

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

3 ta' Awissu, 2007

ATT Nru. XX ta' l-2007

ATT biex jemenda diversi ligijiet dwar servizzi finanzjarji.

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

1. It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2007 li Jemenda Titolu fil-qosor.
Diversi Ligijiet dwar Servizzi Finanzjarji.

TAQSIMA I

2. (1) Din it-Taqsima temenda u għandha tinqara u tiftiehem Emenda ta' Att
dwar l-Awtorità
għas-Servizzi
Finanzjarji ta'
Malta, Kap. 330.
haġa waħda ma' l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Id-disposizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh fid-data tal-pubblikazzjoni ta' dan l-Att.

3. Fit-tifsira "servizzi finanzjarji" fl-artikolu 2 ta' l-Att prinċipali, minflok il-kliem "jitqieghdu mill-Ministru taht l-awtorità ta' sorveljanza jew regolatorja ta' l-Awtorità;", għandhom jidhlu l-kliem "jitqieghdu Emenda ta' artikolu
2 ta' l-Att
prinċipali.

taht il-kompetenza ta' sorveljanza u dik regolatorja ta' l-Awtorità mill-Ministru jew permezz ta' kull liġi oħra;”.

Emenda ta' l-
artikolu 4 ta' l-Att
prinċipali.

4. L-artikolu 4 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fil-paragrafu (ċ) tas-subartikolu (1) tiegħu, minflok il-kliem “u linji ta' gwida rilevanti lill-pubbliku”, ghandhom jidhlu l-kliem “u direzzjoni għall-pubbliku”; u

(b) fis-subartikolu (4) tiegħu, minflok il-kliem “obbligi internazzjonali ta' Malta.” ghandhom jidhlu l-kliem “obbligi internazzjonali ta' Malta inklużi l-obbligi li Malta ghandha taht it-Trattat fil-kuntest tat-tifsir ta' l-Att dwar l-Unjoni Ewropea.”.

Emenda ta' l-
artikolu 16 ta' l-Att
prinċipali.

5. L-artikolu 16 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tiegħu, ghandu jidhol dan li ġej:-

“(2) L-Awtorità tista’:

(a) tohroġ Regoli li jkunu jirregolaw il-proċeduri u d-dmirijiet ta' persuni li jkollhom liċenzja jew li jkunu awtorizzati minnha, jew li jkunu jinkwadraw taht il-funzjonijiet regolatorji jew ta' sorveljanza tagħha u dawk ir-Regoli jistgħu:

(i) ikunu jipprovdu dwar prospetti, dikjarazzjonijiet u avviżi li jkollhom isiru jew jinghataw għal dawk il-finijiet li dwarhom l-Awtorità teżercita funzjonijiet ta' sorveljanza jew regolatorji taht dan l-Att jew kull Att ieħor, u l-forma u l-kontenut tagħhom; u

(ii) jistipulaw l-informazzjoni li dawk il-persuni ghandhom jipprezentaw lill-Awtorità;

(b) tohroġ ordni bil-miktub fejn tehtieg lil detentur ta' liċenzja jew ta' xi awtorizzazzjoni oħra, u, jew lil xi uffiċjal tiegħu, li jwettaq jew li jrażżan milli jwettaq xi att, inklużi dawk il-projbizzjonijiet, restrizzjonijiet u kundizzjonijiet li jistgħu jiġu speċifikati fl-avviż; u kull ordni bħal dik tista' tinhareġ għar-rigward ta' każijiet speċifiċi jew klassijiet ta' każijiet; kull detentur tal-liċenzja jew ta' xi awtorizzazzjoni oħra u, jew l-uffiċjal li lili jiġi indirizzat l-avviż ghandu jobdi, jikkonforma

ruhu u jaghti sehħ lil kull ordni bħal dak fit-terminu u bil-mod dikjarat fl-ordni.”;

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

(i) minflok il-kliem “jew xi direttivi jew linji ta’ gwida” għandhom jidhlu l-kliem “jew xi ordnijiet jew Regoli”;

(ii) minflok il-kliem “bil-miktub timponi”, għandhom jidhlu l-kliem “bil-miktub u mingħajr il-htieġa ta’ smiġħ fil-qorti timponi”; u

(iii) minflok il-kliem “penali amministrattiva u d-disposizzjonijiet ta’ l-artikolu 6(9) u (11) ta’ l-Att dwar Servizzi ta’ Investiment għandhom japplikaw *mutatis mutandis*.”, għandhom jidhlu l-kliem “penali amministrattiva li ma tkunx ta’ iżjed minn erbghin elf lira.”;

(ċ) is-subartikoli (4) u (5) tieghu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5) u (6) rispettivament;

(d) minnufih wara s-subartikolu (3) tieghu għandu jiżdied dan is-subartikolu (4) ġdid li ġej:

“(4) Meta ma jkunx sar appell minn avviz bħal dak imsemmi fis-subartikolu (3) ta’ dan l-artikolu, jew meta jkun sar appell minn dak l-avviz, fi żmien hmistax-il ġurnata minn meta jiġi deċiż dak l-appell mit-Tribunal, il-penali amministrattiva msemmija fl-avviz jew kif imnaqqa jew miżjuda b’deċiżjoni tat-Tribunal għandha tkun dovuta lill-awtorità kompetenti. Malli tiġi notifikata kopja ta’ l-avviz jew tad-deċiżjoni, skond il-każ, permezz ta’ att ġudizzjarju lill-persuna indikata fl-avviz jew fid-deċiżjoni, dak l-avviz jew dik id-deċiżjoni jkunu jikkostitwixxu titolu eżekuttiv għall-effetti u l-finijiet kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili.”; u

(e) is-subartikolu (6) kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(i) minflok il-kliem “B’konsegwenza għad-disposizzjonijiet tas-subartikolu (4), għandhom japplikaw dawn ir-regoli li ġejjin”, għandhom jidhlu l-kliem “B’konsegwenza tas-subartikolu (5), għandhom japplikaw dawn id-disposizzjonijiet li ġejjin”; u

(ii) fil-paragrafi (a) u (b) tiegħu, minflok il-kliem “fis-subartikolu (4)” għandhom jidhlu l-kliem “fis-subartikolu (5)”.

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

6. Fis-subartikolu (1) ta' l-artikolu 17 ta' l-Att prinċipali, minflok il-kliem “li tkun harġet l-informazzjoni.”, għandhom jidhlu l-kliem “li tkun harġet l-informazzjoni. Għall-finijiet ta' dan is-subartikolu, “impjegati” u “uffiċjali” jinkludu wkoll lil impjegati u uffiċjali preċedenti.”.

Żieda ta' l-artikoli 17A u 17B godda ma' l-Att prinċipali.

7. Minnufih wara l-artikolu 17 ta' l-Att prinċipali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

“Ordnijiet ta' sekwestru.

Kap. 12.

17A. (1) Meta, wara informazzjoni li tasallu mill-Awtorità, l-Avukat Ġenerali jkollu raġuni biżżejjed biex jissuspetta li persuna (hawnhekk iżjed 'il quddiem imsejha “il-persuna suspettata”) huwa hati ta' xi ksur ta' dan l-Att jew ta' xi Att ieħor, l-Avukat Ġenerali jista' jitlob lill-Qorti Kriminali għal ordni (hawn iżjed 'il quddiem imsejjah “ordni ta' sekwestru”) –

(a) li jissekwestra f'idejn dawk il-persuni (hawn iżjed 'il quddiem imsejjha “is-sekwestratarji”) msemmija fl-applikazzjoni il-flejjes kollha u kull proprjetà mobbli oħra dovuta jew li tappartjeni lil jew li tkun proprjetà tal-persuna suspettata;

(b) li jkun jehtieġ lis-sekwestratarju jiddikjara bil-miktub lill-Avukat Ġenerali, mhux iżjed tard minn erbgħa u ghoxrin siegħa min-notifika ta' l-ordni, ix-xorta u l-orġini ta' kull flejjes u kull proprjetà mobbli oħra li jkunu ġew hekk sekwestrati; u

(ċ) li jkun jipprojbixxi lill-persuna suspettata milli tittrasferixxi jew xort'ohra tiddisponi minn kull proprjetà mobbli jew immobbli.

(2) Qabel ma tohroġ ordni ta' sekwestru, il-Qorti Kriminali tista' tenhtieġ li tisma' lill-Avukat Ġenerali *in camera* u l-Qorti m'għandhiex tagħti ordni bħal dak kemm-il darba ma jkollhiex l-istess fehma bħall-Avukat Ġenerali li jkun hemm kawża raġonevoli kif provdut fis-subartikolu (1).

(3) Id-disposizzjonijiet ta' l-artikolu 381(1)(a), (b) u (e) u ta' l-artikolu 382(1) tal-Kodiċi ta' Organizzazzjoni u

Proċedura Ċivili għandhom, *mutatis mutandis*, ikunu japplikaw għall-ordni ta' sekwestru.

(4) L-ordni ta' sekwestru għandu jiġi notifikat lis-sekwestratarju u lill-persuna suspettata minn uffiċjal tal-Pulizija Eżekuttiva li ma jkollux grad inqas minn dak ta' spettur.

(5) L-ordni ta' sekwestru għandu, kemm-il darba dan ma jiġix revokat qabel mill-Avukat Ġenerali b'avviż bil-miktub li jiġi notifikat lill-persuna suspettata u lis-sekwestratarju bil-mod li hemm provdut dwaru fis-subartikolu (4), jtemm milli jibqa' fis-sehh meta jiskadu tletin jum minn meta jinhareg; u l-qorti m'għandhiex tohroġ ordni ta' sekwestru ieħor fil-konfront ta' dik il-persuna suspettata kemm-il darba ma tkunx sodisfatta li jkun hemm disponibbli informazzjoni sostanzjalment ġdida dwar il-ksur ta' dan l-Att:

Iżda dak il-perjodu ta' tletin jum m'għandux jibda jiddekorri sa dak iż-żmien meta l-persuna suspettata ma tkunx prezenti f'Malta u l-Avukat Ġenerali jgħarraf lis-sekwestratarju b'dan il-fatt b'avviż bil-miktub li jiġi notifikat bil-mod li hemm provdut dwaru fis-subartikolu (4).

(6) Meta jkun sar jew ikun intalab ordni ta' sekwestru, kull min, għax ikun jaf jew ikollu suspett li l-ordni ta' sekwestru jkun hekk sar jew intalab, jiżvela xi haġa li x'aktarx tippregudika l-effetti ta' dak l-ordni jew ta' xi investigazzjoni li jkollha x'taqsam magħha, ikun hati ta' reat u jista', meta jinsab hati, jehel multa ta' mhux iżjed minn hamest elef lira jew priġunerija ta' mhux iżjed minn tnax-il xahar, jew dik il-multu u priġunerija flimkien:

Iżda fi proċedimenti dwar reat taht dan is-subartikolu, l-akkużat jista' jgħib provi favur tiegħu li ma kienx jaf jew ma kellux suspett li dak il-kxif x'aktarx li kien jippregudika l-investigazzjoni jew l-effetti ta' dak l-ordni ta' sekwestru.

Iffriżar ta' fondi.

17B. (1) (a) Meta persuna (hawn iżjed 'il quddiem imsejha "il-persuna imputata jew akkużata") tkun għet imputata jew akkużata b'reat kriminali, l-Avukat Ġenerali jista' jitlob lill-Qorti Kriminali għal ordni (hawn iżjed 'il quddiem imsejha "ordni ta' iffriżar") –

(i) li tissekwestra f'idejn terzi l-flejjes kollha u kull proprjetà mobbli oħra dovuti jew li jappartjenu lill-persuna imputata jew akkużata; u

(ii) li tipprojbixxi lill-persuna imputata jew akkużata milli tittrasferixxi, tirhan, tipoteka jew xort'oħra tiddisponi minn kull proprjetà mobbli jew immobbli:

Iżda l-Qorti Kriminali ghandha f'ordni bħal dak tistabbilixxi xi flejjes jistghu jiġu mħallsa lil jew jiġu riċevuti mill-persuna imputata jew akkużata filwaqt li dak l-ordni jkun għadu viġenti, fejn tispeċifika l-oriġini, il-mod u l-metodi ta' pagament oħra, inklużi s-salarju, il-paga, il-pensjoni u l-benefiċċji tas-sigurtà soċjali li jiħallsu lill-persuna imputata jew akkużata, sabiex hi u l-familja tagħha jkunu jistghu jghixu b'mod diċenti f'ammont, meta l-mezzi jkunu jippermettu, ta' sitt elef lira fis-sena:

Iżda wkoll il-Qorti Kriminali tista' inoltre –

(i) tawtorizza l-hlas ta' djun dovuti mill-persuna imputata jew akkużata lil kredituri *bona fide* u li jkunu sehhu qabel ma jkun sar ordni bħal dak; u

(ii) għal raġunijiet tajba tawtorizza lill-persuna imputata jew akkużata tittrasferixxi proprjetà mobbli jew immobbli.

(b) Kull persuna indirizzata ghandha minnufih tikkonforma ruhha ma' kull ordni li jingħata bil-miktub u li tinhareġ mill-Qorti Kriminali skond id-disposizzjonijiet ta' dan l-artikolu għar-rigward ta' dawk il-flejjes u attiv.

(2) Ordni ta' iffriżar ghandha –

(a) tkun operattiva u vinkolanti fuq it-terzi kollha minnufih malli din tinhareġ, u r-Registatur tal-Qorti għandu jara li jiġi pubblikat avviz relattiv bla ebda dewmien fil-Gazzetta, u għandu wkoll jara li tiġi registrata kopja tagħha fir-Registru Pubbliku meta jkun hemm involuta proprjetà immobbli; u

(b) tibqa' fis-sehh sa l-aħħar determinazzjoni li tirrigwarda l-proċeduri amministrattivi jew kriminali kontra l-persuna akkużata, skond il-każ.

(3) Il-Qorti Kriminali tista' f'ċirkostanzi partikolari tvarja tali ordni ta' iffriżar, u d-disposizzjonijiet tas-subartikoli preċedenti għandhom ikunu japplikaw għal tali ordni kif hekk varjat.

(4) Sakemm ikun possibbli, ordni ta' iffriżar għandu jkun fih l-isem u l-kunjom tal-persuna li tkun qeghda tiġi akkużata, il-professjoni, sengħa jew status iehor tagħha, isem missierha, isem ommha u kunjom xubitha, post tat-twelid u post ta' residenza u n-numru tal-karta ta' l-identità tagħha jew dokument ta' identifikazzjoni iehor, li jista' jkollha.

(5) Meta jkunu dovuti jew isiru dovuti xi flus lill-persuna akkużata mingħand xi persuna filwaqt li jkun hemm fis-seħh xi ordni bħal dak, dawk il-flus għandhom, kemm-il darba fl-ordni ta' iffriżar ma jiġix ordnat xort'ohra, jiġu depożitati f'bank u jiġu akkreditati lill-persuna akkużata.

(6) Meta tali ordni ta' iffriżar itemm milli jibqa' fis-seħh kif provdut fis-subartikolu (2)(b), ir-Registatur tal-Qorti għandu jara li jiġi ippubblikat avvizz f'dak is-sens fil-Gazzetta, u għandu jniżżel fir-Registru Pubbliku nota li biha jhassar ir-registrazzjoni ta' dak l-ordni.

(7) L-Awtorità għandha żżomm kuntatt ma' l-Avukat Ġenerali fuq kwistjonijiet li joriginaw taht dan l-artikolu u l-artikolu 17A u tista' tiskambja informazzjoni, bla hsara għall-obbligazzjoni tas-segretezza professjonali.

(8) Kull persuna li tagħmel xi haġa bi ksur ta' l-ordni tal-qorti msemmi fis-subartikolu (1) tkun hatja ta' reat u tehel meta tinsab hatja multa ta' mhux iżjed minn hamest elef lira jew prigunerija għal żmien ta' mhux iżjed minn tnax-il xahar, jew dik il-multu u prigunerija flimkien, u l-qorti tista' tordna lill-persuna hekk misjuba hatja li tiddepożita f'bank għall-kreditu ta' l-akkużat l-ammont tal-flejjes jew il-valur ta' proprjetà mobbli ohra mħallsa jew konsenjata bi ksur ta' dak l-ordni tal-qorti.

8. Minnufih wara s-subartikolu (3) ta' l-artikolu 20 ta' l-Att prinċipali għandhom jiżdiedu dawn is-subartikoli godda li ġejjin:

Emenda ta' l-artikolu 20 ta' l-Att prinċipali.

“(4) Bi tkompliġja mal-funzjonijiet tiegħu taht dan l-artikolu, il-Manager ta' l-Ilmenti tal-Konsumaturi għandu, kull meta ċ-ċirkostanzi ta' xi ilment ikunu hekk jehtieġu, jinkoraġġixxi lill-

partijiet fit-tilwima, sabiex jaslu ghal konklużjoni bonarja ta' tilwima bejn il-konsumaturi.

(5) Il-*Manager* ta' l-Ilmenti tal-Konsumaturi ghandu, sakemm ikun possibbli, jassisti u jikkopera ma' korpi li jkunu responsabbli ghal-konklużjoni bonarja ta' tilwimiet bejn il-konsumaturi f'Malta u fi Stati Membri ohra u fi Stati ŻEE fil-konklużjoni ta' tilwimiet lokali u transkonfini bejn il-konsumaturi ghar-rigward ta' servizzi finanzjarji.”.

Enumerazzjoni mill-
ġdid ta' l-artikoli
20A, 20B u 20C.

9. L-artikoli 20A, 20B u 20C ta' l-Att prinċipali ghandhom jiġu enumerati mill-ġdid bhala l-artikoli 20B, 20C u 20D rispettivament.

Żjeda ta' l-artikolu
20A ġdid.

10. Minnufih wara l-artikolu 20 ta' l-Att prinċipali, ghandu jiżdied dan l-artikolu 20A ġdid li ġej:

“Setgha ta'
ghemil ta'
regolamenti.

20A. Il-Ministru, li jaġixxi bil-parir ta' l-awtorità kompetenti, jista' jagħmel regolamenti biex jittrasponi, jimplimenta u jagħti seħħ lid-disposizzjonijiet u l-htigiet ta' Direttivi, Regolamenti u kull miżura amministrattiva ohra ta' l-Unjoni Ewropea li tkun tenhtieg li tiġi trasposta u, jew implementata, skond ma tista' tkun emendata minn żmien għal żmien, inkluża kull miżura ta' implimentazzjoni li tkun inharġet jew li tista' tinhareġ taħtha;”.

Emenda ta' l-
artikolu 21 ta' l-Att
prinċipali.

11. L-artikolu 21 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) is-subartikolu (8) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (13);

(b) is-subartikolu (10) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (11);

(c) is-subartikolu (11) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (8);

(d) fis-subartikolu (8) tiegħu kif enumerat mill-ġdid, minflok il-kliem “Appell lit-Tribunal” ghandhom jidhlu l-kliem “Appell magħmul skond id-disposizzjonijiet tas-subartikolu (9) ta' dan l-artikolu lit-Tribunal”;

(e) is-subartikolu (12) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (10);

(f) minnufih wara s-subartikolu (11) kif enumerat mill-ġdid, ghandu jiżdied dan is-subartikolu (12) ġdid li ġej:

“(12) (a) Kull prova ghandha tkun rilevanti ghall-materja in kwistjoni bejn il-partijiet.

(b) Fil-każijiet kollha t-Tribunal ghandu jitlob l-aħjar prova li l-parti tkun tista' ġġib.

(ċ) It-Tribunal m'ghandux jippermetti li tingieb xi prova li jqis bhala wahda irrilevanti jew superfluwa, jew li ma jikkunsidrax bhala li tkun l-aħjar prova li l-parti tista' ġġib.”;

(g) is-subartikolu (13) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (15);

(h) fis-subartikolu (14) tiegħu, minnufih wara l-kliem “lill-Qorti ta' l-Appell.” ghandhom jiżdiedu l-kliem “Jista' jsir appell sa mhux iżjed tard minn għoxrin ġurnata mid-data tad-deċiżjoni tat-Tribunal.”;

(i) fis-subartikolu (15) kif enumerat mill-ġdid minflok il-kliem “il-proċeduri sabiex” ghandhom jidhlu l-kliem “il-proċeduri u drittijiet sabiex”; u

(j) is-subartikoli (15), (16) u (17) tiegħu ghandhom jiġu enumerati mill-ġdid bhala s-subartikoli (16), (17) u (18) rispettivament.

TAQSIMA II

12. (1) Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa wahda ma' l-Att dwar is-Swieq Finanzjarji, hawn iżjed 'il quddiem f' din it-Taqsima msejjaħ “l-Att prinċipali”.

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dwar is-Swieq
Finanzjarji, Kap.
345.

(2) Id-disposizzjonijiet ta' din it-Taqsima ghandhom jidhlu fis-seħh fl-1 ta' Novembru, 2007.

13. Minflok it-titolu twil ta' l-Att ghandu jidhol dan li ġej:

Emenda tat-titolu
twil ta' l-Att.

“Biex jipprovdi dwar l-awtorizzazzjoni ta' swieq regolati, depożitarji ċentrali tat-titoli u dwar il-negozjar b' mod ordinat ta' titoli trasferibbli u biex jipprovdi dwar affarijiet anċillari jew inċidentali għal dan jew li ghandhom x'jaqsmu ma' dan.”.

14. Fit-“Taqsim ta' l-Att”, minflok il-kliem “Exchange ta' Investimenti Rikonoxxuti”, ghandhom jidhlu l-kliem “Swieq Regolati”,

Emenda ta'
“Taqsim ta' l-Att”,
u ta' l-Att
prinċipali.

u minflok il-kliem “Exchange ta’ Investimenti Rikonoxxut” u, jew “Exchange ta’ Investimenti Rikonoxxuti”, kull fejn dawn jinsabu fl-Att prinċipali, ghandhom jidhlu l-kliem “Suq Regolat” u, jew “Swieq Regolati”, skond il-każ, u minflok il-kliem “Il-Borża ta’ Malta”, ghandhom jidhlu l-kliem “Depożitarju ċentrali tat-Titoli”.

Emenda ta’ l-artikolu 2 ta’ l-Att prinċipali.

15. L-artikolu 2 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) l-artikolu 2 tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (1) tiegħu;

(b) fis-subartikolu (1) kif enumerat mill-ġdid:

(i) it-tifsira “il-bini tal-Borża” ghandha tithassar;

(ii) minflok it-tifsira “*bye-laws*” ghandha tidhol din it-tifsira li ġejja:

“ “*bye-laws*” tfisser *bye-laws* magħmulin skond l-artikolu 4C;”;

(iii) fit-tifsira “Bank Ċentrali”, minflok il-kliem “Ċentrali ta’ Malta,” ghandhom jidhlu l-kliem “Ċentrali ta’ Malta kif imfisser fl-Att dwar il-Bank Ċentrali ta’ Malta;”;

(iv) minflok it-tifsira “depożitarju ċentrali tat-titoli” ghandu jidhol dan li ġej:

“ “depożitarju ċentrali tat-titoli” tfisser persuna li tkun awtorizzata skond it-Taqsima IV ta’ dan l-Att li tipprovdi xi funzjoni wahda jew aktar mill-funzjonijiet stipulati fl-artikolu 26;”;

(v) minnufih wara t-tifsira “*Exchange*”, ghandha tizzied din it-tifsira ġdida li ġejja:

“ “il-Komunità” tfisser il-Komunità Ewropea mwaqqfa bit-Trattat ta’ Ruma fl-1957 u emendat istituzzjonalment u xort’ohra fl-1986 bl-Att Uniku Ewropew, fl-1993 bit-Trattat dwar l-Unjoni Ewropea, fl-1997 bit-Trattat ta’ Amsterdam u fl-2001 bit-Trattat ta’ Nizza, u kif emendat b’kull ftehim ta’ adeżjoni u skond ma jista’ jiġi aktar emendat minn żmien għal żmien;”;

(vi) it-tifsira “*Chairman*” ghandha tithassar;

(vii) it-tifsira “enti morali” ghandha tithassar;

(viii) it-tifsira “Kunsill” ghandha tithassar;

(ix) it-tifsira “*Exchange*” ghandha tithassar;

(x) (a) minnufih wara t-tifsira “strumenti finanzjarji elenkati”, ghandha tiżdied din it-tifsira ġdida li ġejja:

“ “strumenti finanzjarji nominati” tirreferi għall-istrumenti regolati bid-disposizzjonijiet ta’ l-artikolu 28”;

(b) minnufih wara t-tifsira “detentur ta’ licenza” ghandha tidhol din it-tifsira ġdida li ġejja:–

“ “id-Direttiva” tfisser Direttiva 2004/39/KE tal-Parlament Ewropew u tal-Kunsill tal-21 ta’ April 2004 dwar swieq ta’ strumenti finanzjarji li jemendaw Direttivi tal-Kunsill 85/611/KEE u 93/6/KEE u Direttiva 2000/12/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar Direttiva tal-Kunsill 93/22/KEE, kif emendata minn żmien għal żmien, u tinkludi kull miżura ta’ implimentazzjoni li tkun ġiet mahruġa jew li tista’ tinhareġ taħtha;”;

(ċ) minnufih wara t-tifsira “statut” ghandha tidhol din it-tifsira ġdida li ġejja:–

“ “Stat ŻEE” tfisser Stat li jkun parti kontraenti fil-ftehim dwar iż-Żona Ekonomika Ewropea iffirmit f’Oporto fit-2 ta’ Mejju, 1992 kif emendat bil-Protokoll iffirmit fi Brussel fis-17 ta’ Marzu, 1993 u kif emendat b’attijiet sussegwenti;”; u

(d) minnufih wara t-tifsira “awtorità kompetenti” ghandha tidhol din it-tifsira ġdida li ġejja:–

“ “Awtorità regolatorja Ewropea” tfisser il-korp jew korpi nominati minn Stat Membru jew Stat ŻEE skond l-Artikolu 48 tad-Direttiva biex iwettqu kull wiehed mid-mirijiet li hemm provdut dwarhom taht id-disposizzjonijiet differenti tad-Direttiva;”;

(xi) minflok it-tifsira “strumenti finanzjarji”, ghandu jidhol dan li ġej:

“ “strumenti finanzjarji” ghandu jkollha l-istess tifsira bhal dik mogħtija lill-kelma “strumenti” fit-Tieni Skeda li tinsab ma’ l-Att dwar Servizzi ta’ Investment;”;

(xii) minnufih wara t-tifsira “persuna f’kumpannija”, ghandha tiżdied din it-tifsira ġdida li ġejja:

“ “Regoli ta’ Swieq Finanzjarji” tirreferi għal Regoli mahruġin mill-awtorità kompetenti taħt diversi artikoli ta’ dan l-Att”;

(xiii) it-tifsira “sena finanzjarja” ghandha tithassar;

(xiv) it-tifsira “kummerç intern” ghandha tithassar;

(xv) fit-tifsira “Awtorità dwar l-Elenku”, il-kliem “, iżda sa dak iż-żmien li l-Ministru jagħmel dik il-hatra kull riferenza għall-Awtorità dwar l-Elenku ghandha tiftiehem bhala riferenza għall-Kunsill ” ghandhom jithassru;

(xvi) minnufih wara t-tifsira “negożjar”, ghandha tiżdied din it-tifsira li ġejja:

“ “Operatur fis-suq” tfisser persuna li tiġġestixxi u, jew topera n-negożju ta’ suq regolat.

L-operatur fis-suq jista’ jkun is-suq regolat innifsu;”;

(xvii) minnufih wara t-tifsira “spettur” ghandha tiżdied din it-tifsira ġdida li ġejja:

“ “Stat Membru” tfisser Stat Membru tal-Komunitajiet Ewropej;”;

(xviii) minnufih wara t-tifsira ġdida “Regoli ta’ Swieq Finanzjarji”, ghandha tiżdied din it-tifsira ġdida li ġejja:

“ “sistema multilaterali” tinkludi dawk is-swieq kollha magħmulin minn ġabra ta’ *bye-laws* u pjattaforma ta’ negożjar kif ukoll dawk li jiffunzjonaw biss abbażi ta’ ġabra ta’ *bye-laws* imma teskludi sistemi bilaterali meta persuna taderixxi għal kull negożju f’ isimha u għas-

spejjeż tagħha u mhux bħala kontroparti li ma tiehux riskji u li tkun interposta bejn xerrej u bejjiiegh;”;

(xix) it-tifsira “lista ufficjali” ghandha tithassar;

(xx) it-tifsira “mod ordinat” ghandha tithassar;

(xxi) minnufih qabel it-tifsira ġdida “Awtorità regolatorja Ewropea” ghandha tizdied din it-tifsira ġdida li ġejja:

“ “Awtorità regolatorja barranija” tfisser awtorità f’ pajjiż jew territorju barra minn Malta li ma jkunx Stat Membru jew Stat ŻEE li jeżerçita funzjoni regolatorja jew ta’ sorveljanza għar-rigward ta’ servizzi finanzjarji li jikkorrispondu għal funzjoni ta’ l-awtorità kompetenti kif imfissra fl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta’ Malta;”;

(xxii) minnufih wara t-tifsira “strumenti finanzjarji elenkati”, ghandha tizdied din it-tifsira ġdida li ġejja:

“ “suq regolat” tfisser sistema multilaterali operata minn operatur fis-suq, li ġġib flimkien jew tiffacilita li jinġiebu flimkien interessi ta’ xiri u bejgħ multipli ta’ terzi ta’ strumenti finanzjarji fis-sistema fil-kuntest tat-tifsir tad-Direttiva. Għall-finijiet ta’ din it-tifsira, “interessi ta’ xiri u bejgħ” tinkludi ordnijiet, kwotazzjonijiet u indikazzjonijiet ta’ interess;”;

(xxiii) it-tifsira “titoli” ghandha tithassar;

(xxiv) it-tifsira “statut” ghandha tithassar;

(xxv) it-tifsira “*stockbroker*” ghandha tithassar;

(xxvi) minnufih wara t-tifsira ġdida “id-Direttiva”, ghandhom jizdiedu dawn it-tifsiriet ġodda li ġejjin:

“ “Direttiva dwar Offerti ta’ *Takeover*” tfisser Direttiva 2004/25/KE tal-Parlament Ewropew u tal-Kunsill tal-21 ta’ April 2004 fuq offerti ta’ *takeover*, kif emendata minn żmien għal żmien, u tinkludi kull miżura ta’ implimentazzjoni li tkun ġiet mahruġa jew li tista’ tinhareġ taħtha;”;

(xxvii) fit-test Inġliż fit-tifsira “*trading*”, minflok il-kliem “*financial instruments; and*”, għandhom jidhlu l-kliem “*financial instruments;*”;

(xxviii) (a) minnufih wara t-tifsira “titoli”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “titoli trasferibbli” għandha l-istess tifsira bhal dik mogħtija lill-frazi fl-Iskeda li tinsab ma’ l-Att dwar Servizzi ta’ Investment;”; u

(b) minnufih wara t-tifsira ġdida “Direttiva dwar Offerti ta’ *Takeover*”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttiva dwar it-Trasparenza” tfisser Direttiva 2004/109/KE tal-Parlament Ewropew u tal-Kunsill tal-15 ta’ Diċembru 2004 fuq l-armonizzazzjoni ta’ htigiet ta’ trasparenza għar-rigward ta’ informazzjoni dwar emittenti li għandhom it-titoli tagħhom mdahhlin fin-negozjar f’suq regolat u li jemendaw Direttiva 2001/34/KE, kif emendata minn żmien għal żmien, u tinkludi kull miżura ta’ implimentazzjoni li tkun giet mahruġa jew li tista’ tinhareġ taħtha;”;

(xxix) fit-tifsira “tribunal”, il-proviso li hemm miegħu għandha tithassar u minflok il-kliem “ta’ Malta.”, għandhom jidhlu l-kliem “ta’ Malta.”; u

(c) minnufih fi tmiem it-tifsira “tribunal”, għandu jiżdied dan is-subartikolu (2) ġdid li ġej:

“(2) L-għan ta’ dan l-Att hu, in parti, li jittrasponi u jimplimenta d-disposizzjonijiet tad-Direttiva, u konsegwentement dan l-Att u regolamenti adottati taħtu għandhom ikunu interpretati u applikati skond dan .”.

Emenda ta’ l-artikolu 3 ta’ l-Att prinċipali.

16. L-artikolu 3 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem “minn *exchange* ta’ investiment biex jikkwalifika bħala ‘*exchange*’ ta’ investimenti rikonoxxut u li dwaru l-awtorità kompetenti tista’ tagħmel ordni, hawnhekk iżjed ’il quddiem f’dan l-Att imsejjah “ordni ta’ rikonoxximent” taħt din it-Taqsima ta’ dan l-Att;”, għandhom jidhlu l-kliem “minn suq jekk dan għandu jikkwalifika bħala suq

regolat li għar-rigward tiegħu tista' tinhareġ awtorizzazzjoni mill-awtorità kompetenti”;

(b) fil-paragrafu (b) tiegħu, minflok il-kliem “inklużi htigiet għal rapporti”, għandhom jidhlu l-kliem “inklużi htigiet għal rapporti u trasparenza”;

(ċ) fil-paragrafu (ċ) tiegħu, minflok il-kliem “ordni ta' rikonoxximent jew”, għandhom jidhlu l-kliem “awtorizzazzjoni jew”;

(d) minflok il-paragrafu (d) tiegħu għandu jidhol dan li ġej:

“(d) htigiet għar-regolamentazzjoni u sorveljanza ta' operatur fis-swieq u, jew fi swieq regolati;”;

(e) fil-paragrafu (e) tiegħu, minflok il-kliem “lmenti dwar”, għandhom jidhlu l-kliem “lmenti dwar operatur fis-swieq u, jew”;

(f) fil-paragrafu (f) tiegħu, minflok il-kliem “ir-regoli ta' *exchange* ta' investimenti rikonoxxut minn persuni li huma suġġetti għal dawk ir-regoli;”, għandhom jidhlu l-kliem “*bye-laws* ta' swieq regolati minn persuni soġġetti għal tali *bye-laws*;”;

(g) minflok il-paragrafu (g) tiegħu għandu jidhol dan li ġej:

“(g) arrangamenti għall-iskrutinju ta' prattiċi ta' operatur fis-swieq u, jew *bye-laws* u prattiċi ta' swieq regolati u għall-prevenzjoni ta' prattiċi restrittivi skond l-Att dwar il-Kompetizzjoni u regolamenti magħmulin tahtu;”;

(h) fil-paragrafu (i) tiegħu, minflok il-kliem “ordni ta' rikonoxximent magħmula taht”, għandhom jidhlu l-kliem “awtorizzazzjoni magħmula taht”.

17. L-artikolu 4 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem “ta' *exchange* ta' investiment f'Malta jew minn Malta kemm-il darba dik il-persuna ma jkollhiex fil-pussess tagħha ordni ta' rikonoxximent”, għandhom jidhlu l-kliem “ta' suq regolat f'Malta jew minn ġewwa Malta kemm-il darba dik il-persuna ma jkollhiex f'idejha awtorizzazzjoni”;

(b) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem “għal ordni ta' rikonoxximent taht din it-Taqsima ta' dan l-

Att biex jiddikjarah bhala *exchange* ta' investimenti rikonoxxut", ghandhom jidhlu l-kliem "ghal awtorizzazzjoni taht din it-Taqsima ta' dan l-Att biex jiddikjarah bhala *exchange* ta' investimenti awtorizzat";

(c) minnufih wara paragrafu (b) tas-subartikolu (1) tieghu, ghandhom jizdiedu dawn il-paragrafi godda li ghejjin (c) u (d):

“(c) Suq regolat ghandu biss ikun awtorizzat meta l-awtorità kompetenti tkun sodisfatta li kemm l-operatur fis-suq kemm is-sistemi tas-suq regolat ikunu jikkonformaw mal-htigiet applikabbli stabbiliti f'dan l-Att u f'kull regolament jew Regoli ta' Swieq Finanzjarji maghmulin tahtu.

