232.94) for each day during which the offence continues." there shall be substituted the words "shall not provide for a fine (*multa*) of less than one hundred and sixteen (116) euro or greater than two hundred thirty (230) euro for each day during which the offence continues."

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Passed by the House of Representatives at Sitting No. 366 of the 15th June, 2011.

MICHAEL FRENDU

*Speaker*

PAULINE ABELA

*Clerk to the House of Representatives*