(d) Meta suq regolat ikun persuna legali u jkun manigġat jew operat minn operatur fis-suq li ma jkunx is-suq regolat innifsu, l-awtorità kompetenti ghandha tistabbilixxi permezz ta' Regoli ta' Swieq Finanzjarji kif l-obbligi differenti imposti fuq l-operatur fis-suq taht id-Direttiva ghandhom ikunu allokatu bejn is-suq regolat u l-operatur fis-suq.”;

(d) minflok is-subartikolu (2) tieghu, ghandu jidhol dan is-subartikolu gdid li ghej:

“(2) (a) L-operatur fis-suq tas-suq regolat ghandu jipprovdi kull informazzjoni, li tkun mehtieġa biex l-awtorità kompetenti tkun tista' tissodisfa ruhha li s-suq regolat ikun stabbilixxa, fil-waqt ta' l-awtorizzazzjoni inizjali, l-arrangamenti kollha mehtieġa biex ikun jikkonforma ma' l-obbligi li ghandu taht l-Att jew regolamenti jew Regoli ta' Swieq Finanzjarji maghmulin tahtu.

(b) L-applikazzjoni ghandha ssir b'dak il-mod li l-awtorità kompetenti tista' tistabbilixxi bir-Regoli ta' Swieq Finanzjarji u maghha ghandu jintehmez:

(i) programm ta' operazzjonijiet li jstabbilixxu fost l-ohrajn it-tipi ta' kummerç previst;

(ii) deskrizzjoni shiha ta' l-istruttura organizzattiva u *bye-laws* proposti jew arrangamenti simili ta' l-applikant;

(iii) informazzjoni dettaljata bhal m'hi mehtieġa mill-awtorità kompetenti dwar:

(a) il-persuni li effettivament imexxu n-negozju u l-operazzjonijiet tas-suq regolat;

(b) dawk il-persuni li huma sidien tas-suq regolat; u

(c) l-operatur fis-suq; u

(iv) kull informazzjoni ohra mehtieġa mill-awtorità kompetenti.”;

(e) is-subartikoli (3) sa (11) għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (4) sa (12) rispettivament;

(f) minnufih wara s-subartikolu (2) tiegħu, għandu jżied dan is-subartikolu (3) ġdid li ġej:

“(3) L-operatur fis-suq għandu javża lill-awtorità kompetenti minnufih meta jsiru xi bidliet jew korrezzjonijiet fl-informazzjoni provduta skond is-subartikolu (2) ta’ dan l-artikolu:

Iżda fil-każ ta’ bidliet għall-persuni li effettivament imexxu n-negozju u l-operazzjonijiet tas-suq regolat għandha tenhtieġ l-awtorizzazzjoni mogħtija bil-quddiem ta’ l-awtorità kompetenti:

Iżda wkoll meta jkun hemm raġunijiet oġġettivi u demonstrabbli biex jitqies li n-nomina jew l-elezzjoni ta’ uffiċjal tippreżenta jew tista’ tippreżenta theddida materjali għall-immaniġġar sod u prudenti u għall-operazzjoni tas-suq regolat, l-awtorità kompetenti għandha tirrifjuta milli tapprova dik in-nomina jew elezzjoni.”;

(g) fis-subartikolu (4) tiegħu kif enumerat mill-ġdid, minflok il-kliem “L-awtorità kompetenti tista’ toħroġ direttivi li jistabbilixxu”, għandhom jidhlu l-kliem “Sabiex ikunu jistgħu jitwettqu bl-aħjar mod id-disposizzjonijiet ta’ dan l-Att, l-awtorità kompetenti tista’, minn żmien għal żmien, toħroġ u tippubblika Regoli ta’ Swieq Finanzjarji li jkunu jorbtu lis-swieq regolati u lil oħrajn li jistgħu jiġu speċifikati fihom. Dawk ir-Regoli ta’ Swieq Finanzjarji jistgħu jistabbilixxu htigiet u kundizzjonijiet addizzjonali għar-rigward ta’ attivitajiet ta’ swieq regolati, it-tmexxija tan-negozju tagħhom, ir-relazzjonijiet tagħhom mal-klijenti, mal-partijiet pubbliċi u dawk oħrajn, ir-responsabbiltajiet tagħhom lejn l-awtorità kompetenti, htigiet ta’ rappurtar, rizorsi

finanzjarji, adegwatezza kapitali u htigiet relatati, u kull haġa ohra skond ma l-awtorità kompetenti tista' tikkunsidra li tkun adatta inklużi –”;

(h) fis-subartikolu (6) tiegħu kif enumerat mill-ġdid, minflok il-kliem “Direttivi differenti jistgħu jinharġu mill-awtorità kompetenti taht is-subartikolu (3)” għandhom jidhlu l-kliem “Jistgħu jinharġu Regoli ta' Swieq Finanzjarji differenti mill-awtorità kompetenti taht is-subartikolu (4)”;

(i) fis-subartikolu (8) tiegħu kif enumerat mill-ġdid, minflok il-kliem “u bla hsara għal kull direttivi mahruġa taht l-artikolu 4(3), tagħmel jew tirrifjuta li tagħmel ordni ta' rikonoxximent.”, għandhom jidhlu l-kliem “u bla hsara għar-Regoli ta' Swieq Finanzjarji mahruġa taht is-subartikolu (4) tagħmel jew tirrifjuta li tohroġ awtorizzazzjoni. Meta l-awtorità kompetenti tohroġ awtorizzazzjoni, l-operatur fis-suq ikun responsabbli li jiżgura li d-disposizzjonijiet ta' l-Att, regolamenti u Regoli ta' Swieq Finanzjarji magħmulin tahtom u kull miżura ta' implimentazzjoni mahruġa mill-Kummissjoni Ewropea skond is-setgħat mogħtijin lilha bid-Direttiva, li jkunu applikabbli għal swieq regolati, jitharsu.”;

(j) fis-subartikolu (9) tiegħu kif enumerat mill-ġdid, minflok il-kliem “Ordni ta' rikonoxximent għandu juri d-data effettiva tiegħu”, għandhom jidhlu l-kliem “Awtorizzazzjoni għandha turi d-data effettiva tagħha”;

(k) fis-subartikoli (10) u (11) tiegħu kif enumerat mill-ġdid, minflok il-kliem “għal ordni ta' rikonoxximent” kull fejn dawn jinsabu, għandhom jidhlu l-kliem “għal awtorizzazzjoni ”; u

(l) fis-subartikolu (12) tiegħu kif enumerat mill-ġdid, minflok il-kliem “Ordni ta' rikonoxximent jista' ”, u “jinbidel, ikun sospiż jew jiġi revokat” għandhom jidhlu l-kliem “Awtorizzazzjoni tista' ” u “tinbidel, tkun sospiża jew tiġi revokata” rispettivament.

Żjieda ta' l-artikoli
godda 4A, 4B u 4C
ma' l-Att prinċipali.

18. Minnufih wara l-artikolu 4 ta' l-Att prinċipali għandhom jiddiedu dawn l-artikoli ġodda 4A, 4B u 4C li ġejjin:

“Il-liġi
applikabbli
meta Malta
tkun l-Istat
Membru
domestiku.

4A. Mingħajr preġudizzju għal kull disposizzjoni rilevanti tad-Direttiva 2003/6/KE tal-Parlament Ewropew u tal-Kunsill tat-28 ta' Jannar 2003 dwar *insider dealing* u l-manipulazzjoni tas-suq, id-dritt pubbliku fil-kuntest tat-tifsir tad-Direttiva li tirregola n-negozjar li jiġi ġestit taht is-sistemi

tas-suq regolat ghandu jkun dak Malti meta Malta tkun l-Istat Membru domestiku.

Influenza
sinifikanti fuq
l-immaniġġar
ta' suq
regolat.

4B. (1) Persuni li jinsabu f'posizzjoni li jeżerċitaw, direttament jew indirettament, influwenza sinifikanti fuq l-immaniġġar tas-suq regolat ghandhom ikunu adatti u idonei.

(2) Ebda persuna m'għandha takkwista *holding* dirett jew indirett f'suq regolat u, jew l-operatur fis-suq li jkun jirrappreżenta għaxra (10) fil-mija jew aktar mill-kapital azzjonarju mahruġ minn dak il-korp jew mid-drittijiet tal-votazzjoni li jappartjenu għal dak il-kapital azzjonarju jew li tagħmilha haġa possibbli li tiġi eżerċitata influwenza sinifikanti fuq l-immaniġġar tas-suq regolat (“parteciċipazzjoni azzjonarja kwalifikanti”) jew li tizdied dik il-parteciċipazzjoni azzjonarja kwalifikanti biex hekk il-proporzjon tad-drittijiet tal-votazzjoni jew tal-kapital azzjonarju miżmum minnha fis-suq regolat jilhaq jew jeċċedi l-ghoxrin (20) fil-mija, it-tlieta u tletin (33) fil-mija jew il-hamsin (50) fil-mija kemm-il darba l-awtorità kompetenti ma tkunx għet avżata b'dik l-intenzjoni minn dik il-persuna jew mis-suq regolat rilevanti u l-awtorità kompetenti tkun approvat l-akkwist ta' jew iż-żjieda f'dik il-parteciċipazzjoni azzjonarja kwalifikanti.

(3) L-awtorità kompetenti għandha tirrifjuta li tapprova kull bidla fil-kontroll ta' l-interessi kif proposta mis-suq regolat u, jew l-operatur fis-suq skond is-subartikolu (2) ta' dan l-artikolu meta jkun hemm raġunijiet oġġettivi u demonstrabbli biex jitqies li dawn jipprezentaw theddida għall-immaniġġar sod u prudenti ta' dak is-suq regolat.

(4) L-operatur fis-suq ta' suq regolat għandu:

(a) jipprovdi lill-awtorità kompetenti, u jagħmel pubblika, informazzjoni li tkun tirrigwarda l-proprjetà tas-suq regolat u, jew l-operatur fis-suq, u b'mod partikolari, l-identità u skala ta' interessi ta' dawk il-partijiet li jkunu f'posizzjoni li jeżerċitaw influwenza sinifikanti fuq l-amministrazzjoni;

(b) jinforma lill-awtorità kompetenti u jagħmel pubbliku, kull trasferiment ta' proprjetà li jagħti lok għal bidla fl-identità tal-persuni li jeżerċitaw influwenza sinifikanti fuq l-operazzjoni tas-suq regolat.

Bye-laws ta' suq regolat u arrangamenti.

4C. (1) Swieq regolati ghandhom ikunu obbligati:

(i) li jkollhom *bye-laws* çari u trasparenti li jkunu jirrigwardaw l-ammissjoni ta' strumenti finanzjarji fin-negozjar li ghandhom jizguraw li kull strument finanzjarju mdahhal fin-negozjar fis-suq regolat ikun jista' jiġi regolat b'mod ġust, ordnat u effiċjenti u, li titoli trasferibbli jkunu jistgħu jiġu negozjati liberament:

Iżda fil-każ ta' derivattivi dawk il-htigiet ghandhom ukoll jizguraw li d-disinn tal-kuntratt derivattiv ikun jippermetti l-fissazzjoni ta' prezz ordnat tad-derivattiv kif ukoll l-eżistenza ta' kundizzjonijiet ta' risoluzzjoni effettivi;

(ii) li jkollhom arrangamenti effettivi biex jivverifikaw li l-emittenti ta' titoli trasferibbli li jiġu mdahhla fin-negozjar ikunu jikkonformaw ma' l-obbligi tagħhom taht il-liġi tal-Komunità Ewropea ghar-rigward ta' obbligi ta' żvelar inizjali, kontinwi jew *ad hoc*;

(iii) li jstabilixxu arrangamenti li jiffaċilitaw lill-membri jew parteċipanti jiksbu aċċess għal informazzjoni li tkun intgħamlet pubblika taht il-liġi tal-Komunità Ewropea;

(iv) li jstabilixxu l-arrangamenti mehtieġa li regolament jirrevedu konformità mal-htigiet ta' ammissjoni ta' l-istrumenti finanzjarji li huma mdahhla fin-negozjar .

(2) Titolu trasferibbli li jkun ġie mdahhal fin-negozjar f'suq regolat jista' jiġi sussegwentement mdahhal fin-negozjar ta' swieq regolati ohra, ukoll mingħajr il-kunsens ta' l-emittent u f'konformità mad-disposizzjonijiet rilevanti tad-Direttiva 2003/71/KE tal-Parlament Ewropew u tal-Kunsill ta' l-4 ta' Novembru, 2003 fuq il-prospett li għandu jiġi pubblikat meta jiġu offruti titoli lill-pubbliku jew imdahhal fin-negozjar, u li jemendaw Direttiva 2001/34/KE u kull miżura ta' implimentazzjoni li tkun ġiet mahruġa jew li tista' tinhareġ taħtha.

(3) L-emittent għandu jiġi informat mis-suq regolat bil-fatt li t-titoli trasferibbli tiegħu ikunu qegħdin jiġu negozjati f'dak is-suq regolat. L-emittent m'għandu jkun soġġett għal ebda obligazzjoni biex jipprovdi l-informazzjoni mehtieġa

taht il-paragrafu (ii) tas-subartikolu (1) ta' dan l-artikolu direttament lil xi suq regolat li jkun ammetta t-titoli trasferibbli ta' l-emittent fin-negozjar minghajr il-kunsens relattiv.

(4) Meta jkunu qeghdin jikkonformaw ruhhom mad-disposizzjonijiet ta' dan l-artikolu swieq regolati ghandhom ukoll jikkonformaw ruhhom mad-disposizzjonijiet applikabbli tar-Regolament tal-Kummissjoni (KE) nru. 1287/2006 ta' 10 ta' Awissu 2006 li jimplementa Direttiva 2004/39/KE tal-Parlament Ewropew u tal-Kunsill ghar-rigward ta' obligazzjonijiet ta' zamma ta' *records* ghal ditti ta' investment, rappurtar ta' operazzjonijiet, trasparenza fis-suq, ammissjoni ta' strumenti finanzjarji fin-negozjar, u pattijiet imfissra għall-finijiet ta' dik id-Direttiva fuq it-trasparenza qabel u wara n-negozju u l-ammissjoni fin-negozjar kif tista' tkun emendata minn żmien għal żmien.”.

19. L-artikolu 5 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 5 ta' l-Att prinċipali.

(a) fin-nota marginali tiegħu, minflok il-kelma “Direttivi”, għandhom jidhlu l-kliem “Regoli ta' Swieq Finanzjarji”;

(b) fis-subartikolu (1) tiegħu, minflok il-kliem “tista' tohroġ direttivi”, għandhom jidhlu l-kliem “tista' tohroġ Regoli ta' Swieq Finanzjarji”;

(c) minflok is-subartikolu (2) tiegħu, għandu jidhol dan li ġej:

“(2) Regoli ta' Swieq Finanzjarji mahruġin mill-awtorità kompetenti jistgħu jkunu jehtieġu li tingħata informazzjoni f'xi forma speċifika u li din tiġi verifikata b'xi mod speċifiku u kull informazzjoni li tkun hekk mehtieġa għandha tingħata malajr kemm jista' jkun.”; u

(d) is-subartikolu (3) tiegħu għandu jithassar.

20. L-artikolu 6 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 6 ta' l-Att prinċipali.

(a) fin-nota marginali tiegħu, minflok il-kelma “Direttivi”, għandhom jidhlu l-kliem “Regoli ta' Swieq Finanzjarji”;

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

(i) minflok il-kliem “xi wahda mid-direttivi”, ghandhom jidhlu l-kliem “xi Regola ta’ Swieq Finanzjarji”, u minflok il-kliem “speċifikati fid-direttiva”, ghandhom jidhlu l-kliem “speċifikati fir-Regola ta’ Suq Finanzjarju”;

(ii) fil-paragrafu (a) tieghu, minflok il-kliem “d-direttivi”, kull fejn jinsabu, ghandhom jidhlu l-kliem “r-Regoli ta’ Swieq Finanzjarji”;

(iii) fil-paragrafu (b) tieghu, minflok il-kliem “tad-direttivi kif intqal”, ghandhom jidhlu l-kliem “tar-Regoli ta’ Suq Finanzjarju kif imsemmi”, u minflok il-kliem “dawk id-direttivi”, ghandhom jidhlu l-kliem “dawk ir-Regoli ta’ Swieq Finanzjarji”; u

(ċ) fis-subartikolu (2) tieghu, minflok il-kliem “Direttiva mahruġa”, ghandhom jidhlu l-kliem “Regola ta’ Suq Finanzjarju mahruġa”.

Emenda ta’ l-artikolu 7 ta’ l-Att prinċipali.

21. L-artikolu 7 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tieghu ghandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tieghu, minflok il-kliem “għar-rikonoxximent”, ghandhom jidhlu l-kliem “għall-awtorizzazzjoni”;

(ii) fis-subparagrafu (ii) tal-paragrafu (b) tieghu, minflok il-kliem “jew xi htieġa ohra tkun li tkun.”, ghandhom jidhlu l-kliem “jew xi htieġa ohra tkun li tkun.”;

(b) minnufih wara subparagrafu (ii) tal-paragrafu (b) tas-subartikolu (1) tieghu, ghandu jżjed dan is-subparagrafu (iii) ġdid li ġej:

“(iii) fejn tkun tehtieg il-waqfien ta’ kull Prattika li tmur kontra d-disposizzjonijiet adottati fl-implimentazzjoni tad-Direttiva.”.

Emenda ta’ l-artikolu 8 ta’ l-Att prinċipali.

22. L-artikolu 8 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fit-nota marginali tieghu, minflok il-kliem “ta’ ordni ta’ rikonoxximent .”, ghandhom jidhlu l-kliem “ta’ awtorizzazzjoni.”;

(b) fis-subartikolu (1) tieghu, minflok il-kliem “Ordni ta’ rikonoxximent”, ghandhom jidhlu l-kliem “Awtorizzazzjoni”;

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

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “għal rikonoxximent”, għandhom jidhlu l-kliem “għal awtorizzazzjoni”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “taht dan l-Att,” għandhom jidhlu l-kliem “ taht dan l-Att, jew”;

(iii) minnufih wara l-paragrafu (b) tiegħu, għandhom jidiedu dawn il-paragrafi (ċ), (d) u (e) godda li ġejjin:

“(ċ) ma jkunx qiegħed juża l-awtorizzazzjoni fi żmien tnax-il xahar, jirrinunzja espressament l-awtorizzazzjoni jew ma jkunx opera matul is-sitt xhur ta’ qabel; jew

(d) ikun kiseb l-awtorizzazzjoni billi għamel dikjarazzjonijiet foloz jew b’xi mezz ieħor irregolari; jew

(e) ma jibqax aktar jikkonforma ruħu mal-kundizzjonijiet li l-awtorizzazzjoni tkun inghatat tahtom;”;(iv) fil-paragrafu li jiġi minnufih wara l-paragrafu (e) ġdid tiegħu, minflok il-kliem “l-ordni ta’ rikonoxximent ”, kull fejn dawn jinsabu, għandhom jidhlu l-kliem “l-awtorizzazzjoni”;

(d) fis-subartikolu (3) tiegħu, minflok il-kliem “li jirrevoka ordni ta’ rikonoxximent ”, għandhom jidhlu l-kliem “li jirrevoka awtorizzazzjoni”;

(e) is-subartikolu (4) tiegħu għandu jithassar;

(f) is-subartikolu (5) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (4).

23. L-artikolu 10 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 10 ta’ l-Att prinċipali.

(a) minflok il-kliem “ir-regoli jew il “*bye-laws*” u “regoli jew *bye-laws*”, għandhom f’kull każ jidhlu l-kliem “*bye-laws*”;

(b) fil-paragrafu (ċ) tiegħu, minflok il-kliem “fuq l-*exchange*”, għandhom jidhlu l-kliem “fis-suq regolat”.

Żjieda ta' l-artikolu 10A ġdid ma' l-Att prinċipali.

24. Minnufih wara l-artikolu 10 ta' l-Att prinċipali ghandu jiżded dan l-artikolu 10A ġdid li ġej:

“*Clearing* u konkluzjoni ta' operazzjonijiet.

10A. (1) Is-swieq regolati ghandhom joffru lill-membri jew lill-partecipanti kollha taghhom id-dritt li jaghżlu s-sistemi għall-*clearing* u konkluzjoni ta' operazzjonijiet ta' strumenti finanzjarji adoperati f'dak is-suq regolat bla hsara għal:

(a) dawk il-konnessjonijiet u arrangamenti bejn is-sistema ta' *clearing* u konkluzjoni maghżula u kull sistema jew faċilità oħra li tista' tkun mehtieġa biex tiżgura l-konkluzjoni effiċjenti u ekonomika ta' l-operazzjoni in kwistjoni; u

(b) ftehim mill-awtorità kompetenti responsabbli għas-sorveljanza tas-suq regolat li l-kundizzjonijiet tekniċi għall-*clearing* u konkluzjoni ta' operazzjonijiet maghmulin fis-suq regolat permezz ta' sistema ta' *clearing* u konkluzjoni li ma tkunx dik maghżula mis-suq regolat ikunu tali li jippermettu l-funzjonament bla ebda xkiel u ordinat tas-swieq finanzjarji.

(2) Swieq regolati m'ghandhomx ikunu projbiti milli jidhlu f'arrangamenti adatti ma' xi kontroparti ċentrali jew *clearing house* u sistema ta' *clearing* u konkluzjoni ta' xi Stat Membru iehor jew Stat ŻEE bil-ghan li jiġi provdut dwar il-*clearing* u, jew konkluzjoni ta' xi negozjar jew in-negozjar kollu maghmul minn partecipanti fis-suq taht is-sistemi taghhom:

Iżda l-awtorità kompetenti tista' tipprojbixxi lil suq regolat milli jaghmel arrangamenti bħal dawk meta hija tqis li dan ikun mehtieġ biex jinżamm il-funzjonament b'mod ordinat ta' dak is-suq regolat.”.

Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

25. L-artikolu 11 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem “għal-lista uffiċjali u għal kull lista rikonoxxuta oħra”, ghandhom jidhlu l-kliem “għal kull lista rikonoxxuta”;

(b) minflok il-paragrafu (b) tiegħu ghandu jidhol dan li ġej:

“(b) li taghmel Regoli għall-Elenku għall-aħjar implimentazzjoni u finijiet ta' din it-Taqsima ta' dan l-Att;”;

(ċ) fil-paragrafu (ċ) tiegħu, minnufih wara l-kliem “jibqgħu elenkati”, għandhom jizdiedu l-kliem ġodda “u biex tissorvelja l-iżvelar fil-hin ta’ informazzjoni mill-emittenti jew minn kull persuna oħra li tkun soġġetta għar-Regoli għall-Elenku bil-għan li jiġi żgurat aċċess effettiv u indaqs għall-pubbliku f’Malta u fl-Istati Membri kollha jew fi Stati ŻEE meta jiġu negozjati t-titoli trasferibbli;”;

(d) minflok il-paragrafu (d) tiegħu għandhom jidhlu dawn il-paragrafi (d) u (e) ġodda li ġejjin:

“(d) li taġixxi bhala l-awtorità amministrattiva kompetenti u ċentrali responsabbli għat-twettiq ta’ l-obbligi li hemm provdut dwarhom fit-Direttiva dwar it-Trasparenza u li tiżgura li jiġu applikati d-disposizzjonijiet adottati konformement ma’ din id-Direttiva u li tohroġ regoli bi tkompli mar-responsabbiltà li għandha taht kull disposizzjoni ta’ dik id-Direttiva liema jkunu dawk ir-regoli li jobligaw lill-emittenti, azzjonisti u lil kull persuna oħra skond ma jista’ jiġi indikat f’dawk ir-regoli;

(e) sabiex taġixxi bhala l-awtorità kompetenti biex tissorvelja offerti bl-iskop tar-Regoli għall-Elenku magħmulin jew introdotti konformement mad-Direttiva dwar Offerti ta’ *Takeover*.”.

26. L-artikolu 12 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 12 ta’ l-Att prinċipali.

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

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “negozju fuq il- lista uffiċjali jew xi lista rikonoxxuta oħra kemm-il darba l-Awtorità dwar l-Elenku ma tkunx qabel awtorizzat l-ammissibilità ta’ dawk l-istrumenti finanzjarji għall-elenku skond kull regola magħmula taht l-artikolu 13.”, għandhom jidhlu l-kliem “negozju xi lista rikonoxxuta kemm-il darba l-Awtorità dwar l-Elenku ma tkunx qabel awtorizzat l-ammissibilità ta’ dawk l-istrumenti finanzjarji għall-elenku skond ir-Regoli għall-Elenku magħmula taht l-artikolu 13.”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “għall-elenku fil-lista uffiċjali jew f’xi lista rikonoxxuta oħra.”, għandhom jidhlu l-kliem “għall-elenku f’xi lista rikonoxxuta.”;

(b) is-sub-artikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “Il-Borża u kull *exchange* ta’ investimenti rikonoxxut jistgħu jdahhlu għall-elenku u negozju fuq il-lista uffiċjali jew, skond il-każ, fuq il-lista rikonoxxuta konċernata”, għandhom jidhlu l-kliem “Kull suq regolat jista’ jdahhal għall-elenku u negozju fuq il-lista rikonoxxuta in kwistjoni”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “għal-lista uffiċjali jew għal xi lista rikonoxxuta oħra”, għandhom jidhlu l-kliem “għal xi lista rikonoxxuta”;

(iii) fil-proviso mal-paragrafu (b) tiegħu, il-kliem “l-Borża u” għandhom jithassru.

Emenda ta’ l-
artikolu 13 ta’ l-Att
prinċipali.

27. L-artikolu 13 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu, minflok il-kliem “Regoli għall-elenku” għandhom jidhlu l-kliem “Regoli għall-Elenku”;

(b) minflok il-kliem “regoli għall-elenku” kull fejn dawn jinsabu fid-disposizzjoni msemmija u fl-Att għandhom jidhlu l-kliem “Regoli għall-Elenku”;

(ċ) fil-paragrafu (a) tiegħu, minflok il-kliem “għal-lista uffiċjali jew xi lista rikonoxxuta oħra”, għandhom jidhlu l-kliem “għal xi lista rikonoxxuta”;

(d) fil-paragrafu (d) tiegħu, minflok il-kliem “f’xi partikolaritajiet dwar l-elenku, fil-prospett” għandhom jidhlu l-kliem “f’xi prospett”;

(e) fil-paragrafu (e) tiegħu, minflok il-kliem “dwar xi partikolaritajiet dwar l-elenku, il-prospett” għandhom jidhlu l-kliem “dwar xi prospett”;

(f) fil-paragrafu (f) tiegħu, minflok il-kliem “fir-regoli, il-pubblikazzjoni” għandhom jidhlu l-kliem “fir-Regoli għall-Elenku, il-pubblikazzjoni”, u minflok il-kliem “fil-lista uffiċjali jew f’xi lista rikonoxxuta”, għandhom jidhlu l-kliem “f’xi lista rikonoxxuta”;

(g) fil-paragrafu (g) tiegħu, minflok il-kliem “l-Awtorità dwar l-Elenku, tal-Borża u ta’ *exchanges* ta’ investimenti rikonoxxuti”, għandhom jidhlu l-kliem “l-Awtorità dwar l-Elenku u swieq regolati”;

(h) il-paragrafu (i) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (j); u

(i) minnufih wara l-paragrafu (h) tiegħu, għandu jiżdied dan il-paragrafu (i) ġdid li ġej:

“(i) li jittrasponu, jimplimentaw u jagħtu effett għad-disposizzjonijiet, htigiet, obbligi, rabtiet u miżuri tal-Parlament Ewropew u tal-Kunsill mahruġin f’dak li għandu x’jaqşam mar-regolamentazzjoni ta’ ammissibilità għall-elenkar ta’ strumenti finanzjarji fi swieq regolati u, jew ir-regolamentazzjoni ta’ emittenti jew ta’ xi persuna oħra bla hsara għar-Regoli għall-Elenku, li joriġinaw mis-shubija, affiljazzjoni jew relazzjoni ma’ organizzazzjonijiet internazzjonali jew reġjonali jew aggruppamenti ta’ pajjiżi jew minn xi trattat, konvenzjoni jew ftehim internazzjonali iehor sew bilaterali, reġjonali jew multilaterali, li Malta tkun tappartjeni għalih;”.

28. Fis-subartikolu (2) ta’ l-artikolu 14 ta’ l-Att prinċipali minflok il-kliem “dawk ir-regoli ta’ proċedura murija”, għandhom jidhlu l-kliem “dik il-proċedura murija”. Emenda ta’ l-artikolu 14 ta’ l-Att prinċipali.

29. L-artikolu 15 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 15 ta’ l-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jithassar;

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

(ċ) fil-paragrafu (a) tas-subartikolu (2) kif enumerat mill-ġdid, u kull fejn dawn il-kliem jinsabu fl-Att, minflok il-kliem “regola dwar l-elenku” għandhom jidhlu l-kliem “Regola dwar l-Elenku”.

30. L-artikolu 16 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 16 ta’ l-Att prinċipali.

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

“(1) L-Awtorità dwar l-Elenku għandha tavża lill-applikant bid-deċiżjoni tagħha li tkun tirrigwarda l-approvazzjoni tal-prospett fi żmien għaxart ijiem tax-xogħol minn meta jiġi ipprezentat l-abbozz tal-prospett.”;

(b) minflok is-subartikolu (2) tieghu, ghandu jidhol dan li ġej:

“(2) It-terminu msemmi fis-subartikolu (1) ghandu jiġi mtawwal ghal ghoxrin ġurnata tax-xoghol jekk l-offerta tkun tinvolvi titoli trasferibbli mahruġa minn emittent li ma jkollu ebda titoli trasferibbli mdahhla fin-negozjar f’ suq regolat u li ma jkunx qabel offra titoli trasferibbli lill-pubbliku.”;

(ċ) is-subartikoli (3), (4), (5), (6) u (7) tieghu ghandhom jiġu enumerati mill-ġdid bhala s-subartikoli (5), (6), (7), (8) u (9) rispettivament; u

(d) minnufih wara s-subartikolu (2) tieghu, ghandhom jiżdiedu dawn is-subartikoli (3) u (4) ġodda li ġejjin:

“(3) (a) Jekk jirrizulta lill-Awtorità dwar l-Elenku, ghal raġunijiet motivati, li d-dokumenti li jkunu ġew lilha pprezentati ma jkunux kompleti jew li tkun tenhtieg informazzjoni supplimentari, it-termini msemmija fis-subartikoli (1) u (2) ghandhom japplikaw biss mid-data minn meta tiġi provduta dik l-informazzjoni mill-applikant.

(b) Fil-każ imsemmi fis-subartikolu (1) l-Awtorità dwar l-Elenku ghandha tavża lill-applikant jekk id-dokumenti ma jkunux kompleti fi żmien ghaxart ijiem tax-xoghol minn meta tiġi pprezentata l-applikazzjoni.

(4) Jekk l-Awtorità dwar l-Elenku tonqos milli taghti deċiżjoni fuq il-prospett fit-termini msemmija fis-subartikoli (1) u (2), dan m’ghandux ikun ikkunsidrat bhala li jikkostitwixxi approvazzjoni tal-prospett.”; u

(e) fis-subartikolu (6) kif enumerat mill-ġdid, minflok il-kliem “skond is-subartikolu (5)”, ghandhom jidhlu l-kliem “skond is-subartikolu (7)”.

Emenda ta’ l-artikolu 17 ta’ l-Att prinċipali.

31. Is-subartikolu (1) ta’ l-artikolu 17 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tieghu, minflok il-kliem “fuq it-talba tal-Borża jew ta’ *exchange* ta’ investimenti rikonoxxut iehor li fuqhom” ghandhom jidhlu l-kliem “fuq it-talba ta’ *exchange* ta’ investimenti rikonoxxut li fuqu”;

(b) minflok il-paragrafu (b) tieghu, ghandu jidhol dan li ġej:

“(b) Minghajr ebda preġudizzju għad-dritt li l-Awtorità dwar l-Elenku għandha taħt il-paragrafu (a) ta’ dan l-artikolu li titlob is-sospensjoni jew it-tnehhija ta’ xi strument minn negozjar, l-operatur fis-suq tas-suq regolat jista’ jissospendi jew inehhi minn negozju strument finanzjarju li ma jkunx għadu aktar jikkonforma ma’ *bye-laws* tas-suq regolat kemm-il darba dik l-azzjoni ma tkunx x’aktarx tikkaguna danni sinifikanti lill-interessi ta’ investituri jew il-funzjonament ordnat tas-suq. L-operatur fis-suq ta’ suq regolat li jissospendi jew inehhi min-negozju strument finanzjarju għandu jagħmel din id-deċiżjoni wahda pubblika u jikkomunika l-informazzjoni rilevanti lill-Awtorità dwar l-Elenku. L-Awtorità dwar l-Elenku għandha tinforma lill-awtoritajiet regolatorji Ewropej ta’ l-Istati Membri l-oħra jew ta’ Stati ŻEE b’din id-deċiżjoni.”;

(ċ) minnufih wara l-paragrafu (b) tiegħu, għandu jiżdied dan il-paragrafu (ċ) ġdid li ġej:

“(ċ) Meta l-Awtorità dwar l-Elenku titlob is-sospensjoni jew it-tnehhija ta’ strument finanzjarju minn negozju f’xi suq regolat wiehed jew aktar swieq regolati, din għandha minnufih tagħmel id-deċiżjoni tagħha wahda pubblika u tgharraf b’dan lill-awtoritajiet regolatorji Ewropej ta’ l-Istati Membri l-oħra jew lill-Istati ŻEE.”.

32. L-artikolu 18 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 18 ta’ l-Att prinċipali.

(a) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem “l-interess tal-Borża jew ta’ xi” għandhom jidhlu l-kliem “l-interess ta’ ”;

(b) fis-subartikolu (7) tiegħu, minflok il-kliem “fil-lista uffiċjali jew lista rikonoxxuta oħra”, għandhom jidhlu l-kliem “f’xi lista rikonoxxuta”.

33. L-artikolu 19 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 19 ta’ l-Att prinċipali.

(a) fin-nota marginali tiegħu, minflok il-kliem “Penali jew ċensura dwar”, għandhom jidhlu l-kliem “Penali dwar”;

(b) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “strumenti; jew” għandhom jidhlu l-kliem “strumenti,”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “fl-elenku;” għandhom jidhlu l-kliem “fl-elenku, jew”;

(iii) minnufih wara l-paragrafu (b) tiegħu, għandu jżied dan il-paragrafu (ċ) ġdid li ġej:

“(ċ) haddiehor soġġett għar-Regoli għall-Elenku;”;

(iv) minflok il-kliem “mhux iżjed minn għoxrin elf lira.”, għandhom jidhlu l-kliem “mhux iżjed minn erbgħin elf lira.”;

(ċ) is-subartikolu (2) tiegħu għandu jiġi mħassar;

(d) is-subartikoli (3), (4), (5) u (6) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (2), (3), (4) u (5) rispettivament; u

(e) fis-subartikolu (5) tiegħu kif enumerat mill-ġdid, minflok il-kliem “tas-subartikolu (5)” għandhom jidhlu l-kliem “tas-subartikolu (4)”.

Emenda ta' l-
artikolu 20 ta' l-Att
prinċipali.

34. L-artikolu 20 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu, minflok il-kliem “Avviz ta' penali jew ċensura.” għandhom jidhlu l-kliem “Avviz ta' penali.”;

(b) is-subartikoli (3) u (5) tiegħu għandhom jithassru;

(ċ) is-subartikoli (4) u (6) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4) rispettivament.

Emenda ta' l-
artikolu 22 ta' l-Att
prinċipali.

35. L-artikolu 22 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “(ċ) lill-Borża jew dak l-*exchange* ta' investimenti rikonoxxut iehor dwar kull strument finanzjarju elenkat fil- Borża jew fl-*exchange* ta' investimenti rikonoxxut l- iehor li jkun ikkonċernat”, għandhom jidhlu l-kliem “(ċ) lil swieq regolati għar-rigward ta' kull strument finanzjarju elenkat fis-swieq regolati involuti”;

(b) minflok il-paragrafu (a) tiegħu, għandu jidhol dan li ġej:

“(a) jekk l-Awtorità dwar l-Elenku tiddelega xi wahda mis-setgħat li għandha biex timponi penali amministrattivi

taht l-artikolu 19(1) u (2) ghas-swieq regolati involuti, l-artikolu 19(3) u l-artikolu 20 ghandhom japplikaw *mutatis mutandis* ghas-swieq regolati involuti”; u

(ċ) il-proviso mal-paragrafu (b) tieghu ghandu jiġi emendat kif ġej:

(i) minflok il-kliem “taht l-artikolu 19(1), (2) u (3) kif intqal qabel la l-Awtorità dwar l-Elenku u lanqas il-Borża jew l-*exchange* ta’ investimenti rikonoxxut l-iehor li jkun konernat”, ghandhom jidhlu l-kliem “taht l-artikolu 19(1) u (2) kif hawn qabel imsemmi la l-Awtorità dwar l-Elenku lanqas is-swieq regolati involuti”; u

(ii) minflok il-kliem “l-Elenku jew il-Borża jew l-*exchange* ta’ investimenti rikonoxxut konernat, skond il-każ,”, ghandhom jidhlu l-kliem “l-Elenku jew is-swieq regolati involuti,”.

36. Minflok it-Taqsima IV ta’ l-Att prinċipali ghandu jidhol dan li ġej:

Sostituzzjoni tat-Taqsima IV ta’ l-Att prinċipali.

TAQSIMA IV

DEPOŻITARJU ĊENTRALI TAT-TITOLI

Htieġa ta’ awtorizzazzjoni.

24. (1) Ebda persuna m’ghandha topera depożitarju ċentrali tat-titoli jew tipprovdi, jew tippreżenta ru’ha bhala, jew tipprovdi, is-servizz ta’ depożitarju ċentrali tat-titoli f’Malta jew minn Malta kemm-il darba dik il-persuna ma jkollhiex fil-pussess taghha awtorizzazzjoni bil-miktub mahruġa mill-awtorità kompetenti taht din it-Taqsima.

Kap. 204.

(2) Korp maghqud jew mhux maghqud jista’ japplika bil-miktub ghand l-awtorità kompetenti għal awtorizzazzjoni taht din it-Taqsima, li jkun jawtorizzah jaġixxi bhala depożitarju ċentrali tat-titoli għall-finijiet ta’ dan l-Att.

(3) Awtorizzazzjoni sabiex taġixxi bhala depożitarju ċentrali tat-titoli tista’ tinghata biss meta l-awtorità kompetenti tkun sodisfatta li l-applikant ikun jikkonforma u ser ikun f’posizzjoni li jikkonforma ruhu mal-htigiet applikabbli stabbiliti f’dan l-Att u f’regolamenti u Regoli ta’ Swieq Finanzjarji mahruġin tahtu.

(4) Ebda haġa f'dan l-Att jew f'regolamenti magħmulin tahtu m'għandha tiftiehem bhala li tagħmel depożitarju ċentrali tat-titoli kapaċi jew tagħtih is-setgħa li jwettaq xi funzjoni jew attività li tkun tehtiegħ l-approvazzjoni jew l-awtorizzazzjoni skond l-Att dwar il-Bank Ċentrali ta' Malta jew kull liġi oħra.

Deċiżjoni
dwar
applikazzjoni.

25. (1) Meta tkun qegħda tiddeċiedi dwar xi applikazzjoni, l-awtorità kompetenti għandha tikkunsidra dik l-informazzjoni u dawk il-fatturi l-oħra li hija tista' tqis li jkunu rilevanti jew sinifikanti għall-applikazzjoni.

(2) L-awtorità kompetenti tista', wara li tirċievi applikazzjoni magħmula kif imiss skond din it-Taqsima, tohroġ jew tiċhad milli tohroġ awtorizzazzjoni. Meta l-awtorità kompetenti tohroġ awtorizzazzjoni, id-depożitarju ċentrali tat-titoli għandu jkun responsabbli biex jiżgura li d-disposizzjonijiet ta' l-Att, regolamenti magħmulin tahtu u Regoli ta' Swieq Finanzjarji mahruġa mill-awtorità kompetenti, li huma applikabbli għad-depożitarju ċentrali tat-titoli, jitharsu.

(3) L-awtorizzazzjoni għandu jkun fiha d-data meta din tibda ssehh.

(4) Meta l-awtorità kompetenti tiċhad applikazzjoni għal awtorizzazzjoni hija għandha tagħti lill-applikant avviz f'dak is-sens fejn tiddikjara x'ikunu r-raġunijiet għal dak iċ-ċhid.

(5) Jekk l-awtorità kompetenti tiċhad l-applikazzjoni għal awtorizzazzjoni, l-applikant ikollu dritt ta' appell quddiem it-Tribunal skond it-Taqsima VI ta' dan l-Att.

(6) L-awtorizzazzjoni tista', skond dawk ir-regolamenti li jistgħu jiġu ordnati, tinbidel, tiġi sospiza jew revokata mill-awtorità kompetenti.

(7) Awtorizzazzjoni mahruġa lil depożitarju ċentrali tat-titoli taht dan l-artikolu għandha tidentifika l-istrumenti finanzjarji, nominati jew xorthoħra, li d-depożitarju ċentrali tat-titoli jkun awtorizzat li jipprovdihom servizzi u għandha aktar minn hekk tidentifika l-funzjonijiet li hija tkun awtorizzata twettaq.

Funzjonijiet ta' depożitarju ċentrali tat-titoli.

26. Minghajr preġudizzju għal kull setgha jew funzjoni oħra mogħtija lilha bil-liġi jew regolamenti, il-funzjonijiet ta' depożitarju ċentrali tat-titoli jistgħu jinkludu dan li ġej:

(a) l-ġhoti ta' faċilitajiet ta' kustodja jew dawk ta' depożitu għar-rigward ta' strumenti finanzjarji;

(b) żamma ta' reġistri ta' membri u ta' detenturi ta' strumenti finanzjarji u r-reġistrazzjoni ta' operazzjonijiet u *holdings* ta' strumenti finanzjarji;

(ċ) l-ġhoti, l-immaniġġar u l-amministrazzjoni ta' sistema ta' *clearing* u konklużjoni ta' titoli għar-rigward ta' strumenti finanzjarji, inkluż l-ġhoti ta' dħul u kollegamenti interoperabbli bejn sistema bħal dik u sistemi oħra ta' *clearing* u konklużjoni ta' titoli, depożitarji ċentrali tat-titoli, kontropartijiet u *clearing houses* ċentrali, u servizzi oħra anillari għal dawk hawn qabel imsemmija;

(d) l-awtentikazzjoni ta' reġistru ta' membri jew detenturi ta' strumenti finanzjarji nominati jew ta' xi estratt tiegħu;

(e) kull funzjoni oħra anċillari jew konsegwenzjali li jkollha x'taqsam ma' dak hawn qabel imsemmi inkluż kull servizz amministrattiv korporattiv relatat, kemm preparatorju kemm xort'oħra, li jirrigwarda affarijiet dwar strumenti finanzjarji li jinsabu elenkati jew li għad iridu jiġu elenkati, skond ma jista' jiġi stabbilit bir-Regoli ta' Swieq Finanzjarji:

Iżda ebda depożitarju ċentrali tat-titoli ma jista' jkun awtorizzat jiġġestixxi funzjonijiet li jkunu unikament anċillari jew konsegwenzjali.

Revoka ta' awtorizzazzjoni.

27. (1) L-awtorizzazzjoni tista' tkun revokata b'ordni mahruġa bil-miktub mill-awtorità kompetenti fuq talba, jew bil-kunsens, tad-depożitarju ċentrali tat-titoli jew xort'oħra kif provdut f'dan l-Att.

(2) L-awtorizzazzjoni tista' tkun revokata bhordni mahruġa bil-miktub minghajr il-kunsens ta' depożitarju ċentrali tat-titoli, jekk ikun jidher lill-awtorità kompetenti li d-depożitarju ċentrali tat-titoli:

(a) ikun qieghed jonqos, jew ikun naqas, milli jissodisfa l-htigiet ghal awtorizzazzjoni taht dan l-Att, regolamenti jew Regoli ta' Swieq Finanzjarji maghmulin tahtu; jew

(b) ikun qieghed jonqos, jew ikun naqas, milli jikkonforma ruhu ma' kull obbligazzjoni ohra imposta fuqu minn jew taht dan l-Att, regolamenti jew Regoli ta' Swieq Finanzjarji maghmulin tahtu; jew

(c) ma jaghmilx uzu mill-awtorizzazzjoni fi zmien tmax-il xahar, jirrinunzja espressament l-awtorizzazzjoni jew ma jkunx ezerçita matul is-sitt xhur li jahbtu minnufih qabel; jew

(d) ikun kiseb l-awtorizzazzjoni billi ghamel dikjarazzjonijiet foloz jew b'xi mezzi ohra irregolari; jew

(e) ma jkunx ghadu jikkonforma aktar mal-kundizzjonijiet li tahtom tkun inghatat awtorizzazzjoni.

(3) Ordni taht is-subartikoli (1) u (2) li tkun tirrevoka awtorizzazzjoni hawn iżjed 'il quddiem imsejha "ordni ta' revoka" ghandha tispeçifika d-data meta din ghandha tibda ssehħ.

(4) Ordni ta' revoka jista' jkun fiha dawk id-disposizzjonijiet transitorji u pattijiet u kundizzjonijiet ohrain skond ma l-awtorità kompetenti tista' tikkunsidra li jkunu mehtiega jew spedjenti.

(5) Jekk tinhareg ordni ta' revoka, depożitarju ċentrali tat-titoli jkollu dritt ta' appell lit-Tribunal skond it-Taqsima VI.

Strumenti
finanzjarji
nominati.

28. (1) Minkejja d-disposizzjonijiet ta' kull liġi ohra, it-titolu ghal drittijiet u d-drittijiet ghar-rigward ta' strumenti finanzjarji nominati, li jkollhom ir-registru taghhom miżmum f'depożitarju ċentrali tat-titoli, jista' jiġi oriġinat u, jew trasferit bi tniżżil fir-registru miżmum f'depożitarju ċentrali tat-titoli u ebda strument bil-miktub m'ghandu jkun mehtieġ ghal dan l-ghan.

(2) Minkejja d-disposizzjonijiet ta' kull liġi ohra, it-titolu ghal drittijiet u d-drittijiet ghar-rigward ta' strumenti

finanzjarji nominati, li jkollhom ir-registru taghhom miżmum f' depożitarju ċentrali tat-titoli, jista' jinżamm jew jintwera f' forma demateralizzata jew mhux ċertifikata.

(3) Id-disposizzjonijiet ta' l-artikolu 1966 (3) u (4) tal-Kodiċi Ċivili m'għandhomx ikunu japplikaw għar-rigward ta' strumenti finanzjarji nominati u l-privileġġ imsemmi fit-Titolu XXI tat-Taqsima II tat-Tieni Ktieb tal-Kodiċi msemmi għandu jorigina meta r-raham ikun ġie reġistrat kif imiss ma' depożitarju ċentrali tat-titoli.

(4) *Record* awtentiku tal-membri u d-detenturi ta' strumenti finanzjarji u ta' operazzjonijiet u *holdings* ta' strument finanzjarju nominat jistgħu jinżammu, jiġu aġġornati u tingħata prova dwarhom minn depożitarju ċentrali tat-titoli li jkun awtorizzat kif imiss skond ma jinsab f'din it-Taqsima.

(5) Ir-registru u d-dokumenti miżmuma minn depożitarju ċentrali tat-titoli għar-rigward ta' strumenti finanzjarji nominati għandhom, bi hlas raġonevoli, ikunu disponibbli għall-ispezzjon ta' kull min irid skond ma jista' jiġi stabbilit b'regolamenti li għandhom jistabbilixxu liema *records* u reġistri li jkunu qegħdin jinżammu minn depożitarju ċentrali tat-titoli kienu se jkunu disponibbli għall-ispezzjon pubbliku u taht liema kundizzjonijiet.

Applikazzjoni ta' artikoli ohra.

29. Id-disposizzjonijiet ta' l-artikoli 4B, 6, 7, u 9 tat-Taqsima II ta' dan l-Att għandhom japplikaw *mutatis mutandis* għad-depożitarji ċentrali tat-titoli awtorizzati taht din it-Taqsima.

Setgħat tal-Ministru li jagħmel regolamenti.

30. (1) Il-Ministru, li jaġixxi bil-parir ta' l-awtorità kompetenti, jista' jagħmel regolamenti li jistabbilixxu:

(a) il-htigiet u l-kundizzjonijiet li għandhom ikunu sodisfatti minn persuna jekk din ikollha tippovdi s-servizzi ta' depożitarju ċentrali tat-titoli li għar-rigward tiegħu l-awtorità kompetenti tista' tohroġ awtorizzazzjoni taht dan l-Att;

(b) il-htigiet li depożitarju ċentrali tat-titoli għandu jkompli jissodisfa jekk dan għandu jibqa' jkun awtorizzat, inklużi l-ammont ta' hlasijiet li għandhom isiru lill-awtorità kompetenti;

(ċ) iċ-ċirkostanzi u l-mod li bihom l-awtorizzazzjoni jew il-htigiet u l-kundizzjonijiet li din tkun soġġetta għalihom jistgħu jkunu mibdula, sospizi jew revokati;

(d) htigiet dwar l-awtorizzazzjoni, l-operazzjoni, il-funzjonijiet, ir-regolamentazzjoni u s-sorveljanza ta' depożitarju ċentrali tat-titoli;

(e) htigiet għall-kreazzjoni, żamma jew wiri tat-titolu għal drittijiet u drittijiet għar-rigward ta' Strumenti Finanzjarji f'forma demateralizzata jew mhux ċertifikata;

(f) arrangamenti għall-investigazzjoni ta' ilmenti u, jew l-anjanzi dwar depożitarji ċentrali tat-titoli u r-rimedji fir-rigward tagħhom;

(g) arrangamenti biex jiġi aċċertat li jkun hemm konformità mid-depożitarji ċentrali tat-titoli u l-iskrutinju ta' regoli u htigiet ta' depożitarji ċentrali tat-titoli;

(h) eżenzjonijiet mill-htieġa għal awtorizzazzjoni li tista' tkun soġġetta għal dawk il-bidliet, żidiet, adattazzjonijiet u modifiki skond ma jista' jkun ordnat u li tista' tkun soġġetta għal dawk il-kundizzjonijiet jew htigiet oħra, inklużi forom oħra ta' awtorizzazzjoni u proċeduri ta' avviz;

(i) il-kategoriji jew klassijiet ta' l-istrumenti finanzjarji li, għall-fini ta' l-Att, jikkwalifikaw bħala strumenti finanzjarji nominati;

(j) li jkunu jordnaw kull haġa li tkun inċidentali għal, jew li jkollha x'taqsam ma' xi waħda mill-affarijiet hawn qabel imsemmija.

(2) Regolamenti magħmulin taht dan l-artikolu jistgħu jsiru bla hsara għal kull eżenzjoni jew kundizzjoni oħra skond ma tista' tiġi speċifikata fir-regolamenti, jistgħu jipprovdu b'mod differenti għal kategoriji jew klassijiet differenti ta' strumenti finanzjarji u għal ċirkostanzi jew għanijiet differenti.

vinkolanti fuq depożitarji ċentrali tat-titoli awtorizzati taht din it-Taqsima u fuq oħrajn skond ma jista' jkun speċifikat, u dawk ir-Regoli jistgħu jkunu mahruġa għar-rigward ta' kull haġa li tissemma f'din it-Taqsima, inklużi Regoli dwar regolamentazzjoni aħjar u biex tiġi żgurata konformità minn depożitarji ċentrali tat-titoli u l-uffiċjali tagħhom mal-htigiet u l-obbligi li joriġinaw taht dan l-Att jew regolamenti magħmulin tahtu.”.

- 37.** L-artikolu 32 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 32 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (i) tiegħu, minflok il-kliem “kull *exchange* ta' investiment rikonossut”, għandhom jidhlu l-kliem “kull suq regolat jew depożitarju ċentrali tat-titoli”;

(ii) fil-paragrafu (iii) tiegħu, minflok il-kliem “*exchange* ta' investimenti rikonossut jew lil xi persuna li hi jew kienet involuta fl-operat ta' *exchange* ta' investiment rikonossut”, għandhom jidhlu l-kliem “suq regolat jew depożitarju ċentrali tat-Titoli, jew lil xi persuna oħra li hi jew kienet involuta fl-operat ta' suq regolat jew depożitarju ċentrali tat-titoli”;

(iii) minnufih wara paragrafu (iv) tiegħu, għandhom jiżdiedu dawn il-paragrafi (v) u (vi) ġodda li ġejjin:

“(v) lil kull awditeur ta' suq regolat li jkun jidher li jkollu f'idejh informazzjoni rilevanti;

(vi) lil kull persuna oħra li jkun jidher li jkollha f'idejha informazzjoni rilevanti;”;

(iv) fil-paragrafu (a) tiegħu, minflok il-kliem “li tista' teħtieġ;”, għandhom jiżdiedu l-kliem “li tista' teħtieġ, inkluża s-setgħa li teħtieġ *records* tat-telefon eżistenti u tat-traffiku ta' data eżistenti;”;

(b) is-subartikoli (4) sa (8) tiegħu għandhom jithassru.

- 38.** L-artikolu 33 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 33 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “l-artikolu 32(1)(i) sa (iv) għandhom jidhlu l-kliem “l-artikolu 32(1)(i) sa (vi); Kap. 281.

(b) fil-paragrafu (b) tas-subartikolu (2) tiegħu, minflok il-kliem “lill-awtorità kompetenti bl-artikolu 32, inkluża s-setgħa li jagħmel rikors lill-Qorti ta’ l-Appell fiċ-ċirkostanzi deskritti fis-subartikolu (4), u kull”, għandhom jidhlu l-kliem “lill-awtorità kompetenti bl-artikolu 32, u kull”;

(ċ) is-subartikoli (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (5) u (6) rispettivament;

(d) minnufih wara s-subartikolu (3) tiegħu għandu jizjed dan is-subartikolu (4) ġdid li ġej:

“(4) Għall-finijiet ta’ dan l-artikolu l-ispetturi jistgħu jinkludu Avukat, persuna awtorizzata li teżerita l-professjoni ta’ *accountant* jew awditur skond l-Att dwar il-Professjoni ta’ l-Accountancy, jew persuna li tkun ikkunsidrata mill-awtorità kompetenti bhala li għandha maestrija adatta biex tkun tista’ teżerita dik il-funzjoni.”.

Żjieda ta’ l-artikolu 34A ġdid ma’ l-Att prinċipali.

39. Minnufih wara l-artikolu 34 ta’ l-Att prinċipali għandu jizjed dan l-artikolu ġdid li ġej:

“Obbligazzjoni li jiġu dikjarati l-motivi ta’ deċiżjonijiet.

34A. Kull deċiżjoni li tittiehed taht dan l-Att mill-awtorità kompetenti skond disposizzjonijiet li jittrasponu d-Direttiva, inklużi regolamenti, Regoli ta’ Swieq Finanzjarji jew disposizzjonijiet amministrattivi magħmulin tahtom dwar dik it-trasposizzjoni, għandhom jiddikjaraw xi jkunu l-motivi għal dik id-deċiżjoni.”.

Emenda ta’ l-artikolu 35 ta’ l-Att prinċipali.

40. L-artikolu 35 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “xi regoli jew *bye-laws*”, għandhom jidhlu l-kliem “xi *bye-laws*”; u

(b) minflok il-kliem “ir-regoli u *bye-laws*”, għandhom jidhlu l-kliem “il-*bye-laws*”.

Emenda ta’ l-artikolu 36 ta’ l-Att prinċipali.

41. L-artikolu 36 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok in-nota marginali għall-artikolu, għandhom jidhlu l-kliem “Rapport dwar abbuż fis-suq.”; u

(b) il-kliem “l-Exchange jew” għandhom jithassru.

Emenda ta’ l-artikolu 37 ta’ l-Att prinċipali.

42. L-artikolu 37 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali tiegħu, minflok il-kliem “Koperazzjoni ma’ l-awtorità regolatorja barranija.”, għandhom jidhlu l-kliem “Koperazzjoni ma’ l-awtoritajiet regolatorji Ewropej.”;

(b) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (11);

(c) subartikolu (2) tiegħu għandu jithassar u għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin kif ġej:

“(1) L-awtorità kompetenti għandha taġixxi bhala l-punt ta’ riferiment skond u għall-finijiet tas-subartikolu (1) ta’ l-artikolu 56 tad-Direttiva.

(2) L-awtorità kompetenti għandha tikkopera ma’ awtoritajiet regolatorji Ewropej oħra kull meta dan ikun mehtieg bil-ghan li twettaq dmirijietha taht id-Direttiva. Hija għandha tagħti l-ghajnuna mehtieġa lil awtoritajiet regolatorji Ewropej oħra, b’mod partikolari permezz ta’ l-iskambju ta’ informazzjoni u ta’ koperazzjoni f’kull funzjoni investigattiva jew ta’ sorveljanza. Skond id-Direttiva, l-awtorità kompetenti tista’ tuża s-setgħat tagħha għall-finijiet ta’ koperazzjoni anke f’kazijiet meta l-aġir taht investigazzjoni ma jkun jikkostitwixxi ksur ta’ xi disposizzjoni ta’ dan l-Att, ta’ xi regolament jew ta’ xi Regoli ta’ Swieq Finanzjarji mahruġin taħtha.

(3) Malli tiġi riċevuta talba minghand l-awtoritajiet regolatorji Ewropej nominati bhala punti ta’ riferiment fi hdan l-Istati Membri individwali jew fi Stati ŻEE taht is-subartikolu (1) ta’ l-artikolu 56 tad-Direttiva, l-awtorità kompetenti għandha minnufih tiegħu l-mizuri mehtieġa sabiex tiġbor l-informazzjoni mehtieġa biex ikunu jistgħu jwettqu dmirijiethom konformement mad-Direttiva. Jekk l-awtorità kompetenti ma tkunx tista’ ttiprovdi l-informazzjoni mehtieġa minnufih, din għandha tavża lill-awtorità regolatorja Ewropea bir-raġunijiet għal dan.

(4) Fil-waqt li l-informazzjoni tkun qegħda tiġi komunikata lill-awtoritajiet regolatorji Ewropej, sew jekk nominati bhala punti ta’ riferiment sew jekk ma jkunux, l-awtorità kompetenti tista’ tistipula li l-informazzjoni m’għandhiex tiġi żvelata jekk mhux bil-kunsens espress tagħha, f’liema każ dik l-informazzjoni tista’ tiġi skambjata

unikament għall-finijiet li dwarhom l-awtorità kompetenti tkun tat il-kunsens tagħha.

(5) Meta awtorità regolatorja Ewropea li tkun qeghda tiskambja informazzjoni ma' l-awtorità kompetenti tistipula fil-waqt li tkun qeghda tikkomunika dik l-informazzjoni li dik l-informazzjoni m'għandhiex tiġi żvelata jekk mhux bil-kunsens espress tagħha, dik l-informazzjoni tista' tiġi użata mill-awtorità kompetenti unikament għall-finijiet li dwarhom l-awtorità regolatorja Ewropea kienet tkun tat il-kunsens tagħha.

(6) Dik l-informazzjoni li tkun giet riċevuta mill-awtorità kompetenti minn punti ta' riferiment fl-Istati Membri l-oħra jew fi Stati ŻEE tista' tiġi trasmessa lil korpi jew lil persuni naturali jew legali oħra, sakemm:

(a) jinkiseb il-kunsens espress tal-punti ta' riferiment li żvelaw l-informazzjoni; u

(b) l-informazzjoni tiġi użata unikament għall-finijiet li dwarhom il-punti ta' riferiment ikunu taw il-kunsens tagħhom:

Iżda wkoll f'dawk iċ-ċirkostanzi li jkunu ġustifikati kif imiss l-awtorità kompetenti tista' tittrasmetti informazzjoni lil korpi jew lil persuni naturali jew legali oħra mingħajr ma tissodisfa l-kundizzjonijiet li jinsabu fil-paragrafi (a) u (b) ta' dan is-subartikolu, f'liema każ l-awtorità kompetenti għandha minnufih tinforma lill-punt ta' riferiment li tkun bagħtet l-informazzjoni.

(7) Meta l-awtorità kompetenti tirċievi informazzjoni kunfidenzjali minn punti ta' riferiment fl-Istati Membri l-oħra jew fi Stati ŻEE jew minn awtoritajiet regolatorji barranin taht l-artikolu 37C ta' dan l-Att, jew meta korpi jew persuni naturali jew legali oħra jirċievu informazzjoni kunfidenzjali mingħand l-awtorità kompetenti, dawn jistgħu biss jużaw dik l-informazzjoni kunfidenzjali fil-kors ta' tal-qadi ta' dmirijiethom, b'mod partikolari:

(a) li jissorveljaw il-funzjonament adatt ta' lokalitajiet tan-negozju fil-kuntest tat-tifsir tad-Direttiva;

(b) li jimponu penali jew jadottaw miżuri amministrattivi ohra u li jikkunsidraw dawk l-ilmenti li jasluhom dwarhom;

(c) f'appelli taht l-artikolu 42 ta' dan l-Att; jew

(d) biex jinvestigaw ilmenti li jkunu rċevew minghand il-konsumaturi skond l-artikolu 20 ta' l-Att dwar l-Awtorità ghas-Servizzi Finanzjarji ta' Malta.

(8) Minghajr ebda preġudizzju ghas-setgħat ta' l-awtorità kompetenti taht dan l-Att jew kull liġi ohra, meta l-awtorità kompetenti jkollha tassew ghaliex tissuspetta li attijiet li jmorru kontra d-disposizzjonijiet tad-Direttiva jkunu qegħdin jitwettqu jew ikunu ġew imwettqa fit-territorju ta' xi Stat Membru iehor jew Stat ŻEE minn entijiet li ma jkunux soġġetti ghas-sorveljanza tagħha, hija għandha tavża b'dan b'mod kemm jista' jkun speċifiku lill-punt ta' riferiment fl-Istat Membru l-iehor jew Stat ŻEE.

(9) Meta l-informazzjoni li l-awtorità kompetenti jkollha fil-pussess tagħha tkun originat minn awtorità regolatorja Ewropea jew minn awtorità regolatorja barranija, din ma tistax tiġi żvelata lil awtorità regolatorja Ewropea jew lil terzi ohra minghajr il-kunsens espress ta' l-awtorità regolatorja Ewropea jew ta' l-awtorità regolatorja barranija li tkun ittrasmettietha u, meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità tkun tat il-kunsens tagħha.

(10) Meta awtorità regolatorja Ewropea tissuspetta li attijiet imwettqin minn entijiet li ma jkunux soġġetti ghas-sorveljanza tagħha u li jkunu jmorru kontra d-disposizzjonijiet tad-Direttiva ikunu qegħdin jitwettqu jew ikunu twettqu f'Malta u tavża lill-awtorità kompetenti b'dan, l-awtorità kompetenti għandha tiehu kull azzjoni li tkun adatta. L-awtorità kompetenti għandha tinforma lill-awtorità regolatorja Ewropea li tkun qegħda tavża bl-eżitu ta' kull tali azzjoni u, sakemm ikun possibbli, bl-iżviluppi sinifikanti li jsehhu fil-frattemp:

Iżda kull tali azzjoni li tittiehed mill-awtorità kompetenti għandha tkun minghajr ebda preġudizzju ghas-setgħat u l-funzjonijiet ta' l-awtorità regolatorja Ewropea li tkun tat l-informazzjoni.”;

(d) is-subartikolu (11) kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(i) minflok il-kliem “awtorità regolatorja barranija” ghandhom jidhlu l-kliem “awtorità regolatorja Ewropea”;

(ii) il-paragrafu (ċ) tiegħu ghandu jiġi enumerat mill-ġdid bhala l-paragrafu (e);

(iii) minnufih wara l-paragrafu (b) tiegħu ghandhom jiżdiedu dawn il-paragrafi ġodda li ġejjin:

“(ċ) kull setgħa li jinharġu direttivi taht l-artikolu 5;

(d) kull setgħa għal dhul taht l-artikolu 34;”;

(iv) fil-paragrafu (e) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “l-awtorità regolatorja barranija informazzjoni” ghandhom jidhlu l-kliem “l-awtorità regolatorja Ewropea informazzjoni”.

Żjeda ta' l-artikoli
ġodda 37A, 37B u
37C ma' l-Att
prinċipali.

43. Minnufih wara l-artikolu 37 ta' l-Att prinċipali ghandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

“Koperazzjoni
fil-
funzjonijiet
ta'
sorveljanza,
verifiki jew
investigazzjo-
nijiet li jsiru
fuq il-post.

37A. (1) L-awtorità kompetenti tista' titlob għall-koperazzjoni ta' l-awtorità regolatorja Ewropea għar-rigward tal-funzjonijiet ta' sorveljanza jew dwar verifiki jew investigazzjonijiet li jsiru fuq il-post, u awtorità regolatorja Ewropea tista' bl-istess mod titlob għall-koperazzjoni ta' l-awtorità kompetenti fit-twettiq tal-funzjonijiet ta' sorveljanza li għandha jew fil-verifiki jew investigazzjonijiet tagħha.

(2) Fl-eżerizzju ta' dik il-koperazzjoni bejn l-awtorità kompetenti u l-awtoritajiet regolatorji Ewropej id-disposizzjonijiet ta' l-artikolu 17A ta' l-Att dwar Servizzi ta' Investiment ghandhom japplikaw *mutatis mutandis*.

Meta xi hadd
jonqos milli
jikkopera.

37B. L-awtorità kompetenti tista' tirrifjuta milli taġixxi meta tirċievi talba għal koperazzjoni fit-twettiq ta' funzjonijiet ta' sorveljanza, verifiki jew investigazzjonijiet li jsiru fuq il-post skond l-artikolu 37A jew ta' skambju ta' informazzjoni ma' l-awtoritajiet regolatorji Ewropej nominati bhala punti ta' riferiment taht l-artikolu 56(1) tad-Direttiva, fiċ-ċirkostanzi stabbiliti fl-artikolu 17B ta' l-Att dwar Servizzi ta' Investiment.

Koperazzjoni
ma'
awtoritajiet
regolatorji
barranin.

37C. (1) Pattijiet ta' koperazzjoni ma' awtoritajiet regolatorji barranin jew awtoritajiet ohra, korpi u persuni naturali jew legali f'pajjiż li ma jkunx Stat Membru jew Stat ŻEE jistgħu jsiru biss jekk l-informazzjoni żvelata tkun soġġetta għal garanziji ta' segretezza professjonali li jkunu għall-inqas ekwivalenti għal dawk mehtieġa taht l-artikolu 38 ta' dan l-Att. Dak l-iskambju ta' informazzjoni għandu jkun intiż għat-twettiq tal-funzjonijiet ta' dawk l-awtoritajiet regolatorji barranin jew awtoritajiet ohra, korpi u persuni naturali jew legali:

Iżda t-trasferiment ta' *data* personali lejn pajjiżi li m'humiex Stati Membri jew lejn Stati ŻEE għandu jsir skond id-disposizzjonijiet tal-Kapitlu IV tad-Direttiva 95/46/KE tal-Parlament Ewropew u tal-Kunsill ta' l-24 ta' Ottubru 1995 fuq il-protezzjoni ta' individwi dwar l-ipproċessar ta' data personali u fuq il-moviment liberu ta' dik id-data.

(2) Fl-ghemil ta' pattijiet ta' koperazzjoni li jipprovdu dwar l-iskambju ta' informazzjoni ma' awtoritajiet regolatorji barranin, ma' awtoritajiet ohra jew ma' korpi u persuni naturali jew legali f'pajjiżi li m'humiex Stati Membri jew Stati ŻEE, id-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 17D ta' l-Att dwar Servizzi ta' Investiment għandhom japplikaw *mutatis mutandis*.

(3) Meta l-informazzjoni li l-awtorità kompetenti jkollha fil-pussess tagħha tkun oriġinat minn awtorità regolatorja Ewropea jew minn awtorità regolatorja barranija, din ma tistax tiġi żvelata lill-awtorità regolatorja barranija jew lil terzi ohra mingħajr il-kunsens espress ta' l-awtorità regolatorja Ewropea jew ta' l-awtorità regolatorja barranija li tkun ittrasmettietha u, meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità tkun tat il-kunsens tagħha.

(4) Mingħajr ebda preġudizzju għad-disposizzjonijiet preċedenti ta' dan l-artikolu, fuq talba ta' l-awtorità regolatorja barranija jew għall-finijiet li din tiġi assistita, l-awtorità kompetenti tista' teżercita s-setgħat elenkati fis-subartikolu (11) ta' l-artikolu 37 ta' l-Att dwar Servizzi ta' Investiment, u għall-finijiet ta' dan is-subartikolu l-kliem "l-awtorità regolatorja Ewropea" għandhom jinftiehemu bhala "l-awtorità regolatorja barranija."

44. Minflok l-artikolu 38 ta' l-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 38 ta' l-Att prinċipali.

“(1) Swieq regolati, depożitarji ċentrali tat-titoli, l-Awtorità dwar l-Elenku, l-awtorità kompetenti, il-membri rispettivi, uffiċjali, impjegati jew aġenti tagħhom, kif ukoll l-awdituri, spetturi u esperti, skond il-każ, imqabba skond u għall-finijiet ta’ xi wahda mid-disposizzjonijiet ta’ dan l-Att –

(a) għandhom jittrattaw kull dokument u informazzjoni oħra li jkollhom x’jaqsmu mas-suq regolat rilevanti jew ma’ negozju li jsir miegħu jew fih, jew xort’oħra miksubin għall-finijiet, jew konformement, ma’ xi disposizzjoni ta’ dan l-Att jew ta’ regolamenti magħmulin tahtu u li ma jkunux għadhom ġew uffiċjalment imhabbra, bhala li huma ta’ xorta kunfidenzjali u li jinsabu protetti bid-dmir ta’ segretezza professjonali, u m’għandhom jiżvelaw dawn l-affarijiet lil hadd;

(b) huma projbiti milli jużaw dawk id-dokumenti u dik l-informazzjoni u dawk l-affarijiet l-oħra kollha li huma ta’ xorta kunfidenzjali u li jinsabu protetti bid-dmir ta’ segretezza professjonali u li jsiru jafu bihom minhabba fil-posizzjoni li jkunu jokkupaw, sabiex jassikuraw xi vantaġġ għalihom infushom jew għal terzi sew jekk dawk it-terzi jkunu jew ma jkunux konnessi mas-suq ta’ strumenti finanzjarji.

(2) L-artikolu 26 ta’ l-Att dwar Servizzi ta’ Investiment għandhom japplikaw *mutatis mutandis* għal swieq regolati, l-Awtorità dwar l-Elenku, l-awtorità kompetenti, il-membri rispettivi, uffiċjali, impjegati jew aġenti tagħhom, kif ukoll l-awdituri, spetturi u esperti mqabba għall-finijiet ta’ xi wahda mid-disposizzjonijiet ta’ dan l-Att, li jkunu marbuta bl-obbligazzjoni ta’ kunfidenzjalità skond is-subartikolu (1) ta’ dan l-artikolu.

(3) Persuna li taġixxi bi ksur ta’ dan l-artikolu tkun, mingħajr preġudizzju għad-disposizzjonijiet ta’ l-Att dwar il-Prevenzjoni ta’ Abbuż fis-Swieq Finanzjarji, hatja ta’ reat kontra dan l-Att, u tista’ meta tinstab hatja tehel multa ta’ hamest elef lira jew żmien ta’ prigunerija ta’ mhux iżjed minn sentejn jew dik il-multu u prigunerija flimkien.

(4) Persuna li ma tkunx wahda minn dawk imsemmija fis-subartikoli (1) u (2) li tikseb xi dokumenti jew kull informazzjoni oħra li dawk is-subartikoli jirrigwardaw u li tuża dawk id-dokumenti jew informazzjoni, bil-ħsieb li tassikura vantaġġ kemm għaliha nnifisha kemm għal xi persuna oħra, tkun, mingħajr ebda preġudizzju għall-Att dwar il-Prevenzjoni ta’ Abbuż fis-Swieq Finanzjarji, hatja ta’ reat kontra dan l-Att u tista’ meta tinsab hatja

tehel l-istess penali li hemm stabbiliti ghal reat kontra d-disposizzjonijiet ta' dan l-artikolu.”.

45. L-artikolu 39 ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 39 ta' l-Att prinċipali.

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

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “jew ta' xi regoli jew *bye-laws* ta' *exchange* ta' investimenti rikonoxxut, jew li tikser jew tonqos li thares xi obbligu, hteġa, direttiva jew ordni magħmula jew mogħtija taht xi wahda mid-disposizzjonijiet ta' dan l-Att, tar-regolamenti magħmula bis-sahha tiegħu jew tar-regoli jew *bye-laws* ta' *exchange* ta' investimenti rikonoxxut;”, għandhom jidhlu l-kliem “jew ta' xi *bye-laws* ta' suq regolat jew li tikser jew tonqos li thares xi obbligu, hteġa, Regola ta' Suq Finanzjarju, Regola dwar l-Elenku, direttiva jew ordni magħmula jew mogħtija taht xi wahda mid-disposizzjonijiet ta' dan l-Att, taht regolamenti magħmula bis-sahha tiegħu jew taht *bye-laws* ta' suq regolat;”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “hteġa, direttiva, jew ordni”, għandhom jidhlu l-kliem “hteġa, direttiva, Regola ta' Suq Finanzjarju, Regola dwar l-Elenku jew ordni”;

(b) fil-paragrafu (a) tas-subartikolu (2) tiegħu minflok il-kliem “ir-regoli ta' *exchange* ta' investimenti rikonoxxut jew xi obbligu, hteġa, direttiva, jew ordni magħmula jew mogħtija taht xi wahda mid-disposizzjonijiet ta' l-Att jew taht ir-regoli jew *bye-laws* ta' *exchange* ta' investimenti rikonoxxut;”, għandhom jidhlu l-kliem “tal-*bye-laws* ta' suq regolat jew xi obbligu, hteġa, Regola ta' Suq Finanzjarju, Regola dwar l-Elenku, direttiva jew ordni magħmula jew mogħtija taht xi wahda mid-disposizzjonijiet ta' dan l-Att jew taht *bye-laws* ta' suq regolat;”;

(ċ) fil-paragrafu (a) tas-subartikolu (3) tiegħu, minflok il-kliem “tar-regoli jew *bye-laws* ta' *exchange* ta' investimenti rikonoxxut jew xi obbligu, hteġa, direttiva, jew ordni magħmula jew mogħtija taht xi wahda mid-disposizzjonijiet ta' dan l-Att, tar-regolamenti magħmula bis-sahha tiegħu jew tar-regoli jew *bye-laws* ta' *exchange* ta' investimenti rikonoxxut;”, għandhom jidhlu l-kliem “tal-*bye-laws* ta' suq regolat jew xi obbligu, hteġa, Regola ta' Suq Finanzjarju, Regola dwar l-Elenku, direttiva jew ordni magħmula jew mogħtija taht xi wahda mid-disposizzjonijiet ta' dan l-Att, taht ir-regolamenti magħmulin tahtu jew taht *bye-laws* ta' suq regolat”; .

Żjieda ta' l-artikolu 39A ġdid ma' l-Att prinċipali.

46. Minnufih wara l-artikolu 39 ta' l-Att prinċipali ghandu jiżded dan l-artikolu ġdid li ġej:

“Pieni amministrattivi.

39A. (1) Meta persuna tikser jew tonqos milli tikkonforma ruħha ma' xi disposizzjoni ta' dan l-Att, li ma tkunx it-Taqsima III tiegħu, inkluż meta tali persuna tonqos milli tikkopera f'investigazzjoni, jew ta' xi regolamenti, Regoli ta' Swieq Finanzjarji magħmulin tahtu adottati fl-implimentazzjoni tad-Direttiva, l-awtorità kompetenti tista' b'avviż bil-miktub u mingħajr il-htieġa ta' smigh fil-qorti timponi fuq kull tali persuna jew persuni, skond il-każ, penali amministrattiva li ma tkunx ta' iżjed minn erbgħin elf lira.

(2) L-awtorità kompetenti tista' tiżvela pubblikament kull penali imposta taht is-subartikolu li jiġi minnufih qabel dan:

Iżda l-awtorità kompetenti għandha żżomm lura minn dik il-pubblikazzjoni meta hija tikkunsidra li dak l-iżvelar ikun ser jipperikola gravement lis-swieq finanzjarji jew jikkaġuna dannu sproporzjonat għall-partijiet involuti.

(3) Dawk il-persuni li jiġi notifikat avviż lilhom taht is-subartikolu (1) ta' dan l-artikolu għandu jkollhom dritt ta' appell quddiem it-Tribunal skond l-artikolu 43 ta' dan l-Att.

(4) Meta avviż bħal dak imsemmi fis-subartikolu (1) ta' dan l-artikolu ma jkunx sar appell minnu, jew meta dak l-avviż ikun sar appell minnu, fi żmien hmistax-il ġurnata minn meta jiġi deċiż mit-Tribunal dak l-appell, il-penali amministrattiva msemmija fl-avviż jew kif imnaqqsa jew miżjuda b'deċiżjoni tat-Tribunal għandha tkun dovuta lill-awtorità kompetenti. Malli tiġi notifikata kopja ta' l-avviż tad-deċiżjoni skond il-każ, permezz ta' att ġudizzjarju lill-persuna indikata fl-avviż jew fid-deċiżjoni, dak l-avviż jew dik id-deċiżjoni jkunu jikkostitwixxu titolu eżekuttiv għall-effetti u l-finijiet kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.”.

Emenda ta' l-artikolu 40 ta' l-Att prinċipali.

47. L-artikolu 40 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “ordni, direttiva, regola jew regolamenti”, għandhom jidhlu l-kliem “ordni, direttiva, Regola ta' Suq Finanzjarju, Regola dwar l-Elenku jew regolamenti”;

(b) minflok is-subartikolu (2) tieghu ghandu jidhol dan li ġej:

“(2) Persuna li xjentement jew bi traskuraġni taghti lill-awtorità kompetenti, lil xi persuna mahtura minnha taht l-artikolu 32(1)(ċ) jew lil xi spettur mahtur taht l-artikolu 33, informazzjoni li tkun falza jew qarrieqa tkun hatja ta’ reat.”;

(ċ) minflok is-subartikolu (3) tieghu ghandu jidhol dan li ġej:

“(3) Persuna li tneħhi, tiddistruġgi, tikxef jew b’qerq tibdel xi ktieb, dokument jew karta ohra, inkluża informazzjoni li tinhażen f’format elettroniku, li jkunu jew x’aktarx ikunu rilevanti għal talba għal informazzjoni jew dokumentazzjoni jew ispezzjon jew investigazzjoni skond dan l-Att, tkun hatja ta’ reat.”; u

(d) fis-subartikolu (4) tieghu, minflok il-kliem “bil-hsieb tfixkel”, ghandhom jidhlu l-kliem “tfixkel”.

48. Minnufih wara l-artikolu 41 ta’ l-Att prinċipali ghandu jiżdied dan l-artikolu 41A ġdid li ġej:

Żjieda ta’ l-artikolu 41A ġdid.

“Hruġ ta’ dikjarazzjoni pubblika.

41A. Jekk l-awtorità kompetenti jew l-Awtorità dwar l-Elenku jkun jidhrilha li persuna tkun kisret xi wahda mid-disposizzjonijiet ta’ dan l-Att jew ta’ regolamenti magħmulin taht dan l-Att jew li tkun kisret jew naqset milli tikkonforma ruhha ma’ xi kundizzjoni, obbligu, hteġa, Regoli ta’ Swieq Finanzjarji, Regoli għall-Elenku jew direttivi magħmulin jew mogħtijin taht xi wahda mid-disposizzjonijiet ta’ dan l-Att, l-awtorità kompetenti jew l-Awtorità dwar l-Elenku, skond il-każ, tista’ tippubblika dikjarazzjoni li tkun tghid dan.”;

49. L-artikolu 42 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 42 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tieghu, minflok il-kliem “l-artikoli 4(10), 16(7), 17(3), 18(6), 20(6) u 33(5)” ghandhom jidhlu l-kliem “l-artikoli 4(11), 16(9), 17(3), 18(6), 20(4), 25(5), 27(5), 33(6) u 39A”; u

(b) fis-subartikolu (2) tieghu, il-kliem “minn deċiżjoni tal-Kunsill tal-Borża ta’ Malta taht paragrafi 5(1), 6(1) u 6(2) ta’ l-Istatut kif ukoll” ghandha tithassar.

Emenda ta' l-artikolu 43 ta' l-Att prinċipali.

50. L-artikolu 43 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

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

(i) minflok il-paragrafu (a) tiegħu għandu jidhol dan li ġej:

“(a) li l-awtorità kompetenti, l-Awtorità dwar l-Elenku jew is-suq regolat involut, skond il-każ, ikun applika hażin xi wahda mid-disposizzjonijiet ta' dan l-Att, tar-regolamenti magħmula bis-saħħa tiegħu, jew tal-*bye-laws* tas-suq regolat involut; jew

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “l-Awtorità dwar l-Elenku, tal-Borża jew ta' l-*exchange* ta' investimenti rikonoxxut konċernat,” għandhom jidhlu l-kliem “l-Awtorità dwar l-Elenku jew is-suq regolat involut,”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “minn:

(a) id-deċiżjoni li xi strumenti finanzjarji ma jibqgħux elenkati kif imsemmi fl-artikolu 18(5); u

(b) deċiżjoni li tkun pubblikata dikjarazzjoni ta' ċensura taht l-artikolu 20:

Izda deċiżjoni fuq kull wahda mill-hwejjeġ imsemmija fil-paragrafi (a) u (b) għandu jkollha effett”, għandhom jidhlu l-kliem “minn deċiżjoni li strumenti finanzjarji kif imsemmi fl-artikolu 18 (5) f'liema każ id-deċiżjoni għandu jkollha effett”.

Sostituzzjoni ta' l-artikolu 44 ta' l-Att prinċipali.

51. Minflok l-artikolu 44 ta' l-Att prinċipali għandu jidhol dan li ġej:

“Applikabilità ta' l-artikolu 21 ta' l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta.

44. Bla ħsara ta' l-artikolu 43 ta' dan l-Att, id-disposizzjonijiet ta' l-artikolu 21 ta' l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw *mutatis mutandis* għal appelli li jistgħu jingiebu quddiem it-Tribunal taht dan l-artikolu.”.

Sostituzzjoni ta' l-artikolu 45 ta' l-Att prinċipali.

52. Minflok l-artikolu 45 ta' l-Att prinċipali għandu jidhol dan li ġej:

“Negozju barra mis-swieq regolati.

45. (1) Strumenti finanzjarji kwotati jistghu jiġu negozjati barra mis-suq regolat meta dawn ikunu kwotati.

(2) Il-Ministru jista' jagħmel regolamenti biex jistabbilixxi kundizzjonijiet u proċeduri li taħthom strumenti finanzjarji kwotati jistghu jiġu negozjati barra mis-swieq regolati meta dawk l-istrumenti finanzjarji kwotati jkunu elenkati u mhux permezz ta' faċilitajiet li jiġu provduti minn xi swieq regolati bħal dawk.”.

53. Fl-artikolu 47 ta' l-Att prinċipali, minflok il-kliem “mal-Borża”, għandhom jidhlu l-kliem “ma' suq regolat”.

Emenda ta' l-artikolu 47 ta' l-Att prinċipali.

54. L-artikolu 49 ta' l-Att prinċipali għandu jiġi emendat kif ġej:—

Emenda ta' l-artikolu 49 ta' l-Att prinċipali.

(a) l-imsemmi artikolu 49 għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) ta' l-artikolu 49;

(b) is-subartikolu (1) kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem ‘ta’ *exchanges* ta’ investiment rikonoxxut għandhom jidhlu l-kliem ‘ta’ swieq regolati u depożitarji ċentrali tat-titoli’;

(ii) fil-paragrafu (ċ) tiegħu, il-kliem “barra mill-borża,” għandhom jithassru;

(iii) fil-paragrafu (d) tiegħu, minflok il-kliem “li Malta tkun parti fih.”, għandhom jidhlu l-kliem “li Malta tkun parti fih;”;

(iv) minnufih wara l-paragrafu (d) tiegħu, għandu jżidied dan il-paragrafu (e) ġdid li ġej:

“(e) sabiex jittrasponu, jimplimentaw u jagħtu sehh lid-disposizzjonijiet u l-htigiet tad-Direttiva, skond ma dawn jistghu jiġu emendati minn żmien għal żmien, inkluża kull miżura ta’ implimentazzjoni li tkun ġiet mahruġa jew li tista’ tinhareġ taħtha.”;

(ċ) minnufih wara s-subartikolu (1) kif enumerat mill-ġdid, għandhom jżidiedu dawn is-subartikoli godda li ġejjin:

“(2) Regolamenti magħmulin taħt dan l-artikolu, jistghu jsiru bla hsara għal dawk l-eżenzjonijiet jew

kundizzjonijiet li jistgħu jiġu speċifikati fihom, jistgħu jagħmlu provvedimenti differenti għal każijiet, ċirkostanzi jew finijiet differenti u jistgħu jagħtu lill-awtorità kompetenti dawk is-setgħat ta' adattament tar-regolamenti skond ma jista' wkoll jiġi hekk speċifikat.

(3) Meta jkunu nharġu regolamenti skond dan l-artikolu, l-awtorità kompetenti tista' tohroġ Regoli ta' Swieq Finanzjarji fil-kuntest tat-tifsir ta' l-artikolu 4 ta' dan l-Att sabiex ikunu jistgħu jitwettqu bl-aħjar mod u jiġu implimentati d-disposizzjonijiet tar-regolamenti.”.

Emenda ta' l-artikolu 50 ta' l-Att prinċipali.

55. Minflok l-artikolu 50 ta' l-Att prinċipali għandu jidhol dan li ġej:

“50. Minkejja kull haġa li tinsab fl-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti jew f'kull Att ieħor li jissostitwixxi dak l-Att, ebda taxxa ma għandha tithallas bis-saħħa ta' dak l-Att dwar kull trasferiment ta' xi strumenti finanzjarji ta' kumpannija kwotata, jew it-trasferiment ta' xi strumenti finanzjarji tal-Gvern jew ta' xi enti morali stabbilit bil-liġi, meta dak it-trasferiment isir jew fuq suq regolat jew barra mis-suq regolat meta dawn ikunu kwotati skond l-artikolu 45.”.

Emenda ta' l-artikolu 51 ta' l-Att prinċipali.

56. L-artikolu 51 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “taht l-artikolu 33(4)”, għandhom jidhlu l-kliem “taht l-artikolu 33(5)”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “skond l-artikolu 33(4)”, għandhom jidhlu l-kliem “skond l-artikolu 33(5)”.

Emenda ta' l-artikolu 52 ta' l-Att prinċipali.

57. Fl-artikolu 52 ta' l-Att prinċipali, minflok il-kliem “jew ta' xi regoli jew regolamenti magħmula bis-saħħa tiegħu” għandhom jidhlu l-kliem “jew ta' xi regolamenti jew Regoli ta' Swieq Finanzjarji jew Regoli għall-Elenku magħmulin tahtu”.

Żjieda ta' l-artikolu 53 ġdid ma' l-Att prinċipali.

58. Minnufih wara l-artikolu 52 ta' l-Att prinċipali, għandu jżjed dan l-artikolu 53 ġdid li ġej:

“Għan.

53. L-għan ta' dan l-Att hu sabiex jirregola swieq regolati, depożitarji ċentrali tat-titoli, u biex jipprovdri għal negozju ordnat f'titoli trasferibbli u għal affarijiet anċillari jew inċidentali għalihom jew li għandhom x'jaqsmu ma' dan, u sabiex jimplementa d-disposizzjonijiet rilevanti tad-Direttiva li għandhom jiġu interpretati u applikati skond hekk.”.

59. L-Iskeda li tinsab ma' l-Att prinċipali ghandha tiġi mhassra. Thassir ta' l-Iskeda li tinsab ma' l-Att prinċipali.

TAQSIMA III

60. (1) Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa waħda ma' l-Att dwar Servizzi ta' Investment, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali". Emenda ta' l-Att dwar Servizzi ta' Investment, Kap. 370.

(2) Id-disposizzjonijiet ta' din it-Taqsima ghandhom jidhlu fis-seħh fl-1 ta' Novembru, 2007.

61. L-artikolu 2 ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

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

(i) minnufih wara t-tifsira "kapital azzjonarju kwalifikanti" ghandha tizzied din it-tifsira ġdida li ġejja:

“ “il-Komunità” tfisser il-Komunità Ewropea mwaqqfa bit-Trattat ta' Ruma fl-1957 u emendat istituzzjonalment u xort'ohra fl-1986 bl-Att Uniku Ewropew, fl-1993 bit-Trattat dwar l-Unjoni Ewropea, fl-1997 bit-Trattat ta' Amsterdam u fl-2001 bit-Trattat ta' Nizza, u kif emendat b'kull ftehim ta' adeżjoni u skond ma jista' jiġi aktar emendat minn żmien għal żmien;”;

(ii) fit-tifsira “awtorità kompetenti”, minflok il-kliem “skond l-artikolu 2A;” ghandhom jidhlu l-kliem “skond l-artikolu 2A, liema korp ghandu wkoll iwettaq id-dmirijiet ta' awtorità kompetenti għall-finijiet tad-Direttiva;”;

(iii) minnufih wara t-tifsira “detentur ta' licenza” ghandha tizzied din it-tifsira ġdida li ġejja:

“ “Direttiva” tfisser Direttiva 2004/39/KE tal-Parlament Ewropew u tal-Kunsill tal-21 ta' April 2004 dwar swieq ta' strumenti finanzjarji li jemendaw Direttivi tal-Kunsill 85/611/KEE u 93/6/KEE u Direttiva 2000/12/KE tal-Parlament Ewropew u tal-Kunsill u li thassar Direttiva tal-Kunsill 93/22/KEE, kif emendata minn żmien għal żmien, u tinkludi kull miżura ta'

implimentazzjoni li tkun ġiet mahruġa jew li tista' tinhareġ taħtha;

(iv) (a) minnufih wara t-tifsira “ “skema ta' investment kollettiv” għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Stat ŻEE” tfisser Stat li jkun parti kontraenti fil-ftehim dwar iż-Żona Ekonomika Ewropea iffirmit f'Oporto fit-2 ta' Mejju, 1992 kif emendat bil-Protokoll iffirmit fi Brussel fis-17 ta' Marzu, 1993 u kif emendat b'attijiet sussegwenti;”;

(b) minnufih wara t-tifsira “awtorità regolatorja estera” għandha tiżdied din it-tifsira ġdida li ġejja:

“ “awtorità regolatorja Ewropea” tfisser il-korp jew korpi nominati minn Stat Membru jew Stat ŻEE skond l-Artikolu 48 tad-Direttiva biex iwettaq kull wiehed mid-dmirijiet li hemm provdut dwarhom taħt id-disposizzjonijiet differenti tad-Direttiva;”;

(v) minnufih wara t-tifsira “reklam ta' investment” għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Regoli ta' Servizzi ta' Investment” tirreferi għar-Regoli mahruġa mill-awtorità kompetenti taħt diversi artikoli ta' dan l-Att;”;

(vi) minnufih qabel it-tifsira ġdida “Stat ŻEE” għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Stat Membru” tfisser Stat Membru tal-Komunitajiet Ewropej;”;

(vii) minflok it-tifsira “awtorità regolatorja estera” għandu jidhol dan li ġej:

“ “awtorità regolatorja estera” tfisser awtorità f'pajjiż jew territorju barra minn Malta li ma jkunx Stat Membru jew Stat ŻEE li teżerita funzjoni regolatorja jew ta' sorveljanza għar-rigward ta' servizzi finanzjarji li jikkorrispondu għal funzjoni ta' l-awtorità kompetenti kif imfissra fl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;”;

(viii) fit-tifsira “preskritt” minflok il-kliem “preskritt b’reboli jew b’regolamenti” ghandhom jidhlu l-kliem “preskritt b’regolamenti”;

(ix) fit-tifsira “*exchange* ta’ investimenti rikonoxxut”, minflok il-kliem “*exchange* ta’ investimenti rikonoxxut”, ghandhom jidhlu l-kliem “suq regolat”;

(b) minnufih wara s-subartikolu (2) tieghu ghandu jizdied dan is-subartikolu (3) ġdid li ġej:

“(3) L-ghan ta’ dan l-Att hu, f’parti minnu, sabiex jittrasponi u jimplementa d-disposizzjonijiet tad-Direttiva, u konsegwentement dan l-Att u r-regolamenti adottati tahtu ghandhom jiġu interpretati u applikati skond hekk.”.

62. L-artikolu 6 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 6 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tieghu:

(i) il-paragrafu (a) ghandu jiġi enumerat mill-ġdid bhala l-paragrafu (a)(i);

(ii) fil-paragrafu (a)(i) kif enumerat mill-ġdid, minflok il-kliem “josserva kull regoli u regolamenti magħmula taht dan l-Att” ghandhom jidhlu l-kliem “josserva kull Regola ta’ Servizzi ta’ Investiment u regolamenti magħmulin taht dan l-Att”;

(iii) minnufih wara l-paragrafu (a)(i) kif enumerat mill-ġdid, ghandu jizdied dan il-paragrafu (a)(ii) ġdid li ġej:

“(ii) taghti liċenzja ta’ servizzi ta’ investiment:

(a) meta l-applikant ikun korp magħqud, kemm-il darba dan ma jkollux l-uffiċċju prinċipali u l-uffiċċju registrat tieghu f’Malta;

(b) meta l-applikant ikun korp magħqud li ma jkollu ebda uffiċċju registrat taht il-liġi nazzjonali tieghu, kemm-il darba dan ikollu l-uffiċċju prinċipali tieghu f’Malta; jew

(ċ) meta l-applikant ma jkunx korp magħqud kemm-il darba l-uffiċċju prinċipali ta’ l-applikant ma jkunx f’Malta; ”;

(iv) il-paragrafu (b) tiegħu għandu jiġi emendat kif ġej:

(a) minflok il-kliem “ma’ kull regoli u regolamenti magħmula taht dan l-Att” għandhom jidhlu l-kliem “ma’ kull Regoli ta’ Servizzi ta’ Investiment u regolamenti magħmulin taht dan l-Att”;

(b) minflok il-kliem “dwar l-iskema.”, għandhom jidhlu l-kliem “dwar l-iskema.”; u

(v) minnufih wara l-paragrafu (b) għandu jżidied dan il-paragrafu (ċ) ġdid li ġej:

“(ċ) tagħti liċenza lill-applikant kemm-il darba ma jkunux ġew konsultati l-awtoritajiet regolatorji Ewropej rilevanti fil-każijiet imsemmija fl-artikolu 17C ta’ dan l-Att.”;

(b) fil-paragrafu (b) tas-subartikolu (2) tiegħu u kull fejn dawn jinsabu fl-Att prinċipali, minflok il-kelma “linji ta’ gwida”, għandhom jidhlu l-kliem “Regoli ta’ Servizzi ta’ Investiment”;

(ċ) minflok is-subartikolu (9) tiegħu għandu jidhol dan is-subartikolu ġdid li ġej:

“(9) L-awtorità kompetenti għandha tistabilixxi reġistru tad-detenturi kollha ta’ liċenzja ta’ servizzi ta’ investiment. Dan ir-reġistru, li għandu jkun pubblikament disponibbli, għandu wkoll jindika s-servizzi li għar-rigward tagħhom tkun inharġet kull liċenza ta’ servizzi ta’ investiment u għandu jiġi aġġornat regolarment.”; u

(d) is-subartikoli (10) u (11) tiegħu għandhom jiġthassru.

Emenda ta’ l-artikolu 7 ta’ l-Att prinċipali.

63. L-artikolu 7 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tas-subartikolu (2) tiegħu, minflok il-kliem “ta’ xi regoli jew regolamenti magħmula bis-saħħa tiegħu.”, għandhom jidhlu l-kliem “ta’ xi Regoli ta’ Servizzi ta’ Investiment jew regolamenti magħmula bis-saħħa tiegħu.”; u

(b) fil-paragrafu (b) tas-subartikolu (3) tieghu, minflok il-kliem “ta’ xi regoli jew regolamenti maghmula bis-sahha tieghu,”, ghandhom jidhlu l-kliem “ta’ xi Regoli ta’ Servizzi ta’ Investiment jew regolamenti maghmula bis-sahha tieghu,”.

64. L-artikolu 12 ta’ l-Att principali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 12 ta’ l-Att principali.

(a) is-subartikolu (1) tieghu ghandu jiġi emendat kif ġej:

(i) minflok il-kliem “jista’ jagħmel regoli jew regolamenti biex jagħtu effett ahjar lid-disposizzjonijiet ta’ dan l-Att, u bla hsara għall-ġeneralità ta’ dak li ntqal qabel jista’, b’dawk ir-regoli jew regolamenti,”, ghandhom jidhlu l-kliem “jista’ jagħmel regolamenti biex jagħtu effett ahjar lid-disposizzjonijiet ta’ dan l-Att, u minghajr ebda preġudizzju għall-ġeneralità ta’ dak hawn qabel imsemmi jista’, b’dawk ir-regolamenti,”;

(ii) fil-paragrafu (b) tieghu, minflok il-kliem “u jirregola lill-kumpanniji li jimmaniġġjaw skemi bħal dawk; u jagħmel provvedimenti fuq il-htiegiet ta’ adegwatezza ta’ kapital”, ghandhom jidhlu l-kliem “u jirregola lill-kumpanniji li jimmaniġġjaw skemi bħal dawk;”;

(iii) fil-paragrafu (f) tieghu, minflok il-kliem “jippreskrivi regoli dwar dak li l-udituri jistghu jikxfu”, ghandhom jidhlu l-kliem “jippreskrivi regolamenti dwar dak li l-udituri jistghu jikxfu”;

(iv) fil-paragrafu (h) tieghu, minflok il-kliem “jew b’xi regoli jew regolamenti maghmula taht dan l-artikolu”, ghandhom jidhlu l-kliem “jew b’xi regolamenti maghmula taht dan l-artikolu”;

(v) fil-paragrafu (j) tieghu, minflok il-kliem “kif applikabbli għal detentur ta’ licenza;”, ghandhom jidhlu l-kliem “kif applikabbli għal detentur ta’ licenza, kif emendata minn żmien għal żmien, u inkluża kull mizura ta’ implimentazzjoni mahruġa taht”;;

(vi) il-paragrafi (k) u (l) tieghu ghandhom jiġu enumerati mill-ġdid bħala l-paragrafi (n) u (o);

(vii) minnufih wara l-paragrafu (j) tieghu, ghandhom jiżdiedu dawn il-paragrafi ġodda li ġejjin:

“(k) jittrasponi, jimplimenta u jaghti effett lid-disposizzjonijiet u htigiet tad-Direttiva;

(l) jistabbilixxi htigiet ta' rizorsi finanzjarji ghal detenturi ta' licenza u jittrasponi, jimplimenta u jaghti effett lid-disposizzjonijiet ta' Direttiva 2006/49/KE tal-Parlament Ewropew u tal-Kunsill ta' l-14 ta' Ġunju 2006 fuq l-adeqwatezza ta' kapital ta' ditti ta' investment u istituzzjonijiet ta' kreditu (*recast*), skond ma tista' tigi emendata minn żmien ghal żmien, u inkluża kull miżura ta' implimentazzjoni mahruġa taħtha;

(m) tipprovdi dwar ir-rappurtar u htigiet u kundizzjonijiet oħra li persuna li tkun qeghda topera faċilità ta' negozju multilaterali għandha tissodisfa, fuq bażi dejjem għaddejja u li tkompli u li jistabbilixxi ċ-ċirkostanzi u l-mod kif il-htigiet u l-kundizzjonijiet jistgħu jkun varjati, sospizi jew revokati, u li jittrasponi l-htigiet tad-Direttiva fuqhom;”;

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

(i) minflok il-kliem “Regoli jew regolamenti magħmula”, għandhom jidhlu l-kliem “Regolamenti magħmula”; u

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem “taht ir-regoli jew ir-regolamenti”, għandhom jidhlu l-kliem “taht ir-regolamenti”;

(ċ) fis-subartikolu (2)(B) tiegħu, minflok il-kliem “Regoli jew regolamenti magħmula” għandhom jidhlu l-kliem “Regolamenti magħmula”;

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

(i) minflok il-kliem “Regoli jew regolamenti magħmula” għandhom jidhlu l-kliem “Regolamenti magħmula”; u

(ii) minflok il-kliem “ir-regoli jew regolamenti kif” għandhom jidhlu l-kliem “ir-regolamenti kif”;

(e) is-subartikoli (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5) u (6) rispettivament;

(f) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied dan is-subartikolu (4) ġdid li ġej:

“(4) Meta jkunu nharġu regolamenti skond dan l-artikolu, l-awtorità kompetenti tista’ tohroġ Regoli ta’ Servizzi ta’ Investiment fil-kuntest tat-tifsir ta’ l-artikolu 6 ta’ dan l-Att sabiex ikunu jistgħu jitwettqu bl-aħjar mod u jiġu implimentati aħjar id-disposizzjonijiet tar-regolamenti.”; u

(g) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “Regoli jew regolamenti magħmula” għandhom jidhlu l-kliem “Regolamenti magħmula”.

65. Fil-paragrafu (a) tas-subartikolu (1) ta’ l-artikolu 13 ta’ l-Att prinċipali, minflok il-kliem “li tista’ tispeċifika”, għandhom jidhlu l-kliem “li tista’ tispeċifika, inkluża s-setgħa li tehtieg *records* tat-telefon eżistenti u tat-traffiku ta’ data eżistenti,”.

Emenda ta’ l-artikolu 13 ta’ l-Att prinċipali.

66. Minnufih wara s-subartikolu (3) ta’ l-artikolu 14 ta’ l-Att prinċipali għandu jiżdied dan is-subartikolu (4) ġdid li ġej:

Emenda ta’ l-artikolu 14 ta’ l-Att prinċipali.

“(4) Għall-finijiet ta’ dan l-artikolu spetturi jistgħu jinkludu Avukat, persuna awtorizzata li teżerita l-professjoni ta’ *accountant* jew awditur skond l-Att dwar il-Professjoni ta’ l-*Accountancy*, jew persuna ikkunsidrata mill-awtorità kompetenti bhala li għandha esperjenza idonea biex teżerita dik il-funzjoni.”.

Kap. 281.

67. Is-subartikolu (2) ta’ l-artikolu 15 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 15 ta’ l-Att prinċipali.

(a) fil-paragrafu (e) tiegħu, minflok il-kliem “dik il-persuna l-oħra.”, għandhom jidhlu l-kliem “dik il-persuna l-oħra;”; u

(b) minnufih wara paragrafu (e) għandhom jiżdiedu dawn is-subparagrafi (f) u (g) ġodda li ġejjin:

“(f) tehtieg il-waqfien ta’ kull Prattika li tmur kontra d-disposizzjonijiet adottati fl-implimentazzjoni tad-Direttiva;

(g) tehtieg it-tnehhija ta’ strument finanzjarju minn negozjar, f’arranġamenti ta’ negozju fil-kuntest tat-tifsir tad-Direttiva, li ma jkunx fi swieq regolati skond l-Att dwar is-Swieq Finanzjarji”.

Kap. 345.

68. Minnufih wara l-artikolu 16 għandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

Żieda ta’ l-artikoli ġodda 16A u 16B ma’ l-Att prinċipali.

“Pieni amministrattivi u miżuri ohra.

16A. (1) Minghajr preġudizzju għal kull setgħa ohra mogħtija lill-awtorità kompetenti skond dan l-Att, meta detentur ta’ liċenza jew *manager*, segretarju, direttur jew xi persuna ohra responsabbli lejn id-detentur ta’ liċenza jikser jew jonqos milli jikkonforma ruhu ma’ xi kundizzjonijiet imposti f’xi liċenza, u, jew meta l-awtorità kompetenti tkun sodisfatta l-aġir ta’ xi persuna jammonta għal ksur ta’ xi wahda mid-disposizzjonijiet ta’ dan l-Att, regolamenti jew Regoli ta’ Servizzi ta’ Investiment mahruġa taħtha, inklużi n-nuqqas li tikkopera f’xi investigazzjoni, l-awtorità kompetenti tista’ b’avviż bil-miktub u minghajr il-htieġa ta’ ebda smiġh fil-qorti timponi fuq id-detentur tal-liċenza, *manager*, segretarju, direttur, u, jew kull persuna ohra skond il-każ, penali amministrattiva li ma tkunx ta’ iżjed minn erbgħin elf lira.

(2) Regoli ta’ Servizzi ta’ Investiment jistgħu jkunu jipprovdu għall-imposizzjoni ta’ pieni amministrattivi jew miżuri ohra li jistgħu jiġu imposti mill-awtorità kompetenti fuq detenturi ta’ liċenza jew ohrajn, skond ma jista’ jkun speċifikat, sew bhala ta’ penali stabbiliti, penali għal kull ġurnata, jew it-tnejn flimkien, għal kull ksur tar-Regoli.

(3) L-imposizzjoni ta’ penali amministrattiva mill-awtorità kompetenti skond dan l-artikolu għandha tkun minghajr preġudizzju għal kull konsegwenza ohra ta’ l-Att jew ommissjoni tal-hati kemm taħt id-dritt ċivili kemm taħt id-dritt kriminali:

Iżda fil-każijiet kollha meta l-awtorità kompetenti timponi penali amministrattiva għar-rigward ta’ xi haġa li ssir jew tonqos milli ssir minn xi persuna u dak l-att jew dik l-ommissjoni jkunu wkoll jikkostitwixxu reat kriminali, ebda proċeduri ma jistgħu jinbdew jew jitkomplew kontra dik il-persuna għar-rigward ta’ dak ir-reat kriminali.

(4) Meta jingħalqu l-proċeduri ta’ xi appell skond l-artikolu 19 ta’ dan l-Att, jew inkella jiskadi ż-żmien meħtieġ biex jiġi ippreżentat dak l-appell, l-awtorità kompetenti tista’, permezz ta’ dikjarazzjoni pubblika, tiżvela l-isem tal-persuna li fuqha tiġi imposta penali, xi jkun il-ksur partikolari ta’ xi disposizzjoni ta’ dan l-Att, regolamenti jew Regoli ta’ Servizzi ta’ Investiment mahruġin taħtu, u l-penali jew il-miżura amministrattiva li tkun ġiet imposta. L-awtorità kompetenti għandha żżomm milli tagħmel dak l-iżvelar pubbliku meta hija tqis li dak l-iżvelar ikun ser jippreġudika lis-swieq

finanzjarji jew jikkaġuna dannu sproporzjonat għall-partijiet involuti.

“Obbligazzjoni li jiġu dikjarati r-raġunijiet għal deċiżjonijiet.

16B. Kull deċiżjoni li tittiehed taht dan l-Att mill-awtorità kompetenti skond disposizzjonijiet li jittrasponu d-Direttiva, inklużi regolamenti, Regoli ta’ Servizzi ta’ Investiment, jew disposizzjonijiet amministrattivi magħmulin taħtha għal dik it-trasposizzjoni, għandha tiddikjara l-motivi li dik id-deċiżjoni tkun ibbażata fuqhom.”

69. Minflok is-subtitolu “KO-OPERAZZJONI MA’ AWTORITÀ REGOLATORJA ESTERA” li jiġi minnufih qabel l-artikolu 17 għandu jidhol is-subtitolu ġdid “KOPERAZZJONI MA’ AWTORITAJIET REGOLATORJI EWROPEJ U MA’ KORPI OHRA”.

Emenda tas-subtitolu li jiġi minnufih qabel l-artikolu 17 ta’ l-Att prinċipali.

70. L-artikolu 17 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 17 ta’ l-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (11);

(b) is-subartikolu (2) tiegħu għandu jithassar u għandhom jiddiedu dawn is-subartikoli godda li ġejjin:

“(1) L-awtorità kompetenti għandha taġixxi bħala l-punt ta’ riferiment skond u għall-finijiet tas-subartikolu (1) ta’ l-artikolu 56 tad-Direttiva.

(2) L-awtorità kompetenti għandha tikkopera ma’ awtoritajiet regolatorji Ewropej ohra kull meta dan ikun mehtieġa għall-fini li twettaq dmirjietha taht id-Direttiva. Hija għandha tagħti l-assistenza mehtieġa lil awtoritajiet regolatorji Ewropej ohra, b’mod partikolari permezz ta’ l-iskambju ta’ informazzjoni u billi tikkopera f’xi funzjoni investigattiva jew ta’ sorveljanza. Skond id-Direttiva, l-awtorità kompetenti tista’ tuża s-setgħat tagħha għall-finijiet ta’ koperazzjoni ukoll f’dawk il-każijiet meta l-aġir taht investigazzjoni ma jkunx jikkostitwixxi ksur ta’ xi disposizzjonijiet ta’ dan l-Att, regolamenti jew Regoli ta’ Servizzi ta’ Investiment mahruġin taħtha.

(3) Malli tiġi riċevuta talba minghand l-awtoritajiet regolatorji Ewropej nominati bħala punti ta’ riferiment fi hdan l-Istati Membri individwali jew fi Stati ŻEE taht is-subartikolu (1) ta’ l-Artikolu 56 tad-Direttiva, l-awtorità kompetenti għandha minnufih tadotta l-miżuri mehtieġa sabiex tiġbor l-

informazzjoni mehtieġa biex tkun tista' twettaq dmirijietha konformement mad-Direttiva. Jekk l-awtorità kompetenti ma tkunx tista' tipprovdi l-informazzjoni mehtieġa minnufih, din ghandha tavża lill-awtorità regolatorja Ewropea bir-raġunijiet ghal dan.

(4) Fil-waqt li l-informazzjoni tkun qeghda tiġi komunikata lill-awtoritajiet regolatorji Ewropej, sew jekk nominati bhala punti ta' riferiment sew jekk ma jkunux, l-awtorità kompetenti tista' tistipula li l-informazzjoni m'ghandhiex tiġi żvelata jekk mhux bil-kunsens espress taghha, f'liema każ dik l-informazzjoni tista' tiġi skambjata unikament ghall-finijiet li dwarhom l-awtorità kompetenti tkun tat il-kunsens taghha.

(5) Meta awtorità regolatorja Ewropea li tkun qeghda tiskambja informazzjoni ma' l-awtorità kompetenti tistipula fil-waqt li tkun qeghda tikkomunika dik l-informazzjoni li dik l-informazzjoni m'ghandhiex tiġi żvelata jekk mhux bil-kunsens espress taghha, dik l-informazzjoni tista' tiġi uzata mill-awtorità kompetenti unikament ghall-finijiet li dwarhom l-awtorità regolatorja Ewropea kienet tkun tat il-kunsens taghha.

(6) Dik l-informazzjoni li tkun ġiet riċevuta mill-awtorità kompetenti minn punti ta' riferiment fl-Istati Membri l-oħra jew fi Stati ŻEE tista' tiġi trasmessa lil korpi jew lil persuni naturali jew legali oħra, sakemm:

(a) jinkiseb il-kunsens espress tal-punti ta' riferiment li żvelaw l-informazzjoni; u

(b) l-informazzjoni tiġi uzata unikament ghall-finijiet li dwarhom il-punti ta' riferiment ikunu taw il-kunsens tagħhom:

Iżda f'dawk iċ-ċirkostanzi li jkunu ġustifikati kif imiss, l-awtorità kompetenti tista' tittrasmetti informazzjoni lil korpi jew lil persuni naturali jew legali oħra minghajr ma tissodisfa l-kundizzjonijiet li jinsabu fil-paragrafi (a) u (b) ta' dan is-subartikolu, f'liema każ l-awtorità kompetenti ghandha minnufih tinforma lill-punt ta' riferiment li tkun bagħtet l-informazzjoni.

(7) Meta l-awtorità kompetenti tircievi informazzjoni kunfidenzjali minn punti ta' riferiment fl-Istati Membri l-oħra

jew fi Stati ŻEE jew minn awtoritajiet regolatorji barranin jew udituri taht l-artikoli 17D u 18 ta' dan l-Att, jew meta korpi jew persuni naturali jew legali ohra jirċievu informazzjoni kunfidenzjali minghand l-awtorità kompetenti, dawn jistgħu biss jużaw dik l-informazzjoni kunfidenzjali fil-kors ta' tal-qadi ta' dmiriethom, b'mod partikolari:

(a) biex jivverifikaw li l-kundizzjonijiet li jirregolaw il-bidu ta' ġestjoni tan-negozju ta' liċenza ta' detenturi ta' servizzi ta' investiment ikunu ġew sodisfatti u biex jiffailitaw is-sorveljar, fuq bażi mhux konsolidata jew wahda konsolidata, ta' l-andament ta' dak in-negozju, spejalment dwar il-htigiet tar-rizorsi finanzjarji;

(b) li jissorveljaw il-funzjonament adatt ta' lokalitajiet tan-negozju fil-kuntest tat-tifsir tad-Direttiva;

(c) li jimponu penali jew jadottaw miżuri amministrattivi ohra u li jikkunsidraw dawk l-ilmenti li jasluhom dwarhom;

(d) f'appelli taht l-artikolu 19 ta' dan l-Att; jew

(e) biex jinvestigaw ilmenti li jkunu rċeview minghand il-konsumaturi skond l-artikolu 20 ta' l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta.

(8) Minghajr ebda preġudizzju għas-setgħat ta' l-awtorità kompetenti taht dan l-Att jew kull liġi ohra, meta l-awtorità kompetenti jkollha tassew għaliex tissuspetta li attijiet li jmorru kontra d-disposizzjonijiet tad-Direttiva jkunu qegħdin jitwettqu jew ikunu ġew imwettqa fit-territorju ta' xi Stat Membru iehor jew Stat ŻEE minn entijiet li ma jkunux soġġetti għas-sorveljanza tagħha, hija għandha tavża b'dan b'mod kemm jista' jkun speċifiku lill-punt ta' riferiment fl-Istat Membru l-iehor jew Stat ŻEE.

(9) Meta l-informazzjoni li l-awtorità kompetenti jkollha fil-pussess tagħha tkun oriġinat minn awtorità regolatorja Ewropea jew minn awtorità regolatorja estera, din ma tistax tiġi żvelata lil awtorità regolatorja Ewropea jew lil terzi ohra minghajr il-kunsens espress ta' l-awtorità regolatorja Ewropea jew ta' l-awtorità regolatorja estera li tkun ittrasmettietha u, meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità tkun tat il-kunsens tagħha.

(10) Meta awtorità regolatorja Ewropea tissuspetta li attijiet imwettqin minn entijiet li ma jkunux soġġetti ghas-sorveljanza tagħha u li jkunu jmorru kontra d-disposizzjonijiet tad-Direttiva, ikunu qeghdin jitwettqu jew ikunu twettqu f'Malta u tavża lill-awtorità kompetenti b'dan, l-awtorità kompetenti ghandha tiehu kull azzjoni li tkun adatta. L-awtorità kompetenti ghandha tinforma lill-awtorità regolatorja Ewropea li tkun qeghda tavża bl-eżitu ta' kull tali azzjoni u, sakemm ikun possibbli, bl-iżviluppi sinifikanti li jsehhu fil-frattemp:

Iżda kull tali azzjoni li tittiehed mill-awtorità kompetenti ghandha tkun minghajr ebda preġudizzju ghas-setgħat u l-funzjonijiet ta' l-awtorità regolatorja Ewropea li tkun tat l-informazzjoni.”;

(ċ) is-subartikolu (11) kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(i) minflok il-kliem “L-awtorità kompetenti tista' teżerita dawn is-setgħat li ġejjin fuq talba ta' awtorità regolatorja estera jew bil-ghan li tghin lil dik l-awtorità: ”, ghandhom jidhlu l-kliem “Minghajr ebda preġudizzju għad-disposizzjonijiet preċedenti ta' dan l-artikolu, l-awtorità kompetenti tista' teżerċita dawn is-setgħat li ġejjin fuq talba ta' awtorità regolatorja Ewropea jew bil-ghan li tghin lil dik l-awtorità.”; u

(ii) fil-paragrafu (g) tiegħu, minflok il-kliem “lill-awtorità regolatorja estera”, ghandhom jidhlu l-kliem “lill-awtorità regolatorja Ewropea”.

Żjieda ta' l-artikoli
godda 17A, 17B, u
17C ma' l-Att
prinċipali.

71. Minnufih wara l-artikolu 17 ghandhom jiddiedu dawn l-artikoli godda li ġejjin:

“Koperazzjoni
fil-funzjonijiet
ta' koperazzjoni ta' l-awtorità regolatorja Ewropea fit-twettiq tal-
sorveljanza, funzjonijiet ta' sorveljanza tagħha jew dwar xi verifika li ssir
verifika li jsiru fuq il-post jew fuq il-post jew f'xi investigazzjoni:
fil-każ ta' investigazzjo-
nijiet.

Kap. 345.

Iżda fil-każ ta' persuna li tkun detentur ta' liċenza jew ta' xi awtorizzazzjoni ekwivalenti ohra minghand awtorità regolatorja Ewropea u li tkun membru remot fil-kuntest tat-tifsir tad-Direttiva ta' suq regolat awtorizzat skond l-Att dwar is-Swieq Finanzjarji, l-awtorità kompetenti tista' tikkomunika ma' dik il-persuna direttament, u f'dak il-każ l-awtorità

kompetenti għandha tinforma lill-punt ta' riferiment ta' l-Istat Membru domestiku ta' dik il-persuna skond dan.

(2) Awtorità regolatorja Ewropea tista' titlob il-koperazzjoni ta' l-awtorità kompetenti fit-twettiq tal-funzjonijiet ta' sorveljanza tagħha jew dwar verifika li ssir fuq il-post jew f'xi investigazzjoni, f'liema każ l-awtorità kompetenti għandha, fil-kuntest tas-setgħat li għandha:

(a) tagħmel il-verifiki jew l-investigazzjoni nnifisha; jew

(b) tippermetti lill-awtorità rikjedenti tagħmel il-verifika jew investigazzjoni; jew

(ċ) tippermetti lill-isperturi jew lill-esperti fil-kuntest tat-tifsir ta' l-artikolu 14 ta' dan l-Att li jagħmlu l-verifika jew investigazzjoni.

Meta xi hadd
jonqos milli
jikkopera.

17B. L-awtorità kompetenti tista' tirrifjuta milli taġixxi f'każ ta' talba għal koperazzjoni fl-għemil ta' xi investigazzjoni, verifika li ssir fuq il-post jew funzjoni ta' sorveljanza taht l-artikolu 17A ta' dan l-Att jew ta' skambju ta' informazzjoni ma' l-awtoritajiet regolatorji Ewropej nominati bhala punti ta' riferiment taht is-subartikolu (1) ta' l-artikolu 56 tad-Direttiva biss meta:

(a) dik l-investigazzjoni, verifika li ssir fuq il-post, funzjoni ta' sorveljanza jew skambju ta' informazzjoni jkun jistgħu jaffettwaw b'mod kuntrarju s-sovranià, is-sikurezza jew il-politika pubblika ta' Malta;

(b) ikunu diġà nbew proċeduri għar-rigward ta' l-istess azzjonijiet u kontra l-istess persuni quddiem il-grati ta' Malta; jew

(ċ) tkun diġà nghatat sentenza finali għar-rigward ta' dawk il-persuni għall-istess azzjonijiet f'Malta:

F'każ bhal dak hawn qabel imsemmi, l-awtorità kompetenti għandha tavza lill-awtorità regolatorja Ewropea skond dan, fejn kemm jista' jkun tipprovdi informazzjoni dettaljata biex tiġġustifika dak ir-rifjut.

Konsultazzjoni
bejn l-
awtoritajiet
mogħtija
qabel il-hruġ
ta' liċenza.

17C. (1) Qabel ma tingħata liċenza lil applikant li jkun:

(a) sussidjarju ta' persuna li jkollha liċenza ta' servizzi ta' investment jew awtorizzazzjoni ekwivalenti jew ta' istituzzjoni ta' kreditu awtorizzata fi Stat Membru iehor jew Stat ŻEE; jew

(b) sussidjarju ta' l-impriza prinċipali ta' persuna li tkun detentur ta' liċenza ta' servizzi ta' investment jew awtorizzazzjoni ekwivalenti jew ta' istituzzjoni ta' kreditu awtorizzata fi Stat Membru iehor jew Stat ŻEE; jew

(ċ) li jkun kontrollat mill-istess persuni naturali jew legali li jikkontrollaw lil detentur ta' liċenza ta' servizzi ta' investment jew lid-detentur ta' awtorizzazzjoni ekwivalenti jew lil istituzzjoni ta' kreditu awtorizzata fi Stat Membru iehor jew Stat ŻEE, l-awtorità kompetenti għandha tikkonsulta ma' l-awtoritajiet regolatorji Ewropej rilevanti.

(2) Qabel ma tingħata liċenza lil applikant li jkun:

(a) sussidjarju ta' istituzzjoni ta' kreditu jew impriza ta' l-assigurazzjoni awtorizzata fi Stat Membru iehor jew Stat ŻEE; jew

(b) sussidjarju ta' l-impriza prinċipali ta' istituzzjoni ta' kreditu jew impriza ta' l-assigurazzjoni awtorizzata fi Stat Membru iehor jew Stat ŻEE; jew

(ċ) kontrollat mill-istess persuna, sew naturali jew legali, li tikkontrolla istituzzjoni ta' kreditu jew impriza ta' l-assigurazzjoni awtorizzata fi Stat Membru iehor jew Stat ŻEE l-awtorità kompetenti għandha tikkonsulta ma' l-awtorità regolatorja Ewropea responsabbli għas-sorveljanza ta' istituzzjonijiet ta' kreditu jew imprizi ta' l-assigurazzjoni.

(3) Il-konsultazzjoni bejn l-awtorità kompetenti u l-awtoritajiet regolatorji Ewropej għandha b'mod partikolari ssehh meta tkun qegħda tiġi valutata l-adattabbilità ta' l-azzjonisti jew tal-membri u l-fama u l-esperjenza ta' persuni li effettivament imexxu n-negozju li jkunu involuti fl-immaniġġar ta' xi entità oħra ta' l-istess grupp. L-awtorità

kompetenti ghandha tiskambja kull informazzjoni li tista' tkun rilevanti għall-awtoritajiet regolatorji Ewropej involuti ohra li tkun tirrigwarda l-adattabilità ta' azzjonisti jew membri u l-fama u l-esperjenza ta' persuni li jkunu effettivament imexxu n-negozju, kemm għall-hruġ tal-liċenza kemm għall-valutar ta' konformità kontinwa mal-kundizzjonijiet operattivi.”.

72. Minnufih wara l-artikolu 17C għandu jżiddied dan is-subtitolu ġdid li ġej “KOPERAZZJONI MA’ AWTORITAJIET REGOLATORJI BARRANIN u MA’ KORPI OHRA”, u minnufih wara dan għandu jżiddied dan l-artikolu li ġej:–

Żjieda ta' subtitolu ġdid ma' l-Att prinċipali.

“Koperazzjoni ma' awtoritajiet regolatorji barranin.

17D. (1) Pattijiet ta' koperazzjoni ma' awtoritajiet regolatorji barranin jew awtoritajiet ohra, korpi u persuni naturali jew legali f' pajjiżi li m'humix Stati Membri jew fi Stati ŻEE jistgħu jsiru biss jekk l-informazzjoni żvelata tkun soġġetta għal garanziji ta' segretezza professjonali li jkunu għall-inqas ekwivalenti għal dawk mehtieġa taht l-artikolu 26 ta' dan l-Att. Dak l-iskambju ta' informazzjoni għandu jkun intiż għat-twettiq tal-funzjonijiet ta' dawk l-awtoritajiet regolatorji barranin jew awtoritajiet ohra, korpi u persuni naturali jew legali:

Iżda t-trasferiment ta' data personali lejn pajjiżi li m'humix Stati Membri jew lejn Stati ŻEE għandu jsir skond id-disposizzjonijiet tal-Kapitlu IV tad-Direttiva 95/46/KE tal-Parlament Ewropew u tal-Kunsill ta' l-24 ta' Ottubru 1995 fuq il-protezzjoni ta' individwi dwar l-ipproċessar ta' data personali u fuq il-moviment liberu ta' dik id-data.

(2) L-awtorità kompetenti tista' tagħmel pattijiet ta' koperazzjoni li jkunu jipprovdu dwar l-iskambju ta' informazzjoni ma' awtoritajiet regolatorji barranin, ma' awtoritajiet ohra jew ma' korpi u persuni naturali jew legali f' pajjiżi li m'humix Stati Membri jew fi Stati ŻEE responsabbli:

(i) għas-sorveljanza ta' istituzzjonijiet ta' kreditu, organizzazzjonijiet finanzjarji ohra, persuni li jkollhom liċenza, impriżi ta' l-assigurazzjoni u għas-sorveljanza ta' swieq finanzjarji;

(ii) għal-likwidazzjoni u falliment ta' persuni li jkollhom liċenza jew awtorizzazzjoni ekwivalenti u proċeduri simili ohrajn ;

(iii) ghat-twettiq ta' verifiki statutorji tal-kontijiet ta' persuni li jkunu detenturi ta' liċenza jew awtorizzazzjoni ekwivalenti u istituzzjonijiet finanzjarji ohra, istituzzjonijiet ta' kreditu u impriži ta' l-assigurazzjoni, fit-twettiq tal-funzjonijiet ta' sorveljanza tagħhom, jew li jamministraw skemi ta' kompensazzjoni, fit-twettiq tal-funzjonijiet tagħhom;

(iv) għall-monitoraġġ tal-korpi involuti fil-likwidazzjoni u l-falliment ta' persuni li jkollhom liċenza jew awtorizzazzjoni ekwivalenti u proċeduri simili ohrajn ;

(v) għall-monitoraġġ ta' persuni li jkunu inkarigat mit-twettiq ta' verifiki statutorji tal-kontijiet ta' impriži ta' l-assigurazzjoni, persuni li jkunu detenturi ta' liċenza jew awtorizzazzjoni ekwivalenti, istituzzjonijiet ta' kreditu u istituzzjonijiet finanzjarji ohra.

(3) Meta l-informazzjoni li l-awtorità kompetenti jkollha fil-pussess tagħha tkun originat minn awtorità regolatorja Ewropea jew minn awtorità regolatorja estera, din ma tistax tiġi żvelata lill-awtorità regolatorja estera jew lil terzi ohra mingħajr il-kunsens espress ta' l-awtorità regolatorja Ewropea jew ta' l-awtorità regolatorja estera li tkun ittrasmettietha u, meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità tkun tat il-kunsens tagħha.

(4) Mingħajr ebda preġudizzju għad-disposizzjonijiet preċedenti ta' dan l-artikolu, fuq talba ta' l-awtorità regolatorja estera jew għall-finijiet li din tiġi assistita, l-awtorità kompetenti tista' teżerita s-setgħat elenkati fis-subartikolu (11) ta' l-artikolu 17, u għall-finijiet ta' dan is-subartikolu l-kliem "awtorità regolatorja Ewropea" għandhom jinftiehem bħala "awtorità regolatorja estera".

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

73. L-artikolu 19 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

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

(i) fil-paragrafu (ċ) tiegħu, minflok il-kliem "taht l-artikolu 6(9)", għandhom jidhlu l-kliem "taht l-artikolu 16A,";

(ii) fil-paragrafu (f) tiegħu, minflok il-kliem "l-artikolu 11; jew" għandhom jidhlu l-kliem "l-artikolu 11;"

(iii) il-paragrafu (g) tieghu ghandu jiġi enumerat mill-ġdid bhala l-paragrafu (h);

(iv) minnufih wara paragrafu (f) tieghu ghandu jiżdied dan ġdid li ġej paragrafu (g):

“(g) kull piena jew penali imposta taht l-artikolu 12(5); jew”;

(b) minflok is-subartikoli (3) tieghu ghandu jidhol dan li ġej:

“(3) Id-disposizzjonijiet ta’ l-artikolu 21 ta’ l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta’ Malta għandhom japplikaw *mutatis mutandis* għal appelli li jistgħu jingiebu quddiem it-Tribunal taht dan l-artikolu.”; u

(ċ) is-subartikolu (4) tieghu għandha jithassar.

74. Is-subartikolu (1) ta’ l-artikolu 21 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 21 ta’ l-Att prinċipali.

(a) fil-paragrafu (a) tieghu, minflok il-kliem “jew ta’ xi regoli jew regolamenti” għandhom jidhlu l-kliem “jew ta’ xi Regoli ta’ Servizzi ta’ Investiment u regolamenti”;

(b) fil-paragrafu (a) tieghu u kull fejn dawn jinsabu fid-disposizzjoni msemmija minflok il-kliem “htieġa, direttiva” għandhom jidhlu l-kliem “htieġa, Regoli ta’ Servizzi ta’ Investiment, direttiva”.

75. L-artikolu 22 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 22 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tieghu:

(i) minflok il-kliem “kif applikati bl-artikolu 17”, għandhom jidhlu l-kliem “kif applikati bl-artikoli 17 u 17D”;

(ii) minflok il-kliem “ta’ kull regola jew regolament magħmul”, għandhom jidhlu l-kliem “ta’ kull regolament magħmul”;

(b) fis-subartikolu (2) tieghu, minflok il-kliem “ta’ xi regoli jew regolamenti magħmula”, għandhom jidhlu l-kliem “ta’ xi regolamenti magħmula”.

Emenda ta' l-artikolu 23 ta' l-Att prinċipali.

76. Fl-artikolu 23 ta' l-Att prinċipali, minflok il-kliem “taht l-artikolu 12(4)”, ghandhom jidhlu l-kliem “taht l-artikolu 12(5)”.

Emenda ta' l-artikolu 25 ta' l-Att prinċipali.

77. Is-subartikolu (1) ta' l-artikolu 25 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) minflok il-kliem “licenza tkun kisret xi wahda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regoli u regolamenti”, ghandhom jidhlu l-kliem “licenza, jew xi persuna ohra, tkun kisret xi wahda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti”;

u

(b) minflok il-kliem “direttiva jew ordni” ghandhom jidhlu l-kliem “Regoli ta' Servizzi ta' Investiment, direttiva jew ordni”.

Emenda ta' l-artikolu 26 ta' l-Att prinċipali.

78. L-artikolu 26 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

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

(i) minflok il-kliem “impjegati jew aġenti tagħha” ghandhom jidhlu l-kliem “impjegati jew aġenti tagħha, kif ukoll mill-ispetturi, awdituri u esperti mqabbdha mill-awtorità kompetenti”;

(ii) minflok il-kliem “xi regoli jew regolamenti magħmula”, ghandhom jidhlu l-kliem “xi Regoli ta' Servizzi ta' Investiment jew regolamenti magħmula”;

(iii) fil-paragrafu (ċ) tiegħu, minflok il-kliem “minn awtorità regolatorja barranija”, ghandhom jidhlu l-kliem “minn awtorità regolatorja Ewropea jew awtorità regolatorja barranija”;

(iv) fil-paragrafu (g) tiegħu, minflok il-kliem “jew kriminali.”, ghandhom jidhlu l-kliem “jew kriminali.”;

(v) minnufih wara l-paragrafu (g) tiegħu, ghandhom jiżdiedu dawn iż-żewġ provisos godda li ġejjin:

“Izda dan l-artikolu m'għandux iżomm lill-awtorità kompetenti milli tiskambja jew tittrasmetti informazzjoni kunfidenzjali skond id-Direttiva u skond kull Direttiva ohra tal-Komunità Ewropea li tkun tapplika għad-detentur tal-licenzi, istituzzjonijiet ta' kreditu, fondi tal-pensjoni, UCITS, intermedjarji ta' l-assigurazzjoni u r-rijassigurazzjoni, impriži ta' l-assigurazzjoni, swieq regolati jew operaturi fis-swieq:

Iżda wkoll dan l-artikolu mgħandux iżomm lill-awtorità kompetenti milli tuża dik l-informazzjoni għal finijiet oħra meta l-korp jew il-persuna li tkun qegħda twassal l-informazzjoni lill-awtorità kompetenti tagħti l-kunsens tagħha għal dan.”;

(b) minflok is-subartikolu (2) tiegħu għandu jidhol dan li ġej:

“(2) Mingħajr ebda preġudizzju għall-każijiet koperti mid-dritt kriminali, kull informazzjoni kunfidenzjali li tkun ġiet riċevuta minn korpi jew persuni naturali jew legali fil-kuntest tat-tifsir ta’ l-Artikolu 58 tad-Direttiva għandha biss tiġi użata fit-twettiq ta’ dmiriethom u għall-eżerizzju tal-funzjonijiet tagħhom. B’żjieda ma’ dan, dik l-informazzjoni għandha tiġi użata speċifikament għall-fini li dwarha dik l-informazzjoni tkun ġiet provduta lilhom, jew fil-kuntest ta’ proċeduri amministrattivi jew ġudizzjarji li jkollhom speċifikament x’jaqsmu ma’ l-eżerċizzju ta’ dawk il-funzjonijiet:

Iżda meta korp jew persuna li jkunu qegħdin jikkomunikaw informazzjoni lill-awtorità kompetenti jagħtu l-kunsens tagħhom għal dan, dik l-informazzjoni tista’ tiġi użata mill-awtorità kompetenti għal finijiet oħra.”; u

(ċ) minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied dan is-subartikolu (3) ġdid li ġej:

“(3) Id-disposizzjonijiet ta’ dan l-artikolu u ta’ l-artikoli 17 u 17D ta’ dan l-Att m’għandhomx jipprekludu lill-awtorità kompetenti milli tittrasmetti lill-Bank Ċentrali ta’ Malta, lis-Sistema Ewropea ta’ Banek Ċentrali u lill-Bank Ċentrali Ewropew, fil-funzjoni tagħhom ta’ awtoritajiet monetarji, u, meta jkun adatt, lil awtoritajiet pubbliċi oħra li jkunu responsabbli għall-monitoraġġ ta’ sistemi ta’ pagament u ta’ hlas in assaldu, informazzjoni kunfidenzjali intiża għat-twettiq tal-funzjonijiet tagħhom.”.

79. Fl-artikolu 27 ta’ l-Att prinċipali, minflok il-kliem “xi regoli jew regolamenti” kull fejn dawn jinsabu fl-imsemmija provvedimenti, għandhom jidhlu l-kliem “xi Regoli ta’ Servizzi ta’ Investiment jew regolamenti”.

Emenda ta’ l-artikolu 27 ta’ l-Att prinċipali.

80. Fl-artikolu 28 ta’ l-Att prinċipali, minflok il-kliem “jew xi regoli jew regolamenti magħmula” għandhom jidhlu l-kliem “jew xi Regoli ta’ Servizzi ta’ Investiment jew regolamenti magħmula”.

Emenda ta’ l-artikolu 28 ta’ l-Att prinċipali.

Thassir ta' l-artikolu 29 ta' l-Att prinċipali.

81. L-artikolu 29 ta' l-Att prinċipali ghandu jġi mħassar.

Emenda ta' l-Ewwel Skeda li tinsab ma' l-Att prinċipali.

82. Minflok l-Ewwel Skeda li tinsab ma' l-Att prinċipali, ghandu jidhol dan li ġej:

“L-EWWEL SKEDA

(Artikolu 2)

Servizzi

1. Twassil u Trasmissjoni ta' Ordnijiet għar-rigward ta' xi strument wiehed jew aktar.

It-twassil minn persuna ta' ordni biex isir xiri, bejgh jew sottoskrizzjoni għal strumenti u t-trasmissjoni ta' dik l-ordni lil terza parti għall-eżekuzzjoni tagħha.

2. Esekuzzjoni ta' Ordnijiet għan-nom ta' persuni ohra

Xogħol ta' għemil ta' pattijiet biex isir xiri, bejgh jew sottoskrizzjoni għal strument wiehed jew aktar għan-nom ta' persuni ohra.

3. Negozjar għan-nom ta' persuna nnifisha.

Negozju kontra kapital li jikkonsisti fi proprjetà li jirrizulta fl-għemil ta' operazzjonijiet f'xi strument wiehed jew aktar.

4. Immaniġġar ta' Investimenti

Immaniġġar jew qbil li jsir immaniġġar ta' attiv li jappartjeni lil persuna ohra jekk dak l-attiv ikun jikkonsisti fi jew jinkludi xi strument wiehed jew aktar jew l-arranġamenti għall-immaniġġar tagħhom ikunu tali li l-persuna li tkun qegħda timmaniġġa jew taqbel li timmaniġġa dak l-attiv ikollha diskrezzjoni tinvesti parti minn dak l-attiv f'xi strument wiehed jew aktar.

Immaniġġar ta' Investimenti jista' wkoll jikkostitwixxi s-selezzjoni jew ftehim li ssir selezzjoni, fuq bażi ta' diskrezzjoni, strumenti li b'riferenza għalihom il-benefiċċji jkunu għalkollox jew f'parti minnhom jithallsu taht kuntratt ta' assigurazzjoni li jinkwadra fil-klassi III - *linked long term* tat-Tieni Skeda li tinsab ma' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni.

5. Servizzi ta' *Trustee*, Kustodju jew Detentur *Nominee*

(a) Xoghol bhala *trustee*, kustodju jew detentur *nominee* ta' xi strument, jew ta' l-attiv rappreżentat minn jew xorthohra konness ma' xi strument, meta l-persuna li tkun qeghda taġixxi bhala *trustee*, kustodju jew detentur *nominee* ikun qiegħed jagħmel dan bhala parti mill-ghoti ta' servizz ta' investiment li jkun qiegħed jagħmel kif hemm fil-paragrafi 1, 2, 3, 4 jew 6 ta' din l-Iskeda:

Izda għall-finijiet ta' dan is-subparagrafu kull persuna li tkun awtorizzata jew xorthohra eżentata mill-awtorizzazzjoni skond l-artikolu 43 jew 43A ta' l-Att dwar it-*Trusts* u *Trustees*, ma tkunx teħtieġ, ghax tkun qegħda żżomm dak l-attiv, li jkollha liċenza skond dan is-subparagrafu jekk dik il-persuna ma tkunx tipprovdi servizz ta' investiment u tiddelega l-attivitajiet kollha li huma servizzi ta' investiment skond dan l-Att lil persuna li jkollha liċenza li tipprovdi dawk is-servizzi; jew Kap. 331.

(b) Tiżmim ta' strument jew l-attiv rappreżentat minn jew xorthohra konness ma' strument bhala *nominee*, meta il-persuna li taġixxi ta' *nominee* tkun qegħda tagħmel dan għan-nom ta' persuna ohra li tagħti servizz ta' investiment stipulat f'din l-Iskeda, jew f'isem klijent ta' dik il-persuna, u dak ix-xogħol bhala *nominee* isir għar-rigward ta' dak is-servizz ta' investiment:

Izda għall-finijiet ta' dan il-paragrafu kull persuna li tkun awtorizzata jew xort'ohra eżentata minn awtorizzazzjoni skond l-artikolu 43 jew 43A ta' l-Att dwar it-*Trusts* u *Trustees* ma tkunx teħtieġ, ghax tkun qegħda żżomm dak l-attiv, li jkollha liċenza skond dan l-Att. (ċ) Xogħol bhala *trustee* jew kustodju għar-rigward ta' skema ta' investiment kollettiv. Kap. 331.

6. Pariri fuq l-Investment

Li jingħata, jiġi offert jew isir qbil li jingħata, lil persuni fil-kwalità tagħhom ta' investituri jew investituri potenzjali jew ta' aġent ta' investitur jew investitur potenzjali, rakkomandazzjoni personali għar-rigward ta' xi operazzjoni wahda jew aktar li jkollhom x'jaqsmu ma' xi strument wiehed jew aktar.

Għall-finijiet ta' dan il-paragrafu, "rakkomandazzjoni personali" tfisser rakkomandazzjoni ippreżentata bhala wahda idonea għall-persuna lil min din tkun indirizzata, jew li tkun bażata fuq konsiderazzjoni taċ-ċirkostanzi ta' dik il-persuna, u għandha tkun tikkostitwixxi rakkomandazzjoni li jittieħed xi wiehed minn dawn l-istadji li ġejjin:

(a) li jinxtara, jinbiegh, jiġi sottoskritt, kambjat, mifdi, mizmum jew isir *underwriting* ta' strument partikolari;

(b) li jiġi eżerċitat jew ma jiġix eżerċitat xi dritt mogħti b'xi strument partikolari għax-xiri, bejgħ, sottoskrizzjoni, kambju jew fidi ta' strument;

(ċ) li jintgħazel xi strument wiehed jew aktar li b'riferenza għalih jithallsu għalkollox jew biss f'parti benefiċċji mħallsa taht kuntratt ta' assigurazzjoni li jinkwadra fil-kuntest tat-tifsir ta' klassi III – '*linked long term*', fit-Tieni Skeda li tinsab ma' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni.

Kap. 403.

Rakkomandazzjoni ma titqiesx bhala rakkomandazzjoni personali jekk din tkun esklużivament mahruġa permezz ta' kanali ta' distribuzzjoni jew għall-pubbliku.

7. *Underwriting* ta' strumenti u, jew tqegħid ta' strumenti fuq bażi soda ta' impenn

Kull *underwriting* jew tqegħid ta' strumenti hekk li l-persuna li tkun qegħda tipprovdi s-servizz tassumi r-riskju li jitqiegħed hruġ ġdid ta' titoli fis-suq bix-xiri ta' dak il-hruġ mill-emittent biex hekk jiġi garantit il-bejgħ ta' ċertu għadd ta' ishma għall-investituri.

8. Tqegħid ta' Strumenti mingħajr bażi soda ta' impenn.

It-tqegħid fis-suq ta' titoli li jkunu għadhom kemm ġew mahruġa jew ta' titoli li jkunu diġà inharġu iżda li ma jkunux ġew elenkati, lil persuni speċifikati u li ma jkunx jinvolti offerta lill-pubbliku jew lil detenturi eżistenti tat-titoli ta' l-emittent – mingħajr ma jassumu r-riskju li jiggarantixxu l-bejgħ ta' ċertu għadd ta' ishma bix-xiri tat-titoli relattivi mingħand l-emittent.

9. Operazzjoni ta' Faċilità ta' Negozju Multilaterali.

L-operazzjoni ta' sistema multilaterali li tlaqqa' flimkien xiri minn terzi multipli u interess ta' bejgħ ta' strumenti – fis-sistema u skond-htigiet mhux diskrezzjonarji – hekk li jirrizulta f'kuntratt.”

Emenda tat-Tieni Skeda li tinsab ma' l-Att prinċipali.

83. Minflok it-Tieni Skeda li tinsab ma' l-Att prinċipali, għandu jidhol dan li ġej:

‘IT-TIENI SKEDA

(Artikolu 2)

Strumenti

1. Titoli trasferibbli

Dawk il-klassijiet ta' titoli li huma negozjabbli fuq is-suq kapitali u jinkludu:

(a) ishma f'kumpanniji u f'titoli ohra ekwivalenti għal ishma f'kumpanniji, soċjetajiet jew entitajiet ohra, u riċevuti depożitarji fir-rigward ta' ishma;

(b) *bonds* jew għamliet ohra ta' debitu f'titoli, inklużi riċevuti depożitarji fir-rigward ta' dawk it-titoli;

(ċ) kull titolu iehor li jagħti d-dritt kull tali titoli trasferibbli ikun jista' jiġi akkwistat jew mibjugħ jew li jagħti lok għal tisrif fi flus likwidi stabbilit b'riferenza għal titoli trasferibbli, muniti, rati ta' interess jew dividendi, komoditajiet jew indiċijiet jew miżuri ohra.

2. Strumenti fis-Suq tal-Flus.

Dawk il-klassijiet ta' strumenti li jkunu normalment ittrattati fis-suq tal-flus, bħalma huma *bills* tat-teżor, ċertifikati ta' depositu u dokumenti kummerċjali bl-eskluzjoni ta' strumenti ta' pagament.

3. *Units* fi skemi ta' investiment kollettiv.

4. Opzjonijiet, *futures*, *swaps*, pattijiet dwar rati futuri u kull kuntratt derivattiv iehor li jkollu x'jaqsam ma' titoli, muniti, rati ta' interess jew dividendi, jew strumenti derivattivi ohra, indiċijiet finanzjarji jew miżuri finanzjarji li jistgħu jiġu risolti fiżikament jew bi flus likwidi.

5. Opzjonijiet, *futures*, *swaps*, pattijiet dwar rati futuri u kull kuntratt derivattiv iehor li jkollu x'jaqsam ma' komoditajiet li għandhom ikunu riżoluti bi flus likwidi jew li jistgħu jkunu riżoluti bi flus likwidi b'għażla ta' xi waħda mill-partijiet (xort'ohra milli minhabba f'xi skadenza jew ġrajja ohra li tagħti sehh lil terminazzjoni).

6. Opzjonijiet, *futures*, *swaps*, u kull kuntratt derivattiv iehor li jkollu x'jaqsam ma' kommoditajiet, li jistgħu jkunu fiżikament riżoluti iżda li jiġu negozjati f'suq regolat, fil-kuntest tat-tifsir ta' l-Att dwar is-Swieq Finanzjarji u, jew Faċilità ta' Negozju Multilaterali fil-kuntest tat-tifsir fi Skeda 1.

7. Opzjonijiet, *futures*, *swaps*, rati futuri u kull kuntratt derivattiv iehor li jkollu x'jaqsam ma' kommoditajiet, li jistgħu jkunu riżoluti fiżikament, li ma jkollhomx għanijiet kummerċjali, li ma jkunux inklużi fl-artikolu 6 ta' din l-Iskeda, u, li jkollhom il-karatteristiċi ta' strumenti derivattivi oħra, fil-kuntest ta' jekk, fost l-oħrajn, dawn ikunux għaddew mill-*clearing* u ġew riżoluti permezz ta' *clearing houses* rikonoxxuti jew ikunux soġġetti għal *margin calls* regolari.

8. Strumenti derivattivi għat-trasferiment ta' riskju fil-kreditu.

9. Drittijiet li jinkwadraw taht kuntratt għad-differenzi jew taht kull kuntratt iehor li jkollu l-għan jew għan intiż li jaċċerta profitt jew li jevita telf b'riferenza għal fluttwazzjonijiet fil-valur jew fil-prezz ta' proprjetà tkun kif tkun din imsejha jew f'indici jew xi fattur iehor indikat għal dak l-għan fil-kuntratt.

10. Opzjonijiet, *futures*, *swaps*, pattijiet dwar rati futuri u kull kuntratt derivattiv iehor li jkollu x'jaqsam ma' varjabbiltajiet klimatiki, rati għat-trasport, *allowances* dwar emissjonijiet jew rati ta' inflazzjoni jew statistiċi uffiċjali ekonomiċi oħra li għandhom ikunu riżolti bi flus likwidi jew li jistgħu jkunu riżolti bi flus likwidi bl-opzjoni ta' xi waħda mill-partijiet (xort'oħra milli minhabba f'xi skadenza jew grajja oħra li tagħti sehh lil terminazzjoni), kif ukoll kull kuntratt derivattiv iehor li jkollu x'jaqsam ma' l-attiv, drittijiet, obbligi, indicijiet u miżuri li m'humix xort'oħra msemmija f'din l-Iskeda, li jkollhom il-karatteristiċi ta' strumenti derivattivi oħra, meta jiġi ikkunsidrat jekk, fost l-oħrajn, dawn jiġux negozjati f'suq regolat fil-kuntest tat-tifsir ta' l-Att dwar is-Swieq Finanzjarji jew Faċilità ta' Negozju Multilaterali fil-kuntest tat-tifsir ta' l-Ewwel Skeda, ikunux għaddew mill-*clearing* u ġew riżoluti permezz ta' *clearing houses* rikonoxxuti jew ikunux soġġetti għal *margin calls* regolari.

11. Ċertifikati jew strumenti oħra li jikkonferixxu drittijiet fuq proprjetà għar-rigward ta' xi strument li jinkwadra f'din l-Iskeda.

12. Valuta estera li tinkiseb jew tinzamm għal finijiet ta' investment.”.

TAQSIMA IV

84. (1) Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa wahda ma' l-Att dwar il-Kummerċ Bankarju, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda ta' l-Att
dwar il-Kummerċ
Bankarju, Kap. 371.

(2) Id-disposizzjonijiet ta' din it-Taqsima ghandhom jidhlu fis-sehh fid-data tal-pubblikazzjoni ta' dan l-Att.

85. L-artikolu 2 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta' l-
artikolu 2 ta' l-Att
prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minnufih wara l-kliem "F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra -" ghandha tiżdied din it-tifsira ġdida li ġejja:

“Metodu ta' Kejl Avvanzat” tfisser metodu kif imfisser fir-Regola Bankarja fuq htigiet kapitali;”;

(ii) it-tifsira “direttiva bankarja” ghandha tithassar, u minnufih wara t-tifsira “rabtiet mill-qrib” ghandha tidhol din it-tifsira ġdida li ġejja:

“Regola Bankarja” tfisser Regola mahruġa mill-awtorità kompetenti taht diversi artikoli ta' dan l-Att;”, u minflok il-kliem “direttiva bankarja” u “direttivi bankarji”, kull fejn dawn jinsabu fl-Att, ghandhom jidhlu l-kliem “Regola Bankarja” u “Regoli Bankarji”, skond il-każ;

(iii) minnufih wara t-tifsira “depożitu”, ghandha tiżdied din it-tifsira ġdida li ġejja:

“Direttiva dwar Adegwatezza Kapitali” tfisser Direttiva 2006/49/KE tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Ġunju 2006 fuq l-adeqwatezza kapitali ta' ditti ta' investiment u istituzzjonijiet ta' kreditu, skond kif tista' tkun emendata minn żmien għal żmien, u tinkludi kull miżura ta' implimentazzjoni li tkun ġiet mahruġa jew li tista' tiġi mahruġa taħtha;”;

(iv) fit-tifsira “kumpannija”, minflok il-kliem “jew kumpannija registrata jew inkorporata barra minn Malta”, għandhom jidhlu l-kliem “jew kumpannija registrata, li jkollha liċenza jew *holding* ta’ awtorizzazzjoni ekwivalenti f’xi pajjiż iehor barra minn Malta”, u minflok il-kelma “registrata jew inkorporata taht l-liġijiet ta’ Malta;”, għandhom jidhlu l-kliem “registrata jew li jkollha liċenza taht l-liġijiet ta’ Malta;”;

(v) fit-tifsira “awtorità kompetenti”, minflok il-kliem “fl-artikolu 3 (1);”, għandhom jidhlu l-kliem “fl-artikolu 3(1) ta’ dan l-Att;”;

(vi) minnufih qabel it-tifsira ġdida “Direttiva dwar Adegwatezza Kapitali”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttiva” tfisser Direttiva tal-Kunsill 2006/48/KE ta’ l-14 ta’ Ġunju 2006, dwar il-bidu u l-ġestjoni tan-negozju ta’ istituzzjonijiet ta’ kreditu (*recast*), skond ma tista’ tkun emendata jew aġġornata minn żmien għal żmien, u tinkludi kull miżura ta’ implimentazzjoni li tkun giet mahruġa jew li tista’ tiġi mahruġa taħtha;”;

(vii) fit-tifsira “direttur”, minflok il-kliem “registrata jew inkorporata barra minn Malta”, għandhom jidhlu l-kliem “registrata, li jkollha liċenza jew awtorizzazzjoni ekwivalenti f’xi pajjiż iehor barra minn Malta”;

(viii) minnufih wara t-tifsira “rikostruzzjoni”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Stat ŻEE” tfisser Stat li jkun parti kontraenti fil-ftehim dwar iż-Żona Ekonomika Ewropea iffirmit f’Oporto fit-2 ta’ Mejju, 1992 kif emendat bil-Protokoll iffirmit fi Brussel fis-17 ta’ Marzu, 1993 u kif emendat b’attijiet sussegwenti;”;

(ix) minflok it-tifsira “direttiva ta’ istituzzjonijiet ta’ flus elettronici”, għandha tidhol din it-tifsira ġdida li ġejja:

“ “Regola dwar Flus Elettronici” tfisser ir-Regola mahruġa mill-awtorità kompetenti taht diversi artikoli ta’ dan l-Att;”, u minflok il-kliem “direttiva ta’ istituzzjonijiet ta’ flus elettronici” u “direttivi ta’ istituzzjonijiet ta’ flus elettronici”, kull fejn dawn jinsabu

fl-Att, għandhom jidhlu l-kliem “Regola dwar Flus Elettronici”;

(x) minnufih wara t-tifsira “istituzzjoni ta’ flus elettronici”, għandha tizdied din it-tifsira ġdida li ġejja:

“ “kapital inizjali” tfisser kapital azzjonarju ordinarju u riservi kif imfissra f’Regola Bankarja fuq il-proċeduri ta’ applikazzjoni u htigiet għal awtorizzazzjoni;”;

(xi) it-tifsira “direttiva dwar *exposures* kbar” għandha tithassar, u minnufih qabel it-tifsira ġdida “Regola dwar Flus Elettronici” għandha tidhol din it-tifsira ġdida li ġejja:

“ “Regola dwar *Exposures* Kbar” tfisser dik ir-Regola li għandha tiġi mahruġa mill-awtorità kompetenti biex tirregola *exposures* kbar;”, u minflok il-kliem “direttiva dwar *exposures* kbar”, kull fejn dawn jinsabu fl-Att, għandhom jidhlu l-kliem “Regola dwar *Exposures* Kbar”;

(xii) minnufih wara t-tifsira “*money laundering*”, għandha tizdied din it-tifsira ġdida li ġejja:

“ “obbligi internazzjonali ta’ Malta” tfisser kull impenn, responsabbiltà u obligazzjoni li Malta għandha u li joriġinaw mil-liġi tal-Komunità Ewropea, jew mis-shubija, jew affiljazzjoni, jew relazzjoni ma’ xi organizzazzjoni internazzjonali, globali jew reġjonali jew aggruppament ta’ pajjiżi jew minn xi trattat, konvenzjoni jew ftehim internazzjonali iehor, ikun kif ikun magħruf, sew bilaterali sew multilaterali, li Malta tkun parti fih;”;

(xiii) (a) minnufih wara t-tifsira ġdida “Metodu ta’ Kejl Avvanzat”, għandha tizdied din it-tifsira ġdida li ġejja:

“ “attivitajiet materjali” tfisser:

(i) attivitajiet ta’ tali importanza fejn kull dgħufija jew nuqqas fit-twettiq ta’ dawn l-attivitajiet jista’ jkollu effett sinifikanti fuq il-kapajta ta’ entità li jkollha liċenza li twettaq ir-responsabbiltajiet regolatorji li jkollha u, jew li tkompli għaddejja fin-negozju;

(ii) kull attività oħra li tkun tenhtieg liċenza minghand l-awtorità ta' sorveljanza;

(iii) xi attivitajiet li jkollhom impatt sinifikanti fuq il-manigġar ta' riskju ta' l-entità; u

(iv) l-immaniġġar ta' riskji li għandhom x'jaqsmu ma' dawn l-attivitajiet;” ; u

(b) minnufih qabel it-tifsira “Stat ŻEE” għandha tidhol din it-tifsira ġdida li ġejja:

“ “Stat Membru” tfisser Stat Membru tal-Komunitajiet Ewropej;”

(xiv) (a) minnufih wara t-tifsira ġdida “obbligi internazzjonali ta' Malta”, għandha tizzied din it-tifsira ġdida li ġejja:

“ “*outsourcing*” tfisser l-użu li entità li jkollha liċenza tagħmel minn terzi (il-provditur ta' servizz ta' *outsourcing*) biex twettaq attivitajiet li normalment isiru minn entità li jkollha liċenza, korrenti jew fil-futur. Il-provditur jista' jkun entità li jkollha liċenza, jew jista' ma jkunx;”;

(b) minnufih wara t-tifsira “persuni konnessi”, għandha tizzied din it-tifsira ġdida li ġejja:

“ “provditur ta' servizz ta' *outsourcing*” tfisser il-provditur ta' oġġetti, servizzi jew faċilitajiet, li jistghu jkunu entità li jkollha liċenza, jew jistghu ma jkunux, u li jistghu jkunu entità affiljata fi hdan grupp korporattiv jew entità li tkun barranija għall-grupp;” u

(ċ) minnufih wara t-tifsira “awtorità kompetenti”, għandha tizzied din it-tifsira ġdida li ġejja:

“ “awtorità regolatorja estera” tfisser awtorità li f' pajjiż jew territorju barra minn Malta teżerita funzjoni li tkun tikkorrispondi għall-funzjonijiet ta' l-awtorità kompetenti taht dan l-Att;”;

(xv) fit-test Inġliż tat-tifsira “subsidiary”, minflok il-kliem “by the Companies Act.”, għandhom jidhlu l-kliem “by the Companies Act;”;

(xvi) minnufih wara t-tifsira ġdida “*outsourcing*”, ghandha tizzied din it-tifsira ġdida li ġejja:

““pajjiż terz” tfisser pajjiż li ma jkunx Stat Membru jew Stat ŻEE.”;

(b) fl-ewwel proviso mas-subartikolu (2) tieghu, minflok il-kliem “accettazzjoni ta’ depożiti ta’ flus għall-finijiet ta’ dan l-Att”, ghandhom jidhlu l-kliem “accettazzjoni ta’ depożiti ta’ flus għall-finijiet ta’ dan l-Att u ta’ kull regolament jew Regoli Bankarji magħmulin tahtu.”;

(ċ) minnufih wara s-subartikolu (5) tieghu, ghandhom jizziedu dawn is-subartikoli ġodda li ġejjin:

““(6) L-għan ta’ dan l-Att hu, f’parti minnu, biex jimplimenta d-disposizzjonijiet tad-Direttiva u tad-Direttiva dwar Adegwatezza Kapitali, u għandu jiġi interpretat u applikat skond hekk.

(7) F’dan l-Att u f’kull regolament magħmulin tahtu, jekk ikun hemm xi konflitt bejn it-test Inġliż u dak Malti, għandu jipprevali t-test Inġliż.”.

86. L-artikolu 3 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 3 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tieghu, minflok il-kliem “għall-finijiet ta’ dan l-Att sabiex jeseġwixxi l-funzjonijiet ta’ l-awtorità kompetenti taht dan l-Att”, ghandhom jidhlu l-kliem “għall-finijiet ta’ dan l-Att u ta’ kull regolament jew Regoli Bankarji magħmulin tahtu sabiex jeseġwixxi l-funzjonijiet ta’ l-awtorità kompetenti taht dan l-Att u kull regolament jew Regoli Bankarji magħmulin tahtu.”; u

(b) minflok is-subartikolu (2) tieghu, għandu jidhol dan is-subartikolu (2) ġdid li ġej:

“(2) (a) Il-Ministru, li jaġixxi bil-parir ta’ l-awtorità kompetenti, jista’ jagħmel regolamenti skond ma jistgħu jkunu mehtieġa biex jagħti sehh lid-disposizzjonijiet ta’ dan l-Att, u jista’ b’dawk ir-regolamenti jittrasponi, jimplimenta u jagħti sehh lill-htigiet tad-Direttiva 2006/48/KE tal-Parlament Ewropew u tal-Kunsill ta’ l-14 ta’ Ġunju 2006 li tirrigwarda l-bidu u l-ġestjoni tan-negozju ta’ istituzzjonijiet ta’ kreditu u l-htigiet tad-Direttiva 2006/49/KE tal-Parlament Ewropew u tal-Kunsill ta’ l-14 ta’ Ġunju 2006 fuq l-adeqwatezza kapitali

ta' ditti ta' investiment u istituzzjonijiet ta' kreditu. (b) Il-Ministru, li jaġixxi bil-parir ta' l-awtorità kompetenti, jista' b'żjieda ma' dan jemenda jew jirrevoka dawk ir-regolamenti.”.

Emenda ta' l-
artikolu 4 ta' l-Att
prinċipali.

87. L-artikolu 4 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “l-funzjonijiet preskritti b'dan l-Att, li tassigura li l-istituzzjonijiet ta' kreditu li jagħmlu kummerċ f'Malta jharsu dan l-Att, ir-regolamenti u direttivi mahruġa taht dan l-Att”, għandhom jidhlu l-kliem “l-funzjonijiet preskritti b'dan l-Att u kull regolamenti, Regoli Bankarji, jew Regoli dwar Flus Elettronici magħmulin tahtu u li tassikura li l-istituzzjonijiet ta' kreditu li jagħmlu kummerċ f'Malta jikkonformaw ruhhom ma' dan l-Att, u ma' kull regolamenti, direttivi, Regoli Bankarji u Regoli dwar Flus Elettronici mahruġa tahtu”;

(b) minflok is-subartikolu (2) tiegħu, għandu jidhol dan is-subartikolu ġdid li ġej:

“(2) L-awtorità kompetenti tagħmel, temenda jew tirrevoka Regoli Bankarji u Regoli dwar Flus Elettronici skond ma jista' jkun mehtieġ sabiex tingieb fis-sehh xi waħda mid-disposizzjonijiet ta' dan l-Att u ta' kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu.”,

(ċ) is-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (4) u (5);

(d) minnufih wara s-subartikolu (2) tiegħu, għandu jizdedd dan is-subartikolu (3) ġdid li ġej:

“(3) Regoli Bankarji għandhom ikunu vinkolanti fuq id-detenturi ta' liċenza u oħrajn li jistgħu jiġu speċifikati fihom stess. Regoli dwar Flus Elettronici jistgħu jipprovdu li xi disposizzjoni li tinsab fir-Regoli Bankarji, skond ma jista' jkun speċifikat, għandha wkoll tapplika għal istituzzjonijiet ta' flus elettronici .”.

Emenda ta' l-
artikolu 5 ta' l-Att
prinċipali.

88. L-artikolu 5 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (2), (3), (4), (5) u (6) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (3), (4), (5), (6) u (7) rispettivament;

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

“(2) Ebda istituzzjoni ta’ kreditu li jkollha liċenza jew awtorizzazzjoni ekwivalenti barra minn Malta ma tista’ tifta’ fergħa, aġenzija jew ufficċju jew twaqqaf sussidjarja f’Malta kemm-il darba jkollha liċenza mogħtija taħt dan l-Att mill-awtorità kompetenti:

Iżda istituzzjoni ta’ kreditu li jkollha liċenza jew awtorizzazzjoni ekwivalenti fi Stat Membru jew Stat ŻEE għandu jkollhom jedd jeżerċitaw id-drittijiet tagħhom taħt il-liġi tal-Komunità Ewropea.”;

(ċ) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “li ma jkunx iżjed minn żewġ miljun u hames mitt elf lira Maltin;”, għandhom jidhlu l-kliem “li ma jkunx jeċċedi l-ammont ta’ żewġ miljuni hames mija u hamsa u sebghin elf u tmin mitt liri Maltin (sitt miljun Euro);”;

(ii) fil-proviso mal-paragrafu (ċ) tiegħu, minflok il-kliem “suġġett għal hażna massima ta’ ammont li ma jkunx iżjed minn sittin lira Maltin.”, għandhom jidhlu l-kliem “suġġett għal hażna massima ta’ ammont li ma jkunx jeċċedi erbgħa u sittin liri Maltin u erbgħin enteżmu (mija u hamsin Euro).”.

89. L-artikolu 7 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 7 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-paragrafu (a) tiegħu, għandu jidhol dan il-paragrafu (a) ġdid li ġej:

“(a) il-kapital inizjali tagħha jammonta għal mhux inqas minn żewġ miljuni mija u sitta w erbgħin elf u hames mitt liri Maltin (hames miljun Euro) jew, fil-każ ta’ istituzzjoni ta’ flus elettronici, minn erba’ mija u disgħa w ghoxrin elf u tliet mitt liri Maltin (miljun Euro):

Iżda, mingħajr ebda preġudizzju u bla hsara għad-disposizzjonijiet ta’ l-artikolu 16A, l-awtorità kompetenti tista’ permezz ta’ disposizzjoni li tinsab f’Regola Bankarja, iżżid l-ammonti stabbiliti f’dan il-paragrafu,

u dawk l-ammonti jistghu jissem mew f'kull munita ohra li tista' tiġi speċifikata f'Regola Bankarja;";

(ii) fil-paragrafu (d) tiegħu, minflok il-kliem "id-disposizzjonijiet ta' dan l-Att jew ta' xi direttiva bankarja:", għandhom jidhlu l-kliem "id-disposizzjonijiet ta' dan l-Att u ta' kull regolament jew Regola Bankarja magħmula tahtu:", u fl-ewwel proviso li jiġi minnufih wara, minflok il-kliem "jekk l-applikant ikun istituzzjoni ta' kreditu awtorizzat f'xi pajjiż ieħor,", għandhom jidhlu l-kliem "jekk l-applikant ikun istituzzjoni ta' kreditu li jkollu liċenza jew awtorizzazzjoni ekwivalenti f'xi pajjiż ieħor,";

(b) is-subartikolu (2) tiegħu għandu jiġi mhassar;

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

(d) minnufih wara s-subartikolu (3) tiegħu, għandu jiżdied dan is-subartikolu (4) ġdid li ġej:

“(4) Meta tohroġ liċenza, l-awtorità kompetenti tista', bla hsara għal dawk il-kundizzjonijiet li hija tista' tqis adatti, u wara li tkun harġet il-liċenza hija tista', minn żmien għal żmien, tibdel jew tirrevoka kull kondizzjoni li tkun giet hekk imposta jew timponi kondizzjonijiet ġodda.”;

(e) fis-subartikolu (5) tiegħu, minflok il-kliem "preskritt taht is-subartikolu (3),", għandhom jidhlu l-kliem "preskritt taht is-subartikolu (2) ta' dan l-artikolu,";

(f) minnufih wara s-subartikolu (7) tiegħu, għandu jiżdied dan is-subartikolu (8) ġdid li ġej:

“(8) L-awtorità kompetenti għandha tavża lill-Kummissjoni ta' l-Unjoni Ewropea b'kull liċenza li tinhareġ lil istituzzjoni ta' kreditu skond l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici, magħmulin tahtu.”.

Emenda ta' l-artikolu 7A ta' l-Att prinċipali.

90. Fis-subartikolu (2) ta' l-artikolu 7A ta' l-Att prinċipali, minflok il-kliem "ma għandux ikun iżjed minn hames liri Maltin", għandhom jidhlu l-kliem "m'għandux jeċċedi l-ammont ta' erba' liri Maltin u tletin enteżmu (għaxar Euro).”.

91. L-artikolu 8 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 8 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Kumpannija inkorporata barra minn Malta”, għandhom jidhlu l-kliem “Kumpannija li jkollha liċenza jew awtorizzazzjoni ekwivalenti f’xi pajjiż iehor li ma jkunx Malta”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “fis-subartikolu (1) li jkollha”, għandhom jidhlu l-kliem “fis-subartikolu (1) ta’ dan l-artikolu li jkollha”;

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem “bis-saħha tas-subartikolu (3) kemm-il darba ma tkunx tal-fehma”, għandhom jidhlu l-kliem “bis-saħha tas-subartikolu (3) ta’ dan l-artikolu kemm-il darba ma tkunx tal-fehma”;

(d) fis-subartikolu (5) tiegħu, minflok il-kliem “skond is-subartikolu (1) biex tipprovdi”, għandhom jidhlu l-kliem “skond is-subartikolu (1) ta’ dan l-artikolu biex tipprovdi”;

(e) minflok is-subartikolu (7) tiegħu, għandu jidhol dan is-subartikolu ġdid li ġej:

“(7) L-awtorità kompetenti tista’ b’Regola Bankarja tipprovdi li d-disposizzjonijiet ta’ l-artikoli 20 sa 24 ta’ dan l-Att għandhom japplikaw għal uffiċċji rappreżentattivi f’Malta bl-istess mod kif dawn japplikaw għal istituzzjonijiet ta’ kreditu bla’hsara għal dawk il-bidliet u l-kondizzjonijiet li jistgħu jiġu stabbiliti fir-Regola Bankarja.”;

(f) fis-subartikolu (9) tiegħu, minflok il-kliem “fl-imsemmi subartikolu (1), tordna lill-kumpannija msemmija fl-imsemmi subartikolu (1)”, għandhom jidhlu l-kliem “fl-imsemmi subartikolu (1) ta’ dan l-artikolu, tordna lill-kumpannija msemmija fl-imsemmi subartikolu (1)”.

92. L-artikolu 9 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 9 ta' l-Att prinċipali.

(a) fil-paragrafu (e) tas-subartikolu (1) tiegħu, minflok il-kliem “istituzzjoni ta’ kreditu inkorporat barra minn Malta”, għandhom jidhlu l-kliem “istituzzjoni ta’ kreditu li jkollha liċenza jew awtorizzazzjoni ta’ *holding* ekwivalenti f’xi pajjiż iehor li ma jkunx Malta”;

(b) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “li javża skond dan l-Att; jew”, għandhom jidhlu l-kliem “li javża skond dan l-Att jew kull regolament jew Regoli Bankarji jew Regoli dwar Flus Elettronici magħmulin tahtu; jew”;

(ii) fil-paragrafu (ċ) tiegħu, minflok il-kliem “mid-disposizzjonijiet ta’ dan l-Att jew il-kondizzjonijiet”, għandhom jidhlu l-kliem “mid-disposizzjonijiet ta’ dan l-Att jew ta’ kull regolament jew tar-Regoli Bankarji u Regoli dwar Flus Elettronici, magħmulin tahtu jew mill-kondizzjonijiet”;

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem “bis-sahha tas-subartikolu (2) għandhom ikunu dawk ir-restrizzjonijiet”, għandhom jidhlu l-kliem “bis-sahha tas-subartikolu (2) ta’ dan l-Att għandhom ikunu dawk ir-restrizzjonijiet”, u minflok il-kliem “id-disposizzjonijiet ta’ dan l-Att u l-kondizzjonijiet”, għandhom jidhlu l-kliem “id-disposizzjonijiet ta’ dan l-Att u ta’ kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu u l-kondizzjonijiet”;

(d) fis-subartikolu (6) tiegħu, minflok il-kliem “Lienza mogħtija lil fergħa ta’ istituzzjoni ta’ kreditu inkorporata barra minn Malta tista’”, għandhom jidhlu l-kliem “Meta tinhareg liċenza biex titwaqqaf f’Malta fergħa ta’ istituzzjoni ta’ kreditu li jkollha liċenza jew awtorizzazzjoni ta’ *holding* ekwivalenti f’xi pajjiż iehor li ma jkunx Malta, din tista’”;

(e) fis-subartikolu (7) tiegħu, minflok il-kliem “istituzzjoni ta’ kreditu inkorporata f’Malta”, għandhom jidhlu l-kliem “istituzzjoni ta’ kreditu li jkollha liċenza f’Malta”, u wara l-kliem “jkunu qed jagħmlu kummerċ bankarju.”, għandhom jiżdiedu l-kliem godda “L-awtorità kompetenti għandha tavża lill-Kummissjoni ta’ l-Unjoni Ewropea b’kull revoka ta’ liċenza.”.

Emenda ta’ l-artikolu 11 ta’ l-Att prinċipali.

93. L-artikolu 11 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Istituzzjoni ta’ kreditu għandha tavża”, għandhom jidhlu l-kliem “Istituzzjoni ta’ kreditu li jkollha liċenza f’Malta għandha tavża”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “ebda istituzzjoni ta’ kreditu inkorporata f’Malta”, għandhom jidhlu l-kliem “ebda istituzzjoni ta’ kreditu li jkollha liċenza f’Malta”.

Emenda ta’ l-artikolu 12 ta’ l-Att prinċipali.

94. L-artikolu 12 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tieghu, minflok il-kliem “Bla hsara ghas-subartikoli (2) u (3), hlief”, ghandhom jidhlu l-kliem “Bla hsara ghas-subartikoli (2) u (3) ta’ dan l-artikolu, hlief”;

(b) minflok is-subartikolu (2) tieghu, ghandu jidhol dan is-subartikolu ġdid li ġej (2):

“(2) A. Istituzzjoni ta’ kreditu li jkollha liċenza jew awtorizzazzjoni ekwivalenti f’xi pajjiż ieħor li ma jkunx Malta tista’ tuża l-isem użat fil-pajjiż fejn ikollha liċenza jew tkun iżzomm awtorizzazzjoni ekwivalenti, hlief, meta jkun hemm riskju li l-użu ta’ dak l-isem jista’ jqarraq, dik l-istituzzjoni ta’ kreditu ghandha żżid dawk id-dettalji spjegattivi ma’ isimha skond ma jiġi ordnat mill-awtorità kompetenti.”.

95. L-artikolu 13 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 13 ta’ l-Att prinċipali.

(a) fis-subartikolu (2) tieghu, minflok il-kliem “istituzzjoni ta’ kreditu awtorizzata f’xi pajjiż ieħor jew tkun persuna naturali jew legali li tikkontrolla istituzzjoni ta’ kreditu awtorizzata f’xi pajjiż ieħor, l-awtorità kompetenti ghandha, qabel ma tagħti l-kunsens tagħha jew xort’ohra taht id-disposizzjonijiet tas-subartikolu (1).”, ghandhom jidhlu l-kliem “istituzzjoni ta’ kreditu li jkollha liċenza jew awtorizzazzjoni ekwivalenti f’xi pajjiż ieħor jew li tkun persuna naturali jew legali li tikkontrolla istituzzjoni ta’ kreditu li jkollha liċenza jew awtorizzazzjoni ekwivalenti f’xi pajjiż ieħor, l-awtorità kompetenti ghandha, qabel ma tagħti l-kunsens tagħha jew xort’ohra taht id-disposizzjonijiet tas-subartikolu (1) ta’ dan l-artikolu.”;

(b) fis-subartikolu (3) tieghu, minflok il-kliem “Is-subartikolu (1) ghandu japplika”, ghandhom jidhlu l-kliem “Is-subartikolu (1) ta’ dan l-artikolu ghandu japplika”;

(ċ) fis-subartikolu (4) tieghu, minflok il-kliem “mnizzla fis-subartikolu (1).”, ghandhom jidhlu l-kliem “mnizzla fis-subartikolu (1) ta’ dan l-artikolu.”;

(d) fil-paragrafu tas-subartikolu (5) tieghu, minflok il-kliem “tagħmel xi rikostruzzjoni.”, ghandhom jidhlu l-kliem “tagħmel xi rikostruzzjoni; jew”;

(e) fis-subartikolu (6) tieghu, minflok il-kliem “mnizzla fis-subartikolu (5).”, ghandhom jidhlu l-kliem “mnizzla fis-subartikolu (5) ta’ dan l-artikolu.”;

(f) fis-subartikolu (7) tiegħu, minflok il-kliem “l-awtorità kompetenti tista’ toħroġ”, għandhom jidhlu l-kliem “l-awtorità kompetenti għandha toħroġ”; u

(g) fis-subartikolu (9) tiegħu, minflok il-kliem “is-subartikoli (1) u (5)”, għandhom jidhlu l-kliem “is-subartikoli (1) u (5) ta’ dan l-artikolu”, u minflok il-kliem “mposta taħt dan l-Att,” għandhom jidhlu l-kliem “imposta taħt dan l-Att jew kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu,”.

Emenda ta’ l-artikolu 14 ta’ l-Att prinċipali.

96. Fis-subartikolu (4) ta’ l-artikolu 14 ta’ l-Att prinċipali, minflok il-kliem “tagħmel ordni li jordna lil dik il-persuna biex tieqaf milli tkun kontrollur jew”, għandhom jidhlu l-kliem “tagħmel ordni li tkun tenhtiegħ lil dik il-persuna ittemm milli tkun kontrollur jew direttur jew”.

Emenda ta’ l-artikolu 15 ta’ l-Att prinċipali.

97. Is-subartikolu (1) ta’ l-artikolu 15 ta’ l-Att prinċipali għandu jġi emendat kif ġej:

(a) fil-proviso mas-subparagrafu (i) tal-paragrafu (b) tiegħu, minflok il-kliem “jeċċedu s-somma ta’ ghaxart elef lira Maltin;”, għandhom jidhlu l-kliem “jeċċedu s-somma ta’ ghaxart elef lira Maltin (tlieta u ghoxrin elf mitejn u disghin Euro);”;

(b) fis-subparagrafu (v) tal-paragrafu (d) tiegħu, minflok il-kliem “mill-fondi ta’ l-istituzzjoni ta’ kreditu stess kif stabbilit taħt l-artikolu 17,” għandhom jidhlu l-kliem “mill-fondi għall-kalkolu tal-htigiet kapitali stess taħt l-artikolu 17 ta’ dan l-Att”.

Emenda ta’ l-artikolu 16A ta’ l-Att prinċipali.

98. L-artikolu 16A ta’ l-Att prinċipali għandu jġi emendat kif ġej:

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

“(1) Minghajr ebda preġudizzju għal-livell minimu tal-htigiet kapitali stabbiliti fir-Regola Bankarja mahruġa skond l-artikolu 17 (1) ta’ l-Att, il-fondi ta’ istituzzjoni ta’ kreditu stess ma jistgħux jinżlu taħt l-ammont ta’ kapital inizjali stabbilit fil-liċenza tagħha skond l-artikolu 7 (1) (a) ta’ l-Att jew dak l-ammont li jkun oghla skond ma jista’ jkun mehtiegħ mill-awtorità kompetenti minn żmien għal żmien.”;

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

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

“(2) Il-htieġa speċifika ta’ fondi tagħha stess li jkunu jeċċedu l-livell minimu stabbilit fis-subartikolu hawn qabel imsemmi għandhom jiġu imposti mill-awtorità kompetenti mill-inqas fuq l-istituzzjonijiet ta’ kreditu li ma jkunux konformi mal-htigiet stabbiliti fl-artikolu 109 tad-Direttiva u fl-artikolu 17B ta’ dan l-Att, jew li għar-rigward tagħhom tkun saret determinazzjoni negattiva fuq il-hruġ deskritt fl-artikolu 17D (3) ta’ dan l-Att, jekk l-unika applikazzjoni ta’ miżuri oħra x’aktarx li ma ttejjibx l-arranġamenti, il-proċessi, il-mekkaniżmi u l-istrateġiji suffiċjentement fi żmien adatt.”;

(d) fis-subartikolu (3) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “stabbilit taht is-subartikolu (1), l-awtorità kompetenti għandha”, għandhom jidhlu l-kliem “stabbilit taht is-subartikolu (1) ta’ dan l-artikolu, l-awtorità kompetenti għandha”.

99. L-artikolu 17 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 17 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “iżzomm adegwatezza kapitali bi proporzjon għal attiv b’piż ta’ riskju definiti”, għandhom jidhlu l-kliem “iżzomm htigiet kapitali bi proporzjon ma’ attiv imkejje skond ir-riskju u attiv imkejje skond ir-riskju nozzjonali kif jinsabu definiti”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “tinnotifika dak il-proporzjon lill-awtorità kompetenti”, għandhom jidhlu l-kliem “tinnotifika l-htigiet kapitali lill-awtorità kompetenti”;

(iii) fil-paragrafu (ċ) tiegħu, minflok il-kliem “minnufih malli l-proporzjon jaqa’ taht”, għandhom jidhlu l-kliem “minnufih malli l-htigiet kapitali jaqghu taht”, u minflok il-kliem “il-miżuri mehtieġa biex il-proporzjon jingieb lura għall-livell mehtieġ”, għandhom jidhlu l-kliem “il-miżuri mehtieġa biex il-htigiet kapitali jingiebu lura għal-livell mehtieġ”;

(b) minflok is-subartikolu (2) tiegħu, għandu jidhol dan is-subartikolu ġdid li ġej:

“(2) Kull istituzzjoni ta’ kreditu, b’esklużjoni ta’ istituzzjoni ta’ flus elettronici, għanda żżomm provvedimenti adegwati għal djun li ma jithallsux u dawk dubbjużi.”.

Emenda ta’ l-artikolu 17A ta’ l-Att prinċipali.

100. Fit-test Ingliż ta’ l-artikolu 17A ta’ l-Att prinċipali, minflok il-kliem “The competent authority shall issue”, għandhom jidhlu l-kliem “The competent authority may issue”.

Iżid l-artikoli 17B, 17C u 17D ġodda ma’ l-Att prinċipali.

101. Minnufih wara l-artikolu 17A ta’ l-Att prinċipali, għandhom jiddiedu dawn l-artikoli ġodda li ġejjin:

“Tmexxija interna.

17B. (1) Kull istituzzjoni ta’ kreditu għandha tara li jkun hemm arrangamenti ta’ tmexxija robusta li jinkludu struttura organizzattiva ċara li jkollha linji ta’ responsabbiltà definiti sew, trasparenti u konsistenti, proċessi effettivi ta’ identifikazzjoni, maniġġar, monitoraġġ u rappurtar ta’ riskji li hija tkun jew li tista’ tkun esposta għalihom, u mekkaniżmi ta’ kontroll intern adegwati li jinkludu proċeduri sodi u amministrattivi u ta’ kontijiet.

(2) Dawk l-arrangamenti, proċessi u mekkaniżmi msemmija fis-subartikolu (1) ta’ dan l-artikolu, għandhom ikunu komprensivi u bi proporzjon man-natura, l-iskala u l-komplessità ta’ l-attivitajiet ta’ l-istituzzjoni ta’ kreditu. Għandu jiġi tenut kont mill-istituzzjonijiet ta’ kreditu tal-kriterji tekniċi stabbiliti f’Regola Bankarja jew Regola dwar Flus Elettronici.

Proċess intern ta’ valutazzjoni ta’ adegwatezza kapitali ta’ istituzzjonijiet ta’ kreditu.

17C. Kull istituzzjoni ta’ kreditu, b’esklużjoni ta’ istituzzjonijiet ta’ flus elettronici, għandu jkollhom strateġiji u proċeduri validi, effikaċi u shaħ biex jivvalutaw fuq bażi permanenti l-ammonti, il-kompożizzjoni u d-distribuzzjoni tal-kapital intern li huma jikkunsidraw xieraq biex ikopru n-natura u l-livell tar-riskji li għalihom jinsabu u jistghu ikunu esposti. Dawn l-istrateġiji u proċeduri għandhom ikunu soġġetti għal reviżjoni interna regolari biex jiġi żgurati li dawn jibqgħu shaħ u proporzjonali għan-natura, l-iskala u l-komplessità ta’ l-attivitajiet ta’ l-istituzzjoni ta’ kreditu involuta. L-awtorità kompetenti għandha tohroġ Regola Bankarja li tkun, fost affarijiet ohra, tipprovdi dwar il-proċess intern ta’ valutazzjoni ta’ l-adeqwatezza kapitali li għandu jkun miżmum minn istituzzjonijiet ta’ kreditu għar-rigward tal-profil ta’ riskju li dawn ikollhom.

Proċess ta' reviżjoni ta' sorveljanza u ta' valutazzjoni.

17D. (1) Fit-twettiq tagħha ta' reviżjoni ta' sorveljanza u proċess ta' valutazzjoni, l-awtorità kompetenti għandha tirrevedi l-arranġamenti, l-istrateġiji, il-proċessi u l-mekkaniżmi li jiġu implimentati mill-istituzzjonijiet ta' kreditu f'konformità ma' dan l-Att, u ma' kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu u l-kriterji tekniċi mnizzla fl-Anness XI mad-Direttiva, sabiex jiġu valutati r-riskji li dwarhom l-istituzzjonijiet ta' kreditu jkunu jew jistgħu jkunu esposti.

(2) L-iskop ta' tali reviżjoni u valutazzjoni msemmija fis-subartikolu (1) hawn qabel għandu jkun dak tal-htigiet ta' dan l-Att u ta' kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu.

(3) Abbażi ta' dik ir-reviżjoni u valutazzjoni msemmija fis-subartikolu (1) hawn qabel, l-awtorità kompetenti għandha tiddetermina jekk l-arranġamenti, l-istrateġiji, il-proċessi u l-mekkaniżmi implimentati mill-istituzzjonijiet ta' kreditu u l-fondi tagħha stess miżmuma minn dawn ikunux jassikuraw maniġġar u kopertura sodi tar-riskji tagħhom.

(4) L-awtorità kompetenti għandha tistabbilixxi l-frekwenza u l-intensità ta' dik ir-reviżjoni u valutazzjoni msemmija fis-subartikolu (1) hawn qabel fir-rigward tad-daqs, l-importanza sistematika, in-natura, l-iskala u l-komplessità ta' l-attivitajiet ta' l-istituzzjoni ta' kreditu involuta u wara li jiġi tenut kont tal-prinċipju ta' proporzjonalità. Dik ir-reviżjoni u valutazzjoni għandhom mill-anqas jiġu aġġornati ta' kull sena.

(5) Dik ir-reviżjoni u valutazzjoni mwettqa mill-awtorità kompetenti għandha tinkludi l-espożizzjoni ta' istituzzjonijiet ta' kreditu għar-riskju ta' rata ta' mghax li jorigina minn attivitajiet li ma jkunux dawk ta' negozju.”.

102. Fl-artikolu 18 ta' l-Att prinċipali, minflok il-kliem “L-awtorità kompetenti għandha tohroġ direttiva bankarja”, għandhom jidhlu l-kliem “L-awtorità kompetenti tista' tohroġ Regola Bankarja”.

Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

103. L-artikolu 19 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

(a) fil-paragrafu (ċ) tas-subartikolu (1) tiegħu, minflok il-kliem “tkun qed thares id-disposizzjonijiet ta' dan l-Att;”,

għandhom jidhlu l-kliem “tkun qeghda thares id-disposizzjonijiet ta’ dan l-Att u kull regolamenti jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu;”;

(b) fis-subartikolu (3) tiegħu, minflok il-kliem “li ma tkunx inkorporata f’Malta.”, għandhom jidhlu l-kliem “li ma jkollhiex liċenza f’Malta.”;

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem “taht is-subartikolu (1) għandhom jiġu sottomessi f’dik il-forma u f’dawk il-perjodi li jiġu preskritti bid-direttiva bankarja.”, għandhom jidhlu l-kliem “taht is-subartikolu (1) ta’ dan l-artikolu għandhom jiġu ipprezentati f’dik il-forma u f’dawk il-perjodi skond ma jistgħu jiġu preskritti minn Regola Bankarja.”;

(d) fis-subartikolu (5) tiegħu, minflok il-kliem “taht is-subartikoli (1) u (2) għandhom jitqiesu”, għandhom jidhlu l-kliem “taht is-subartikoli (1) u (2) ta’ dan l-artikolu għandhom jitqiesu”.

Iżid l-artikolu 19A
ġdid ma’ l-Att
prinċipali.

104. Minnufih wara l-artikolu 19 ta’ l-Att prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

“Provdituri
ta’ servizz ta’
outsourcing.

19A. (1) Ebda istituzzjoni ta’ kreditu m’għandha tagħmel *outsourcing* tas-servizzi jew ta’ l-attivitajiet materjali tagħha kemm-il darba l-provditur ta’ servizz ta’ *outsourcing* ma jingħatax rikonoxximent mill-awtorità kompetenti taht dan l-artikolu.

(2) L-awtorità kompetenti tista’ tohroġ Regola Bankarja u, jew Regola dwar Flus Elettronici skond il-każ, fejn tistipula l-htigiet għar-rikonoxximent tal-provditur ta’ servizz ta’ *outsourcing* u l-ġhoti ta’ dawk is-servizzi ta’ *outsourcing*”.

Emenda ta’ l-
artikolu 20 ta’ l-Att
prinċipali.

105. L-artikolu 20 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “ta’ dmirijietha taht dan l-Att, u l-awtorità kompetenti”, għandhom jidhlu l-kliem “ta’ dmirijietha taht dan l-Att u kull regolamenti jew Regoli Bankarji magħmulin tahtu, u l-awtorità kompetenti”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “għandha tkun b’avviz bil-miktub”, għandhom jidhlu l-kliem “għandha ssir b’avviz bil-miktub”;

(ç) fis-subartikolu (3) tieghu:

(i) fil-paragrafu (a) tieghu, minflok il-kliem “skond is-subartikolu (1);”, ghandhom jidhlu l-kliem “skond is-subartikolu (1) ta’ dan l-artikolu;”;

(ii) fil-paragrafu (ç) tieghu, minflok il-kliem “tal-funzjonijiet taghha taht dan l-Att.”, ghandhom jidhlu l-kliem “tal-funzjonijiet taghha taht dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici maghmulin tahtu.”;

(d) fis-subartikolu (4) tieghu, minflok il-kliem “mehtieg skond is-subartikolu (3) (a) ghandu jkun persuna nominata”, ghandhom jidhlu l-kliem “mehtiegskond is-subartikolu (3) (a) ta’ dan l-artikolu ghandu jkun persuna nominata”;

(e) fis-subartikolu (5) tieghu, minflok il-kliem “bis-sahha tas-subartikolu (3), xi persuna”, ghandhom jidhlu l-kliem “bis-sahha tas-subartikolu (3) ta’ dan l-artikolu, xi persuna”;

(f) fis-subartikolu (7) tieghu:

(i) minflok il-kliem “depozitanti ta’ istituzzjoni ta’ kreditu li taghmel hekk, hija tista’” ghandhom jidhlu l-kliem “depozitanti ta’ istituzzjoni ta’ kreditu li taghmel hekk, jew jekk ikun xort’ohra mehtieg sabiex twettaq ir-responsabbiltajiet ta’ sorveljanza taghha, hija tista’”;

(ii) fil-paragrafu (d) tieghu, minflok il-kliem “ta’ dik l-istituzzjoni ta’ kreditu.”, ghandhom jidhlu l-kliem “ta’ dik l-istituzzjoni ta’ kreditu; jew”;

(iii) minnufih wara l-paragrafu (d) tieghu, ghandu jizdied dan il-paragrafu (e) gdid li ghej:

“(e) provditur ta’ servizz ta’ *outsourcing* ta’ dik l-istituzzjoni ta’ kreditu.”;

(g) fis-subartikolu (9) tieghu, minflok il-kliem “s-setghat moghtija bis-subartikoli (1) u (3) relattivament ghal kwalunkwe”, ghandhom jidhlu l-kliem “s-setghat moghtija bis-subartikoli (1) u (3) ta’ dan l-artikolu relattivament ghal xi”; u

(h) fis-subartikolu (11) tieghu, minflok il-kliem “rapport maghmul skond is-subartikolu (3) l-ispejjez”, ghandhom jidhlu l-

kliem “rapport dwarha skond is-subartikolu (3) ta’ dan l-artikolu l-ispejjeż”.

Emenda ta’ l-artikolu 22 ta’ l-Att prinċipali.

106. L-artikolu 22 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “depożitanti potenzjali ta’ istituzzjoni ta’ kreditu, hija tista’ tahtar” ghandhom jidhlu l-kliem “depożitanti potenzjali ta’ istituzzjoni ta’ kreditu, jew jekk ikun xorthohra mehtieg sabiex tkun tista’ twettaq ir-responsabbiltajiet ta’ sorveljanza tagħha, hija tista’ tahtar”;

(b) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (d) tiegħu, minflok il-kliem “ta’ dik l-istituzzjoni ta’ kreditu.”, ghandhom jidhlu l-kliem “ta’ dik l-istituzzjoni ta’ kreditu; jew”;

(ii) minnufih wara paragrafu (d) tiegħu, ghandu jiżdied dan il-paragrafu (e) ġdid li ġej:

“(e) provditur ta’ servizz ta’ *outsourcing* ta’ dik l-istituzzjoni ta’ kreditu.”;

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem “mogħtija bis-subartikolu (1) relattivament għal xi”, ghandhom jidhlu l-kliem “mogħtija bis-subartikolu (1) ta’ dan l-artikolu relattivament għal xi”;

(d) fis-subartikolu (4) tiegħu, minflok il-kliem “maħtura skond is-subartikolu (1) tiddeċiedi li tinvestiga l-kummerċ ta’ xi persuna bis-saħħa tas-subartikolu (2) jew tas-subartikolu (3) hija għandha”, ghandhom jidhlu l-kliem “maħtura skond is-subartikolu (1) ta’ dan l-artikolu tiddeċiedi li tinvestiga l-kummerċ ta’ xi persuna bis-saħħa tas-subartikolu (2) jew tas-subartikolu (3) ta’ dan l-artikolu hija għandha”;

(e) fis-subartikolu (5) tiegħu:

(i) minflok il-kliem “skond dan l-Att, jew xi persuna maħtura biex tagħmel rapport dwar dak il-korp skond dan l-Att u kull persuna”, ghandhom jidhlu l-kliem “skond dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu, jew persuna maħtura biex tagħmel rapport dwar dak il-korp skond dan l-Att u kull

regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu u kull persuna”;

(ii) fil-paragrafu (a) tieghu, minflok il-kliem “mahtura skond is-subartikolu (1),”, għandhom jidhlu l-kliem “mahtura skond is-subartikolu (1) ta’ dan l-artikolu,”;

(f) fis-subartikolu (7) tieghu:

(i) fil-paragrafu (b) tieghu, minflok il-kliem “mahtura skond is-subartikolu (1),”, għandhom jidhlu l-kliem “mahtura skond is-subartikolu (1) ta’ dan l-artikolu”;

(ii) fil-paragrafu (ċ) tieghu, minflok il-kliem “bis-sahha tas-subartikolu (2) jew (3).”, għandhom jidhlu l-kliem “bis-sahha tas-subartikoli (2) jew (3) ta’ dan l-artikolu.”.

107. Fis-subartikolu (1) ta’ l-artikolu 23 ta’ l-Att prinċipali, minflok il-kliem “taht dan l-Att,”, għandhom jidhlu l-kliem “taht dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu,”. Emenda ta’ l-artikolu 23 ta’ l-Att prinċipali.

108. Fil-paragrafu (a) ta’ l-artikolu 24 ta’ l-Att prinċipali, minflok il-kliem “skond l-artikolu 20, l-artikolu 22 jew l-artikolu 23; jew”, għandhom jidhlu l-kliem “skond l-artikolu 20, l-artikolu 22 jew l-artikolu 23 ta’ dan l-Att; jew”. Emenda ta’ l-artikolu 24 ta’ l-Att prinċipali.

109. L-artikolu 25 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 25 ta’ l-Att prinċipali.

(a) is-subartikoli (3), (4) u (5) tieghu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (4), (5) u (6);

(b) minnufih wara s-subartikolu (2) tieghu, għandu jiżdied dan is-subartikolu (3) ġdid li ġej:

“(3) L-awtorità kompetenti tista’ wkoll tagħmel pattijiet ta’ koperazzjoni, li jkunu jipprovdu dwar l-iskambju ta’ informazzjoni, ma’ pajjiżi terzi jew ma’ awtoritajiet jew korpi ta’ pajjiżi terzi kif imfissra fl-Artikoli 47 u 48 (1) tad-Direttiva, jekk dik l-informazzjoni żvelata tkun soġġetta għal garanziji ta’ segretezza professjonali kif provdut għal dan taht dan l-Att u kull regolament jew Regoli Bankarji magħmulin tahtu:

Iżda dak l-iskambju ta' informazzjoni ghandu jsir għall-fini tat-twettiq tal-hidmiet ta' sorveljanza ta' l-awtoritajiet jew korpi msemmija f'dan is-subartikolu:

Iżda wkoll meta l-informazzjoni toriġina fi Stat Membru ieħor, din ma tistax tiġi żvelata minghajr il-kunsens espress ta' l-awtorità regolatorja estera li tkun żvelatha, u meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità regolatorja estera tkun tat il-kunsens tagħha.”;

(ċ) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “id-disposizzjonijiet tas-subartikolu (2) biss sal-limitu li l-awtoritajiet barranin li jirċievu dik l-informazzjoni”, għandhom jidhlu l-kliem “id-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu biss sal-limitu li l-awtoritajiet regolatorji barranin li jirċievu dik l-informazzjoni”;

(d) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid, minflok il-kliem “tawtorizza awtoritajiet kompetenti ohra barranin biex huma”, għandhom jidhlu l-kliem “tawtorizza awtoritajiet regolatorji barranin biex huma”, u minflok il-kliem “fil-pajjiż ta' l-awtorità kompetenti li tagħmel l-ispezzjoni.”, għandhom jidhlu l-kliem “fil-pajjiż ta' l-awtorità regolatorja estera li tagħmel l-ispezzjoni.”;

(e) minflok is-subartikolu (6) tiegħu, kif enumerat mill-ġdid, ghandu jidhol dan is-subartikolu (6) ġdid li ġej:

“(6) L-awtorità kompetenti għandha wkoll, wara li ssirilha talba bil-miktub, tiżvela lill-Bank Ċentrali, korpi ohra li jkollhom funzjoni simili fil-kwalità tagħhom bhala awtoritajiet monetarji u, meta jkun adatt, lil awtoritajiet ohra li jkunu responsabbli għall-monitoraġġ ta' sistemi ta' hlas, kull informazzjoni li tkun fil-pussess jew aċċessibbli għall-awtorità kompetenti, li tkun mehtieġa għat-twettiq tad-dmirijiet tal-Bank Ċentrali u ta' l-awtoritajiet l-ohra msemmija hawn qabel, taht il-liġi:

Iżda f'sitwazzjoni ta' emerġenza l-awtorità kompetenti għandha tgharraf kemm jista' jkun malajr lill-Bank Ċentrali ta' Malta b'dik l-informazzjoni mehtieġa għat-twettiq tad-dmirijiet tal-Bank Ċentrali taht l-Att dwar il-Bank Ċentrali ta' Malta.”;

(f) is-subartikolu (7) tiegħu, ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (8); u

(g) minnufih wara s-subartikolu (6) tiegħu, għandu jiżdied dan is-subartikolu (7) ġdid li ġej:

“(7) L-awtorità kompetenti tista’ wkoll tikkomunika dik l-informazzjoni, li tkun ġiet riċevuta fost l-oħrajn taht id-disposizzjonijiet ta’ dan l-Att, lil *clearing house* jew lil xi korp simili iehor rikonoxxut taht il-liġi nazzjonali għall-ghoti ta’ *clearing* u twettiq ta’ servizzi fis-suq rilevanti nazzjonali, jekk hija tqis li jkun mehtieg li tikkomunika dik l-informazzjoni sabiex tiżgura l-funzjonament adatt ta’ dawn il-korpi għar-rigward ta’ nuqqasijiet jew ta’ nuqqasijiet potenzjali minn parteċipanti fis-suq:

Iżda l-dik l-informazzjoni li tkun ġiet riċevuta taht dan l-artikolu għandha tkun soġġetta għall-kundizzjonijiet ta’ segretezza professjonali:

Iżda wkoll dik l-informazzjoni li tkun ġiet riċevuta taht dan is-subartikolu ma tistax tiġi żvelata mill-awtorità kompetenti mingħajr il-kunsens espress ta’ l-awtorità regolatorja estera li tkun żvelatha.”.

110. Minnufih wara l-artikolu 25 ta’ l-Att prinċipali għandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

Iżid l-artikoli 25A u 25B ġodda ma’ l-Att prinċipali.

“Koperazzjoni u qsim ta’ informazzjoni dwar sorveljanza fuq bażi konsolidata.

25A. (1) L-awtorità kompetenti għandha tikkopera fil-qrib ma’ awtoritajiet regolatorji barranin fl-affarijiet kollha li jkollhom x’jaqsmu mas-superviżjoni fuq bażi konsolidata. B’mod partikolari dik il-koperazzjoni għandha tinkludi l-ghoti lill-awtorità regolatorja estera ta’ kull informazzjoni li tkun essenzjali jew rilevanti għall-eżercizzju tal-funzjonijiet ta’ l-awtoritajiet regolatorji esteri taht id-Direttiva. F’dan il-kuntest l-awtorità kompetenti għandha tikkomunika meta ssirilha talba għaldaqstant l-informazzjoni rilevanti kollha u għandha tikkomunika b’inizjattiva tagħha nnifisha kull informazzjoni essenzjali.

(2) Għall-finijiet ta’ dan l-artikolu, informazzjoni għandha titqies li tkun wahda essenzjali jekk din tkun tista’ materjalment tinfluwenza l-valutazzjoni tas-sodizza finanzjarja ta’ istituzzjoni ta’ kreditu fi Stat Membru iehor jew fi Stat ŻEE u għandha tkun tinkludi, b’mod partikolari, dawn l-affarijiet li ġejjin:

(i) l-identifikazzjoni ta' l-istruttura tal-grupp ta' l-istituzzjonijiet ta' kreditu kollha magġuri fi grupp;

(ii) l-identifikazzjoni ta' l-awtorità ta' sorveljanza jew ta' l-awtorità regolatorja estera tal-istituzzjonijiet ta' kreditu fil-grupp, skond il-każ;

(iii) proċeduri għall-kollezzjoni ta' informazzjoni mill-istituzzjonijiet ta' kreditu fi grupp u l-verifika ta' dik l-informazzjoni;

(iv) żviluppi avversi f'istituzzjonijiet ta' kreditu jew f'entitajiet ta' grupp oħra, li jistgħu jaffettwaw serjament l-istituzzjonijiet ta' kreditu; u

(v) sanzjonijiet magġuri u miżuri eċċezzjonali li jittiehdu mill-awtorità kompetenti skond dan l-Att u kull regolament jew Regoli Bankarji magħmulin tahtu inklużi l-imposizzjoni ta' hlas kapitali addizzjonali skond l-artikolu 136 (1) tad-Direttiva u l-imposizzjoni ta' kull limitazzjoni fuq l-użu ta' Metodu ta' Kejl Avvanzat għall-htigiet ta' kalkolu tal-fondi ta' l-istess istituzzjoni ta' kreditu kif provdut fir-Regola Bankarja mahruġa mill-awtorità kompetenti.

(3) L-awtorità kompetenti tista', abbażi ta' arrangamenti ta' koordinazzjoni u koperazzjoni bil-miktub, tafda funzjonijiet addizzjonali lill-awtorità regolatorja estera responsabbli għas-sorveljanza fuq bażi konsolidata u tista' tispeċifika proeduri fil-proess ta' tehid ta' deċiżjonijiet u għall-koperazzjoni tagħha ma' awtoritajiet regolatorji barranin.

(4) L-awtorità kompetenti għandha tikkonsulta lill-awtoritajiet regolatorji barranin għar-rigward ta' dawn l-affarijiet li ġejjin, sakemm id-deċiżjonijiet imsemmija fis-subartikolu preedenti jkunu importanti għall-funzjonijiet ta' sorveljanza ta' dawk l-awtoritajiet regolatorji esteri:

(a) bidliet fil-partecipazzjoni azzjonarja, fl-istruttura organizzattiva jew ta' manigġar tal-istituzzjonijiet ta' kreditu fi grupp, li jehtieġu l-approvazzjoni jew l-awtorizzazzjoni ta' l-awtoritajiet regolatorji esteri; u

(b) sanzjonijiet maġġuri jew miżuri eċċezzjonali li jittiehdu mill-awtorità kompetenti, inklużi l-imposizzjoni ta' hlas kapitali addizzjonali skond l-artikolu 136 (1) tad-Direttiva u l-imposizzjoni ta' kull limitazzjoni fuq l-użu ta' Metodu ta' Kejl Avvanzat għall-kalkolu ta' l-obbligi tal-fondi ta' l-istess istituzzjoni ta' kreditu għal riskju operattiv taht Regola Bankarja.

(5) L-awtorità kompetenti għandha, fil-każijiet kollha, tikkonsulta lill-awtoritajiet regolatorji barranin responsabbli għas-sorveljanza fuq bażi konsolidata dwar dak li hemm deskritt fis-subartikolu (4) (b) ta' dan l-artikolu, iżda l-awtorità kompetenti tista' tiddeċiedi li ma tikkonsultax f'każijiet ta' urġenza jew meta dik il-konsultazzjoni tista' tipperikola l-effettività tad-deċiżjonijiet tagħha. F'dan il-każ, l-awtorità kompetenti għandha, mingħajr dewmien, tinforma lill-awtoritajiet regolatorji esteri.

(6) L-awtorità kompetenti tista', permezz ta' ftehim bilaterali, tiddelega r-responsabbiltajiet tagħha għas-sorveljanza tas-sussidjarja ta' impriza prinċipali li tkun istituzzjoni ta' kreditu, lill-awtorità regolatorja estera li tkun awtorizzat u issorveljat l-impriza prinċipali biex hekk l-awtorità regolatorja estera tassumi responsabbiltà għas-sorveljanza tas-sussidjarja skond id-Direttiva.

(7) B'żjieda ma' l-obbligi imposti bid-disposizzjonijiet ta' dan l-Att, meta l-awtorità kompetenti tkun responsabbli għall-eżerċizzju ta' sorveljanza fuq bażi konsolidata ta' istituzzjonijiet ta' kreditu prinċipali u ta' istituzzjonijiet ta' kreditu kontrollati minn *financial parent holding company*, hija għandha twettaq dawn il-funzjonijiet li ġejjin:

(a) il-kordinazzjoni tal-ġbir u d-disseminazzjoni ta' informazzjoni rilevanti jew essenzjali f'sitwazzjonijiet ta' emerġenza kif ukoll f'sitwazzjonijiet li jirrigwardaw il-kummerċ vijabbli; u

(b) l-ippjanar u l-kordinazzjoni ta' attivitajiet ta' sorveljanza f'sitwazzjonijiet ta' emerġenza kif ukoll f'sitwazzjonijiet li jirrigwardaw il-kummerċ vijabbli, inkluż f'dak li għandu x'jaqsam ma' l-attivitajiet li hemm fl-artikolu 17D ta' dan l-Att, f'koperazzjoni ma' l-awtoritajiet regolatorji barranin involuti.

(8) Meta impriża prinċipali tkun tinsab f' Malta u l-awtorità kompetenti ma tkunx hi nnifisha teżerita sorveljanza fuq bażi konsolidata konformement ma' l-Artikoli 125 u 126 tad-Direttiva, l-awtorità kompetenti għandha, wara li ssirilha talba mill-awtorità regolatorja estera responsabbli biex teżerita dik is-sorveljanza, teħtieg lill-impriża prinċipali biex tipprovdli kull informazzjoni rilevanti għall-finijiet ta' sorveljanza fuq bażi konsolidata u l-awtorità kompetenti għandha tittrasmetti dik l-informazzjoni lill-awtorità regolatorja estera li tkun qegħda tagħmel dik it-talba.

(9) Meta jkun hemm sitwazzjonijiet ta' emerġenza fi hdan grupp bankarju, li tkun potenzjalment tipperikola l-istabbiltà tas-sistema finanzjarja f' xi wieħed mill-Istati Membri jew Stati ŻEE fejn entitajiet ta' grupp ikunu nġhataw liċenza u fejn l-awtorità kompetenti tkun responsabbli għall-eżerizzju ta' sorveljanza fuq bażi konsolidata, din għandha tgharraf kemm jista' jkun malajr, b'żjieda mad-disposizzjonijiet ta' l-artikolu 25 ta' dan l-Att, lill-Bank Ċentrali ta' Malta, lil Banek Ċentrali ohra barranin kif ukoll lill-awtoritajiet regolatorji barranin identifikati taħt d-disposizzjonijiet rilevanti tal-Regola Bankarja li jkollhom x'jaqsmu mas-sorveljanza fuq bażi konsolidata. Meta possibbli, l-awtorità kompetenti għandha tuża l-kanali ta' komunikazzjoni eżistenti u definiti.

(10) Meta l-awtorità kompetenti tkun responsabbli għas-sorveljanza fuq bażi konsolidata, hija għandha, meta tkun teħtieg informazzjoni li tkun diġà nġhatat lill-awtorità regolatorja estera, tikkuntattja lil dik l-awtorità, kull meta possibbli, sabiex tevita d-duplikazzjoni ta' rappurtar lid-diversi awtoritajiet regolatorji barranin involuti fis-sorveljanza.

Verifika ta' informazzjoni f'kazijiet speċifiċi.

25B. (1) F'kazijiet speċifiċi l-awtorità kompetenti tista' titlob lill-awtorità regolatorja estera tivverifika informazzjoni għar-rigward ta' istituzzjoni ta' kreditu, *financial holding company*, impriża ta' servizzi anċillari, *holding company* b'attività mħallta jew is-sussidjarja tagħha li tkun tinsab fi Stat Membru iehor jew Stat ŻEE u, sussidjarja li ma tkunx inkluża fi hdan l-iskop ta' sorveljanza fuq bażi konsolidata eżerċitata mill-awtorità kompetenti.

(2) Fil-każijiet imsemmija fis-subartikolu preedenti l-awtorità kompetenti tista’:

(i) titlob lill-awtorità regolatorja estera taghti setgħa lill-awtorità kompetenti li twettaq il-verifika hi nnifisha;

(ii) titlob lill-awtorità regolatorja estera twettaq il-verifika f’isimha;

(iii) fil-każijiet fejn ma twettaqx il-verifika hi nnifisha, titlob li tipparteċipa fit-twettiq ta’ verifika bħal dik; jew

(iv) titlob lill-awtorità regolatorja estera tahtar awditur jew espert biex jagħmel verifika bħal dik.

(3) Meta l-awtorità kompetenti tircievi talba biex tivverifika xi informazzjoni mill-awtorità regolatorja estera:

(i) meta awtorità regolatorja estera tagħmel talba lill-awtorità kompetenti biex tagħmel verifika ta’ l-informazzjoni, l-awtorità kompetenti għandha tikkonedi lill-awtorità regolatorja estera li tkun qeghda tagħmel dik it-talba, li tagħmel dik il-verifika;

(ii) meta awtorità regolatorja estera tagħmel talba lill-awtorità kompetenti biex tagħmel verifika, l-awtorità kompetenti għandha twettaq il-verifika hi nnifisha għan-nom ta’ l-awtorità regolatorja estera;

(iii) meta awtorità regolatorja estera titlob lill-awtorità kompetenti tipparteċipa fil-verifika ta’ informazzjoni f’dawk il-każijiet fejn awtorità regolatorja estera ma tagħmilx il-verifika hi nnifisha, l-awtorità kompetenti għandha tippermetti lill-awtorità regolatorja estera tipparteċipa f’dik il-verifika; jew

(iv) meta awtorità regolatorja estera hekk titlob, l-awtorità kompetenti għandha tahtar awditur jew espert biex iwettaq dik il-verifika.

(4) F’dan l-artikolu, *financial holding company*, impriza ta’ servizzi anċillari, *holding company* ta’ attività mħallta għandu jkollha l-istess tifsira bħal dak mogħti lilhom bl-artikolu 4 tad-Direttiva.”.

Emenda ta' l-
artikolu 2 ta' l-Att
prinċipali.

111. L-artikolu 26 ta' l-Att prinċipali ghandu jiġi emendat kif
gej:

(a) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem “skond l-artikolu 20(3) (a) ta’ hawn fuq jew skond l-artikolu 22(1),”, għandhom jidhlu l-kliem “skond l-artikolu 20(3) (a) jew l-artikolu 22(1) ta’ dan l-Att,” u wara, minflok il-kliem “l-awtorità kompetenti taht dan l-Att.”, għandhom jidhlu l-kliem “l-awtorità kompetenti taht dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu.”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “ta’ l-artikolu 31(9).”, għandhom jidhlu l-kliem “ta’ l-artikolu 31(9) ta’ dan l-Att.”;

(ċ) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem “skond l-artikolu 20(3) (a),”, għandhom jidhlu l-kliem “skond l-artikolu 20(3) (a) ta’ dan l-Att.”;

(ii) fit-test Inġliż tal-paragrafu (b) tiegħu, minflok il-kliem “by virtue of article 20(7),”, għandhom jidhlu l-kliem “by virtue of article 20(7) of this Act.”;

(d) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem “rapport taht l-artikolu 22(1),”, għandhom jidhlu l-kliem “rapport taht l-artikolu 22(1) ta’ dan l-Att.”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “bis-saħħa ta’ l-artikolu 22(2),”, għandhom jidhlu l-kliem “bis-saħħa ta’ l-artikolu 22(2) ta’ dan l-Att.”;

(e) fis-subartikolu (5) tiegħu, minflok il-kliem “kif imsemmi fis-subartikolu (7) ta’ l-artikolu 20 jew kif imsemmi fl-artikolu 22(2).”, għandhom jidhlu l-kliem “kif imsemmi fl-artikolu 20(7) jew fl-artikolu 22(2) ta’ dan l-Att.”;

(f) is-subartikolu (6) tiegħu għandha tithassar.

Emenda ta' l-
artikolu 28 ta' l-Att
prinċipali.

112. Fl-artikolu 28 ta' l-Att prinċipali, minflok il-kliem “provduta f’ dan l-Att -”, għandhom jidhlu l-kliem “provduta f’ dan l-Att u f’ kull regolamenti jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu -”.

113. L-artikolu 28A ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 28A ta' l-Att prinċipali.

(a) minflok il-kliem “mogħtija bl-artikolu 3, il-Ministru,”, għandhom jidhlu l-kliem “mogħtija bl-artikolu 3 ta' dan l-Att, il-Ministru,”;

(b) fit-test Inġliż, minflok il-kliem “*schemes shall be exempt form the payment*”, għandhom jidhlu l-kliem “*schemes shall be exempt from the payment*”.

114. L-artikolu 29 ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 29 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “fl-artikolu 9(2),” għandhom jidhlu l-kliem “fl-artikolu 9(2) ta' dan l-Att,”, u minflok il-kliem “għad-disposizzjonijiet ta' l-artikolu 9(2) -”, għandhom jidhlu l-kliem “għad-disposizzjonijiet ta' l-artikolu 9(2) ta' dan l-Att -”;

(b) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “skond is-subartikolu (1) (b),” għandhom jidhlu l-kliem “skond is-subartikolu (1) (b) ta' dan l-artikolu,”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “skond is-subartikolu (1) (ċ),” għandhom jidhlu l-kliem “skond is-subartikolu (1) (ċ) ta' dan l-artikolu,”;

(iii) fil-paragrafu (ċ) tiegħu, minflok il-kliem “skond is-subartikolu (1) (d),” għandhom jidhlu l-kliem “skond is-subartikolu (1) (d) ta' dan l-artikolu,”;

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem “skond is-subartikolu (1) (ċ) jew (d) -”, għandhom jidhlu l-kliem “skond is-subartikolu (1) (ċ) u (d) ta' dan l-artikolu -”;

(d) fis-subartikolu (4) tiegħu, minflok il-kliem “skond is-subartikolu (1) (f),” għandhom jidhlu l-kliem “skond is-subartikolu (1) (f) ta' dan l-artikolu,”;

(e) fis-subartikolu (7) tiegħu, minflok il-kliem “skond is-subartikolu (1)”, għandhom jidhlu l-kliem “skond is-subartikolu (1) ta' dan l-artikolu”;

(f) fis-subartikolu (9) tiegħu, minflok il-kliem “kif imsemmi fis-subartikolu (1),”, għandhom jidhlu l-kliem “kif imsemmi fis-subartikolu (1) ta’ dan l-artikolu,”.

Emenda ta’ l-artikolu 29A ta’ l-Att prinċipali.

115. Minflok l-artikolu 29A ta’ l-Att prinċipali, għandu jidhlo dan l-artikolu 29A ġdid li ġej:

“29A. Il-Ministru għandu, wara li jikkonsulta lill-awtorità kompetenti, jagħmel regolamenti sabiex tiġi trasposta d-Direttiva 2001/24/KE tal-Parlament Ewropew u tal-Kunsill ta’ l-Unjoni Ewropea ta’ l-4 April 2001 fuq l-organizzazzjoni mill-ġdid u l-istralċ ta’ istituzzjonijiet ta’ kreditu għar-rigward ta’ istituzzjonijiet ta’ kreditu stabbiliti f’Malta u ta’ ferġat ta’ istituzzjonijiet ta’ kreditu stabbiliti barra minn Malta, u jistgħu jsiru disposizzjonijiet differenti għal każijiet jew klassijiet ta’ każijiet differenti, u għandu jiġi tenut kont ta’ l-obbligi internazzjonali ta’ Malta f’dan ir-rigward. Dawk ir-regolamenti jistgħu jkunu jipprovdur dwar l-implimentazzjoni ta’ miżuri u proċeduri ta’ organizzazzjoni mill-ġdid dettaljata, inklużi dawn l-affarijiet li ġejjin: il-pubblikazzjoni u s-sottomissjoni ta’ informazzjoni f’dik il-lingwa jew f’dawk il-lingwi u f’dawk il-ġurnali jew publikazzjonijiet oħra skond ma jista’ jkun preskritt; is-sottomissjoni ta’ informazzjoni lill-creditors, u l-mod u l-proċedura ta’ dan; in-notifika lil kredituri u l-proċedura għas-sottomissjoni ta’ talbiet jew ilmenti; miżuri għall-protezzjoni tad-drittijiet ta’ kredituri u ta’ terzi oħrajn, inklużi arrangamenti ta’ *netting*; konsultazzjoni bejn l-awtorità kompetenti u kull awtorità regolatorja, amministrattiva jew ġudizzjarja f’Malta u barra minn Malta li jkollha kompetenza fuq l-istralċ jew l-organizzazzjoni mill-ġdid ta’ istituzzjonijiet ta’ kreditu jew tal-ferġat tiegħu; il-pubblikazzjoni ta’ deċiżjonijiet li jkollhom x’jaqsmu ma’ dak l-istralċ jew dawk il-proċeduri ta’ organizzazzjoni mill-ġdid; l-għemil ta’ Regoli Bankarji li jirregolaw l-applikabilità tal-liġi adatta jew applikabbli u kwistjonijiet oħra ta’ konflitt tal-liġijiet.”.

Ihassar l-artikolu 29B ta’ l-Att prinċipali.

116. L-artikolu 29B ta’ l-Att prinċipali għandu jiġi mhassar.

Emenda ta’ l-artikolu 29C ta’ l-Att prinċipali.

117. L-artikolu 29C ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu shih għandu jiġi enumerat mill-ġdid bhala l-artikolu 29B; u

(b) minflok il-kliem “Regolamenti maghmula taht dan l-Att”, ghandhom jidhlu l-kliem “Regolamenti u Regoli Bankarji maghmula taht dan l-Att”.

118. Fl-artikolu 30 ta’ l-Att prinċipali, minflok il-kliem “li jista’ jiġi eezzjonalment awtorizzat mill-awtorità kompetenti -”, ghandhom jidhlu l-kliem “skond ma jista’ jiġi eezzjonalment moghti b’liċenzja mill-awtorità kompetenti -”.

Emenda ta’ l-artikolu 30 ta’ l-Att prinċipali.

119. L-artikolu 31 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 31 ta’ l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “uditur skond is-subartikolu (1), jew”, ghandhom jidhlu l-kliem “uditur skond is-subartikolu (1) ta’ dan l-artikolu, jew”;

(b) fis-subartikolu (9) tiegħu, minflok il-kliem “l-awtorità kompetenti skond l-artikolu 20 jew skond l-artikolu 22,”, ghandhom jidhlu l-kliem “l-awtorità kompetenti skond l-artikolu 20 jew skond l-artikolu 22 ta’ dan l-Att,”, u minflok il-kliem “li ma jkunx inkorporat f’Malta,”, ghandhom jidhlu l-kliem “li ma jkollux liċenza f’Malta,”; u

(ċ) fis-subartikolu (10) tiegħu, minflok il-kliem “mhux inkorporat f’Malta”, ghandhom jidhlu l-kliem “li ma jkollux liċenza f’Malta”.

120. Fl-artikolu 32 ta’ l-Att prinċipali, minflok il-kliem “imhassra skond l-artikolu 9(2);”, ghandhom jidhlu l-kliem “imhassra skond l-artikolu 9 (2) ta’ dan l-Att;”.

Emenda ta’ l-artikolu 32 ta’ l-Att prinċipali.

121. L-artikolu 34 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 34 ta’ l-Att prinċipali. Kap. 376.

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

“(1) Ebda haġa f’dan l-Att m’ghandha tawtorizza lill-Bank Ċentrali jew lill-awtorità kompetenti li tinvestiga jew li ġġiegħel li ssir investigazzjoni f’istituzzjoni ta’ kreditu dwar l-affarijiet ta’ xi klijent individwali ta’ istituzzjoni ta’ kreditu hliet –

(a) għall-fini li tiġi żgurata konformità ma’ xi waħda mid-disposizzjonijiet ta’ dan l-Att jew ta’ kull Att ieħor, jew

(b) sabiex jiġi faċilitat il-monitoraġġ fuq bażi konsolidata jew mhix konsolidata, ta' l-aġir ta' negozju tal-istituzzjoni ta' kreditu, spejalment dwar il-monitoraġġ tal-likwidità, solvibbiltà, garanziji ta' depożitu, *exposures* kbar, proċeduri amministrattivi u proċeduri ta' kontijiet u mekkanizmi ta' kontroll intern, jew

(ċ) għall-fini li l-Bank Ċentrali jkun jista' jissodisfa r-responsabbiltajiet tiegħu taht l-Att dwar il-Bank Ċentrali ta' Malta, jew

(d) għall-fini li l-Bank Ċentrali jew l-awtorità kompetenti jkunu jistgħu, skond il-każ, jissodisfaw l-obbligi rispettivi tagħhom li joriginaw taht l-obbligi internazzjonali ta' Malta.”;

(b) minflok is-subartikolu (2) tiegħu, għandu jidhol dan is-subartikolu (2) ġdid li ġej:

“(2) Ebda persuna, inklużi uffiċjali jew aġenti ta' l-imghoddi jew tal-prezent ta' bank, m'għandha tiżvela ebda informazzjoni dwar l-affarijiet ta' bank jew ta' klijent ta' bank li hija tkun kisbet fil-qadi tad-dmirijiet tagħha jew fl-eżerċizzju tal-funzjonijiet tagħha taht dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu hliet -

(a) meta tkun awtorizzata tagħmel dan taht xi waħda mid-disposizzjonijiet ta' dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu; jew

(b) għall-fini tal-qadi ta' dmirijietha jew ta' l-eżerizzju tal-funzjonijiet tagħha;

(ċ) meta tkun legalment mehtieġa tagħmel hekk minn xi qorti jew taht xi disposizzjoni ta' xi liġi;

(d) għall-fini li l-Bank Ċentrali jew l-awtorità kompetenti, skond il-każ, jkunu jistgħu jissodisfaw l-obbligi rispettivi tagħhom li joriginaw taht l-obbligi internazzjonali ta' Malta; jew

(e) meta l-klijent espressament jagħti l-kunsens tiegħu, bil-miktub, biex tiġi żvelata l-informazzjoni li

jkollha x'taqsam ma' l-affarijiet tieghu, sal-limitu awtorizzat mill-klijent.”;

(ċ) minflok is-subartikolu (4) tieghu, ghandu jidhol dan is-subartikolu (4) li ġej:

“(4) Uffiċjali ta' l-awtorità kompetenti u tal-Bank Ċentrali, inklużi uffiċjali passati u preżenti, kif ukoll l-udituri jew esperti li jaġixxu għan-nom ta' l-awtorità kompetenti jew tal-Bank Ċentrali, m'għandhomx jiżvelaw informazzjoni miksuba mingħand istituzzjonijiet ta' kreditu waqt li jkunu qegħdin jaqdu dmirijiet ta' sorveljanza u oħrajn u li tkun regolata bl-obbligazzjoni ta' segretezza professjonali, kemm il darba dak l-iżvelar ta' informazzjoni ma jsirx f'forma sommarja jew kollettiva, b'mod illi l-identità ta' l-istituzzjoni ta' kreditu, li dik l-informazzjoni tkun tappartjeni għaliha, ma tkunx tista' tiġi żvelata:

Iżda dawk l-uffiċjali, udituri jew esperti jistgħu jiżvelaw dik l-informazzjoni għall-fini tal-qadi ta' dmirijiethom jew ta' l-eżerizzju tal-funzjonijiet tagħhom, jew meta jkunu legalment meħtieġa jagħmlu hekk minn xi qorti jew taht id-disposizzjonijiet ta' xi liġi.”;

(d) minflok is-subartikolu (5) tieghu, ghandu jidhol dan is-subartikolu ġdid li ġej (5):

“(5) Minkejja d-disposizzjonijiet ta' kull liġi oħra u meta jkun meħtieġ għall-qadi kif imiss ta' l-attivitajiet tagħha, istituzzjoni ta' kreditu tista' tikkomunika kull informazzjoni li jkollha fil-pussess tagħha u li jkollha x'taqsam ma' l-affarijiet ta' klijent lil membri oħra tal-grupp ta' kumpanniji li dik l-istituzzjoni tkun tiffirma parti minnhom, li jew johorġu flus elettronici jew iwettqu xi attività minn dawk imsemmija fl-Iskeda li tinsab ma' l-Att dwar Istituzzjonijiet Finanzjarji, jew attivitajiet ta' banek jew attivitajiet ekwivalenti oħra huma jkollhom liċenza biex iwettqu kif imiss, jew komplimentari u, jew funzjonijiet supplimentari għal dawn:

Iżda kull tali komunikazzjoni ta' informazzjoni għandha ssir bla ħsara għal kull kontroll u salvagwardja adatti, biex hekk għandha tkun ir-responsabbiltà ta' l-istituzzjoni ta' kreditu li tiżgura li l-membri ta' dak il-grupp ta' kumpanniji ikun soġġett għal obbligi ekwivalenti li jirrigwardaw il-protezzjoni ta' data, il-kunfidenzjalità u l-kura skond ma teħtieġ il-liġi ta' Malta:

Iżda wkoll għall-fini ta' dan l-artikolu, ir-reklamar, bejgh jew promozzjoni, m'għandhom, taht ebda irkostanza, ikunu ikkunsidrati bhala mehtieġa għall-qadi kif imiss ta' l-attivitajiet ta' istituzzjoni ta' kreditu.”; u

(e) is-subartikolu (6) għandu jiġi mħassar.

Emenda ta' l-artikolu 35 ta' l-Att prinċipali.

122. L-artikolu 35 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “Is-subartikolu (1) ma' għandux japplika”, għandhom jidhlu l-kliem “Is-subartikolu (1) ta' dan l-artikolu m'għandux japplika”;

(b) fis-subartikolu (3) tiegħu:

(i) fil-paragrafu (e) tiegħu, minflok il-kliem “magħmula skond dan l-Att;”, għandhom jidhlu l-kliem “magħmula skond dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettroniċi magħmulin tahtu;”;

(ii) fil-paragrafu (f) tiegħu, minflok il-kliem “skond dan l-Att;”, għandhom jidhlu l-kliem “skond dan l-Att u kull regolament jew Regoli Bankarji u Regoli dwar Flus Elettroniċi magħmulin tahtu;”;

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem “reat taht is-subartikoli (1) u (3)”, għandhom jidhlu l-kliem “reat taht is-subartikoli (1) u (3) ta' dan l-artikolu;”;

(d) fil-paragrafu (b) tas-subartikolu (5) tiegħu, minflok il-kliem “disposizzjonijiet differenti ta' dan l-Att;”, għandhom jidhlu l-kliem “disposizzjonijiet differenti ta' dan l-Att u kull regolament magħmul tahtu;”;

(e) fil-paragrafu (b) tas-subartikolu (6) tiegħu, minflok il-kliem “ma għandhomx jipprovdu għal multa ta' inqas minn mitt lira Maltija jew iżjed minn hames mitt elf lira Maltija.”, għandhom jidhlu l-kliem “ma għandhomx jipprovdu għal multa ta' inqas minn mitt lira Maltija jew l-ekwivalenti tagħha f'Euro jew iżjed minn hames mitt elf lira Maltija jew l-ekwivalenti tagħha f'Euro.”;

(f) fil-proviso mas-subartikolu (7) tiegħu, minflok il-kliem “ma tistax timponi piena finanzjarja ta' iżjed minn hamsin elf lira

Maltija.”, ghandhom jidhlu l-kliem “ma tistax timponi piena finanzjarja ta’ iżjed minn hamsin elf lira Maltija jew l-ekwivalenti tagħhom f’Euro.”; u

(g) fis-subartikolu (8) tiegħu, minflok il-kliem “kontra dan l-Att jew xi regolamenti magħmula bis-sahha tiegħu,”, ghandhom jidhlu l-kliem “taht dan l-Att u kull regolament magħmul tahtu.”.

123. L-artikolu 35A ta’ l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 35A ta’ l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “d-disposizzjonijiet tas-subartikolu (3) ghandhom japplikaw.”, ghandhom jidhlu l-kliem “d-disposizzjonijiet tas-subartikolu (3) ta’ dan l-artikolu ghandhom japplikaw.”; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem “imsemmi fis-subartikolu (1),”, ghandhom jidhlu l-kliem “imsemmi fis-subartikolu (1) ta’ dan l-artikolu.”.

124. L-artikolu 37 ghandu jiġi mhassar.

Thassir ta’ l-artikolu 37 ta’ l-Att prinċipali.

TAQSIMA V

EMENDA TA’ L-ATT DWAR IL-KUMMERĊ TA’ L-ASSIGURAZZJONI, KAP. 403

125. (1) Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa waħda ma’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni, hawn iżjed ’il quddiem f’din it-Taqsima msejja’ “l-Att prinċipali”. Emenda ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni, Kap. 403.

(2) Id-disposizzjonijiet ta’ din it-Taqsima ghandhom jidhlu fis-sehh fid-data tal-pubblikazzjoni ta’ dan l-Att.

126. L-artikolu 2 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 2 ta’ l-Att prinċipali.

(a) minflok it-tifsira “aġent fl-assigurazzjoni” ghandha tidhol din it-tifsira li ġejja:

“aġent fl-assigurazzjoni” tfisser persuna iskritta bhala tali taht l-Att dwar l-Intermedjarji fl-Assigurazzjoni;”;

Kap. 487.

(b) minflok it-tifsira “*manager* fl-assigurazzjoni” ghandha tidhol din it-tifsira li ġejja:

“ “*manager* fl-assigurazzjoni” tfisser persuna iskritta bhala tali taht l-Att dwar l-Intermedjarji fl-Assigurazzjoni;”;

(ċ) fit-tifsira “Lloyd’s”, minflok il-kliem “fl-Ewwel Skeda” ghandhom jidhlu l-kliem “fl-artikolu 48A”;

(d) minflok it-tifsira “margini ta’ solvibbiltà” u “margini ta’ solvibbiltà ta’ Malta” ghandha tidhol din it-tifsira li ġejja:

“ “margini ta’ solvibbiltà”, “margini ta’ solvibbiltà ta’ Malta” u “margini ta’ solvibbiltà taż-ŻEE” ghandhom jiftiehm skond l-artikolu 14 ta’ dan l-Att;”.

Emenda ta’ l-artikolu 11 ta’ l-Att prinċipali.

127. L-artikolu 11 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) fis-subparagrafu (iii) tal-paragrafu (d) fis-subartikolu, minflok il-kliem “aġent ta’ l-assigurazzjoni awtorizzat”, ghandhom jidhlu l-kliem “aġent ta’ l-assigurazzjoni”;

(ii) fis-subparagrafu (iv) tal-paragrafu (d) fis-subartikolu, minflok il-kliem “aġent ta’ l-assigurazzjoni awtorizzat”, ghandhom jidhlu l-kliem “aġent ta’ l-assigurazzjoni”;

(b) fil-paragrafu (a) tas-subartikolu (2) tiegħu, minflok il-kliem “manager fl-assigurazzjoni awtorizzat”, ghandhom jidhlu l-kliem “manager ta’ l-assigurazzjoni”.

Emenda ta’ l-artikolu 14 ta’ l-Att prinċipali.

128. L-artikolu 14 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (b) fis-subartikolu, minflok il-kliem “margini ta’ solvibbiltà ta’ Malta,” ghandhom jidhlu l-kliem “margini ta’ solvibbiltà ta’ Malta, jew”;

(ii) minnufih wara l-paragrafu (b) fis-subartikolu, ghandu jidher dan il-paragrafu (ċ) ġdid li ġej:

“(ċ) margini ta’ solvibbiltà taż-ŻEE;”;

(b) fis-subartikolu (4) tieghu:

(i) fil-paragrafu (b) fis-subartikolu, minflok il-kliem “jitmexxa minn dik il-kumpannija f’Malta.” ghandhom jidhlu l-kliem “jitmexxa minn dik il-kumpannija f’Malta;”;

(ii) minnufih wara l-paragrafu (b) fis-subartikolu, ghandu jizdied dan il-paragrafu (ċ) ġdid li ġej:

“(ċ) il-marġini ta’ solvibbiltà taż-ŻEE huwa l-marġini ta’ solvibbiltà ta’ kumpannija awtorizzata mahdum b’riferenza għall-attiv u l-passiv tal-kummerċ li jitmexxa minn dik il-kumpannija fl-Istati Membri kollha u Stati ŻEE.”.

129. Il-paragrafu (b) tas-subartikolu (1) ta’ l-artikolu 20 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 20 ta’ l-Att prinċipali.

(a) minflok il-kliem “bl-Ingliż;” ghandhom jidhlu l-kliem “bl-Ingliż.”;

(b) minnufih wara l-kliem “bl-Ingliż.”, ghandhom jizdiedu l-kliem “Din il-htieġa ma tapplikax fil-każ ta’ kumpannija li tmexxi kummerċ li jkun ristrett għal riskji sitwati barra minn Malta jew rabtiet fejn Malta ma tkunx il-pajjiż tar-rabta;”.

130. L-artikolu 33 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 33 ta’ l-Att prinċipali.

(a) minflok is-subartikolu (4) tieghu, ghandu jidhol dan li ġej:

“(4) L-awtorità kompetenti m’ghandhiex tapprova trasferiment fuq applikazzjoni magħmula taht is-subartikolu (1) kemm-il darba ma tkunx sodisfatta li -

(a) (i) iċ-ċessjonarju hu awtorizzat, jew immedjatament wara l-approvazzjoni, ikun awtorizzat taht l-artikolu 7 biex imexxi kummerċ ġenerali tal-klassi jew klassijiet jew parti mill-klassijiet li jkunu se jiġu trasferiti taht l-iskema;

(ii) iċ-ċessjonarju hu awtorizzat, jew immedjatament wara l-approvazzjoni, ikun awtorizzat taht l-artikolu 6 jew l-artikolu 23 tad-Direttiva tal-Kunsill ta’ l-24 ta’ Lulju 1973 dwar il-koordinament ta’ liġijiet,

regolamenti u disposizzjonijiet amministrattivi li jirrigwardaw il-bidu u t-twettiq tan-negozju ta' l-assigurazzjoni diretta barra mill-assigurazzjoni tal-hajja (73/239/KEE), biex imexxi kummerç ġenerali tal-klassi jew klassijiet jew parti mill-klassijiet li jkunu se jiġu trasferiti taht l-iskema fi Stat Membru jew fi Stat ŻEE; jew

(iii) jekk iċ-ċessjonarju ma jaqax taht isubparagrafi (i) u (ii) ta' dan il-paragrafu, iċ-ċessjonarju ghandu l-awtorizzazzjoni mehtieġa biex il-kummerç, jew parti minnu li se jiġi trasferit, jista' jitmexxa fil-post fejn se jiġi trasferit, jew ikollu dik l-awtorizzazzjoni qabel ma tibda ssehh l-iskema; u

(b) (i) iċ-ċessjonarju jkollu, wara li jittiehed kont tat-trasferiment propost, il-margini jew il-marginjiet ta' solvibbiltà mehtieġa li jinżammu taht dan l-Att;

(ii) iċ-ċessjonarju jkollu, wara li jittiehed kont tat-trasferiment propost, il-margini jew il-marginjiet ta' solvibbiltà mehtieġa li jinżammu taht l-Artikolu 16a, 25 jew 26 tad-Direttiva tal-Kunsill ta' l-24 ta' Lulju 1973 dwar il-koordinament ta' liġijiet, regolamenti u disposizzjonijiet amministrattivi li jirrigwardaw il-bidu u t-twettiq tan-negozju ta' l-assigurazzjoni diretta barra mill-assigurazzjoni tal-hajja (73/239/KEE) ; jew

(iii) jekk iċ-ċessjonarju ma jaqax taht isubparagrafi (i) u (ii) ta' dan il-paragrafu, iċ-ċessjonarju jkollu, jew ikun se jkollu qabel ma tibda ssehh l-iskema, il-margini jew il-marginjiet ta' solvibbiltà mehtieġa taht l-liġi applikabbli fil-post fejn il-kummerç jkun qed jiġi trasferit; u

(ċ) (i) jekk iċ-ċessjonarju jkun kumpannija awtorizzata taht dan l-Att, ir-rizorsi finanzjarji taċ-ċessjonarju huma, b'konsegwenza tat-trasferiment, bizzejjed biex iwettaq l-obbligazzjonijiet l-oħra mehtieġa bl-Att jew tahtu; jew

(ii) jekk iċ-ċessjonarju jkun kumpannija li l-uffiċċju principali tagħha jkun f'pajjiż barra minn Malta, ir-rizorsi finanzjarji taċ-ċessjonarju huma,

b'konsegwenza tat-trasferiment, bizzejjed biex iwettaq l-obbligazzjonijiet l-oħra meħtieġa minnu, minn jew taħt il-liġi applikabbli fil-post fejn il-kummerċ qed jiġi trasferit; u

(d) jekk iċ-ċedent ikun kumpannija li l-uffiċċju prinċipali tagħha jkun f'Malta u l-istabbiliment li minnu għandhom ikunu trasferiti l-poloż huma sitwati fi Stat Membru jew Stat ŻEE –

(i) l-awtorità regolatorja barranija f'dak l-Istat Membru jew Stat ŻEE tkun għet konsultata dwar it-trasferiment propost; u

(ii) l-awtorità regolatorja barranija tkun jew wiegħbet jew inkella jkun skada l-perijodu ta' tliet xhur li jibdeu għaddejjin mal-konsultazzjoni;

(e) jekk iċ-ċedent ikun kumpannija li tmexxi kummerċ minn Malta jew f'pajjiż jew minn pajjiż barra minn Malta u, dwar xi polza inkluża fit-trasferiment propost li turi kuntratt ta' assigurazzjoni, ir-riskju jkun riskju sitwat barra minn Malta -

(i) l-awtorità regolatorja barranija fil-pajjiż fejn ir-riskju jkun sitwat tkun għet notifikata bit-trasferiment propost; u

(ii) jew l-awtorità regolatorja barranija tkun taħt il-kunsens għat-trasferiment jew li l-awtorità regolatorja barranija ma tkunx irrifjutat il-kunsens tagħha għat-trasferiment fi żmien tliet xhur li jibda mid-data tan-notifika.”;

(b) is-subartikolu (6) tiegħu għandu jithassar.

131. Minflok is-subartikolu (5) ta' l-artikolu 35 ta' l-Att prinċipali, għandu jidhol dan li ġej:

Emenda ta' l-artikolu 35 ta' l-Att prinċipali.

“(5) Bla ħsara għas-subartikolu (6), it-Tribunal m'għandux japprova applikazzjoni pprezentata taħt is-subartikolu (1) kemm-il darba ma jkunx sodisfatt li -

(a) (i) il-kumpannija ċessjonarja hi awtorizzata, jew immedjatament wara l-approvazzjoni, tkun awtorizzata taħt

l-artikolu 7 biex tmexxi kummerċ fit-tul tal-klassi jew klassijiet li jkunu se jiġu trasferiti taht l-iskema;

(ii) il-kumpanija ċessjonarja hi awtorizzata, jew immedjatament wara l-approvazzjoni, tkun awtorizzata taht l-artikolu 4 jew l-artikolu 51 tad-Direttiva 2002/83/KE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Novembru 2002 li tikkonerna l-assigurazzjoni fuq il-hajja, biex tmexxi kummerċ fit-tul tal-klassi jew klassijiet li jkunu se jiġu trasferiti taht l-iskema fi Stat Membru jew Stat ŻEE; jew

(iii) jekk iċ-ċessjonarju ma jaqax taht l-inċiżi (i) u (ii) ta' dan il-paragrafu, iċ-ċessjonarju għandu l-awtorizzazzjoni mehtieġa biex il-kummerċ, jew parti minnu li se jiġi trasferit, jista' jitmexxa fil-post fejn se jiġi trasferit, jew ikollu dik l-awtorizzazzjoni qabel ma tibda ssehh l-iskema; u

(b) il-kumpanija ċessjonarja gġib prova li –

(i) (aa) wara li jittiehed kont tat-trasferiment propost, hija jkollha il-marġini jew il-marġinijiet ta' solvibbiltà mehtieġa li jinżammu taht dan l-Att;

(bb) wara li jittiehed kont tat-trasferiment propost, hija jkollha il-marġini jew il-marġinijiet ta' solvibbiltà mehtieġa li jinżammu taht l-artikolu 28, 55 jew 56 tad-Direttiva 2002/83/KE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Novembru 2002 li tikkoncerna l-assigurazzjoni fuq il-hajja; jew

(ċċ) jekk iċ-ċessjonarju ma jaqax taht is-sub-inċiżi (aa) u (bb) ta' dan il-paragrafu, iċ-ċessjonarju jkollu, jew ikun se jkollu qabel ma tibda ssehh l-iskema, il-marġini jew il-marġinijiet ta' solvibbiltà mehtieġa taht il-liġi applikabbli fil-post fejn il-kummerċ ikun qed jiġi trasferit;

(ii) (aa) jekk il-kumpanija ċessjonarja tkun awtorizzata taht dan l-Att, ir-rizorsi finanzjarji taghha huma, b'konsegwenza tat-trasferiment, biżżejjed biex jitwettqu l-obbligazzjonijiet l-oħra taghha mehtieġa bl-Att jew tahtu; jew

(bb) jekk iċ-ċessjonarju jkun kumpanija li l-uffiċċju prinċipali taghha jkun f'pajjiż barra minn Malta, ir-rizorsi finanzjarji taċ-ċessjonarju huma,

b'konsegwenza tat-trasferiment, biżżejjed biex jitwettqu l-obbligazzjonijiet l-oħra meħtieġa minnu, minn jew taħt il-liġi applikabbli fil-post fejn il-kummerċ qed jiġi trasferit;

(ċ) jekk iċ-ċedent ikun kumpannija li l-uffiċċju prinċipali tagħha jkun f'Malta u l-istabbiliment li minnu għandhom ikunu trasferiti l-poloż huma sitwati fi Stat Membru jew Stat ŻEE –

(i) l-awtorità regolatorja barranija f'dak l-Istat Membru jew Stat ŻEE tkun għet konsultata dwar it-trasferiment propost; u

(ii) l-awtorità regolatorja barranija tkun jew wiegħbet jew inkella jkun skada l-perijodu ta' tliet xhur li jibdedew għaddejjin mal-konsultazzjoni.”.

132. Minnufih wara l-artikolu 36 ta' l-Att prinċipali għandu jidhol dan li l-artikolu ġdid li ġej:

Żjieda ta' l-artikolu 37 ġdid ma' l-Att prinċipali.

“Eżenzjoni taħt din it-Taqsima.

37. (1) Bla hsara għas-subartikolu (2), din it-Taqsima ta' l-Att ma tapplikax għall-kummerċ tar-rijassigurazzjoni.

(2) Meta kumpannija awtorizzata taħt dan l-Att li tkun qiegħda tmexxi kummerċ ristrett għar-rijassigurazzjoni (“iċ-ċedent”) tipproponi t-trasferiment shih jew parti mill-kummerċ tagħha, l-awtorità kompetenti m'għandhiex tapprova trasferiment kemm-il darba ma tkunx sodisfatta li:

(a) (i) iċ-ċessjonarju hu awtorizzat, jew immedjatament wara l-approvazzjoni, ikun awtorizzat taħt l-artikolu 7 biex imexxi kummerċ ta' rijassigurazzjoni;

(ii) iċ-ċessjonarju hu awtorizzat, jew immedjatament wara l-approvazzjoni, ikun awtorizzat taħt l-artikolu 4 tad-Direttiva 2005/68/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2005 dwar rijassigurazzjoni li temenda d-Direttivi tal-Kunsill 73/239/KEE, 92/49/KEE kif ukoll id-Direttivi 98/78/KE u 2002/83/KE, biex imexxi fi Stat Membru jew fi Stat ŻEE il-kummerċ ta' riassigurazzjoni li għandu jiġi trasferit taħt l-iskema; jew

(iii) jekk iċ-ċessjonarju ma jaqax taht is-subparagrafi (i) u (ii) ta' dan il-paragrafu, iċ-ċessjonarju ghandu l-awtorizzazzjoni mehtieġa biex il-kummerċ, jew parti minnu li se jiġi trasferit (jekk ikun hemm), jista jitmexxa fil-post fejn se jiġi trasferit, jew ikollu dik l-awtorizzazzjoni qabel ma tibda ssehħ l-iskema; u

(b) (i) iċ-ċessjonarju jkollu, wara li jittiehed kont tat-trasferiment propost, il-margini jew il-marginjiet ta' solvibbiltà mehtieġa li jinżammu taht dan l-Att;

(ii) iċ-ċessjonarju jkollu, wara li jittiehed kont tat-trasferiment propost, il-margini jew il-marginjiet ta' solvibbiltà mehtieġa li jinżammu taht l-artikoli 37 sa 39, tad-Direttiva 2005/68/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2005 dwar rijassigurazzjoni li temenda d-Direttivi tal-Kunsill 73/239/KE, 92/49/KEE kif ukoll id-Direttivi 98/78/KE u 2002/83/KE; jew

(iii) jekk iċ-ċessjonarju ma jaqax taht is-subparagrafi (i) u (ii) ta' dan il-paragrafu, iċ-ċessjonarju jissodisfa, il-htigiet ta' solvibbiltà mehtieġa minnu, minn jew taht il-liġi applikabbli fil-post fejn il-kummerċ jkun qed jiġi trasferit.

(ċ) (i) jekk iċ-ċessjonarju jkun kumpannija awtorizzata taht dan l-Att, ir-riżorsi finanzjarji taċ-ċessjonarju huma, b'konsegwenza tat-trasferiment, biżżejjed biex iwettaq l-obbligazzjonijiet l-oħra mehtieġa bl-Att jew tahtu;

(ii) jekk iċ-ċessjonarju jkun kumpannija li l-uffiċċju prinċipali taghha jkun f'pajjiż barra minn Malta, ir-riżorsi finanzjarji taċ-ċessjonarju huma, b'konsegwenza tat-trasferiment, biżżejjed biex iwettaq (jekk ikun hemm) l-obbligazzjonijiet l-oħra mehtieġa minnu, minn jew taht il-liġi applikabbli fil-post fejn il-kummerċ qed jiġi trasferit.”.

Emenda ta' l-artikolu 38 ta' l-Att prinċipali.

133. Is-subartikolu (12) ta' l-artikolu 38 ta' l-Att prinċipali ghandu jiġi mhassar.

134. L-artikolu 41 ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 41 ta' l-Att prinċipali.

(a) fis-subartikolu (3) tiegħu, minflok il-kliem “li johorġu mill-kummerċ ta' l-assigurazzjoni tagħha f'Malta” ghandhom jidhlu l-kliem “li johorġu mill-kummerċ ta' l-assigurazzjoni tagħha”;

(b) fit-proviso mas-subartikolu (3) tiegħu, minflok il-kliem “attribwibbli għall-kummerċ ta' l-assigurazzjoni f'Malta” ghandhom jidhlu l-kliem “attribwibbli għall-kummerċ ta' l-assigurazzjoni”.

135. Fis-subartikolu (2) ta' l-artikolu 59 ta' l-Att prinċipali, minflok il-kliem “impjegati jew aġenti tagħha” ghandhom jidhlu l-kliem “impjegati jew aġenti tagħha, kif ukoll minn spetturi, udituri u esperti mqabbda mill-awtorità kompetenti”. Emenda ta' l-artikolu 59 ta' l-Att prinċipali.

136. Fis-subartikolu (2) ta' l-artikolu 60 ta' l-Att prinċipali, il-kelma “awtorizzata” ghandha tithassar. Emenda ta' l-artikolu 60 ta' l-Att prinċipali.

137. Fl-artikolu 61 ta' l-Att prinċipali, minflok il-kliem “tinkludi aġent ta' l-assigurazzjoni awtorizzat, *manager* ta' l-assigurazzjoni awtorizzat”, ghandhom jidhlu l-kliem “tinkludi aġent ta' l-assigurazzjoni, *manager* ta' l-assigurazzjoni”. Emenda ta' l-artikolu 61 tal-Att prinċipali.

138. Fil-paragrafu (i) tas-subartikolu (1) ta' l-artikolu 64 ta' l-Att prinċipali, minflok il-kliem “liema penalitajiet ma jkunux iżjed minn hamest elef lira” ghandhom jidhlu l-kliem “hekk li daww il-penalitajiet ma jkunux ta' iżjed minn erbgħin elf lira”. Emenda ta' l-artikolu 64 ta' l-Att prinċipali.

139. L-artikolu 65 ta' l-Att prinċipali ghandu jiġi emendat kif ġej: Emenda ta' l-artikolu 65 tal-Att prinċipali.

(a) minflok in-nota marginali u riferenzi għal kapitoli li hemm ma' l-artikolu, ghandhom jidhlu l-kliem “Eżenzjoni taht l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, Kap. 364.”;

(b) is-subartikolu (1) tiegħu ghandu jithassar; u

(ċ) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu shih.

Emenda ta' l-artikolu 67 ta' l-Att prinċipali.

140. L-artikolu 67 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (3) tiegħu, minflok il-kliem “tinkludi aġent ta' l-assigurazzjoni awtorizzat, *manager* ta' l-assigurazzjoni awtorizzat”, għandhom jidhlu l-kliem “tinkludi aġent ta' l-assigurazzjoni, *manager* ta' l-assigurazzjoni”.

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

(i) fil-proviso li hemm mas-subartikolu (6) tiegħu, minflok il-kliem “li matulu l-infrazzjoni tkompli;” għandhom jidhlu l-kliem “li matulu l-infrazzjoni tkompli;”;

(ii) minnufih wara l-proviso li hemm mas-subartikolu (6) tiegħu, għandu jizjed dan il-proviso ġdid li ġej:

“Izda wkoll penali imposta taht dan l-artikolu, sew jekk tkun somma fissa, penali għal kull ġurnata, jew it-tnejn flimkien, ma tista', f'ebda każ, tkun iżjed minn erbghin elf lira.”.

TAQSIMA VI

Emenda ta' l-Att dwar l-Intermedjarji fl-Assigurazzjoni, Kap. 487.

141. (1) Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar l-Intermedjarji fl-Assigurazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejja' “l-Att prinċipali”.

(2) Id-disposizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-sehh fid-data tal-pubblikazzjoni ta' dan l-Att.

Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

142. Il-paragrafu (h) tas-subartikolu (2) ta' l-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-proviso li hemm mal-paragrafu (h) tieghu, minflok il-kliem “li matulu l-infrazzjoni tkompli;” ghandhom jidhlu l-kliem “li matulu l-infrazzjoni tkompli:”;

(b) minnufih wara l-proviso li hemm mal-paragrafu (h) tieghu, ghandu jizdied dan il-proviso ġdid li ġej:

“Izda wkoll penali imposta taht dan l-artikolu, sew jekk tkun somma fissa, penali ghal kull ġurnata, jew it-tnejn flimkien, ma tista', f'ebda każ, tkun iżjed minn erbghin elf lira;”.

143. Fl-inċiż (iii) tal-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 10, minflok il-kliem “l-azzjonisti kwalifikanti kollha, il-kontrulluri u l-persuni kollha li effettivament jidderiġu l-funzjonijiet”, ghandhom jidhlu l-kliem “l-azzjonisti kwalifikanti kollha, il-kontrulluri, id-diretturi u l-persuni kollha li effettivament jidderiġu l-funzjonijiet”.

Emenda ta' l-artikolu 10 ta' l-Att prinċipali.

144. Fis-subartikolu (4) ta' l-artikolu 11 ta' l-Att prinċipali, minflok il-kliem “ma tista' tmexxi attivitajiet ta' intermedjarji fl-assigurazzjoni jew tistabbilixxi jew takkwista sussidjarja” ghandhom jidhlu l-kliem “ma tista' tmexxi attivitajiet ta' intermedjarji fl-assigurazzjoni, tiftah fergħa, ufficċju jew xi post iehor għan-negozju, jew tistabbilixxi jew takkwista sussidjarja”.

Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

145. Fil-proviso li hemm mal-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 12 ta' l-Att prinċipali, minflok il-kliem “ristrett għal kuntratti ta' assicurazzjoni li jirrigwardaw riskji sitwati barra minn Malta” ghandhom jidhlu l-kliem “ristrett għal kuntratti ta' assicurazzjoni li jirrigwardaw riskji sitwati barra minn Malta jew rabtiet meta Malta ma tkunx il-pajjiż tar-rabta”.

Emenda ta' l-artikolu 12 ta' l-Att prinċipali.

146. Minflok il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 15 ta' l-Att prinċipali, ghandu jidhol dan li ġej:

Emenda ta' l-artikolu 15 ta' l-Att prinċipali.

“(a) l-intermedjarju ma jibdiex imexxi attivitajiet ta' intermedjarji fl-assigurazzjoni fi żmien tnax-il xahar mill-iskrizzjoni, jew f'dak iż-żmien l-iehor li jista' jiġi speċifikat fiċ-ċertifikat ta' iskrizzjoni; jew”.

Emenda ta' l-
artikolu 16 ta' l-Att
prinċipali.

147. Minflok il-paragrafu (h) ta' l-artikolu 16 ta' l-Att prinċipali ghandu jidhol dan li ġej:

“(h) il-persuna registrata ma tkunx direttur fil-kumpannija iskritta, jew inkella ma tkunx ghadha impjegata magħha; jew”.

Emenda ta' l-
artikolu 26 ta' l-Att
prinċipali.

148. L-artikolu 26 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) id-disposizzjoni preżenti ghandha tiġi enumerata mill-ġdid bħala s-subartikolu (1) tiegħu; u

(b) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, ghandu jizjed dan is-subartikolu (2) ġdid li ġej:

“(2) L-applikazzjoni għat-twaqqif ghandha tiġi ppreżentata lill-awtorità kompetenti mhux iżjed tard minn tliet xhur qabel id-data meta l-persuna iskritta tkun bi hsiebha tieqaf milli tkompli tmexxi dawk l-attivitajiet.”.

Emenda ta' l-
artikolu 30 ta' l-Att
prinċipali.

149. Fl-artikolu 30 ta' l-Att prinċipali, minflok il-kliem “ristrett għall-kuntratti ta' assigurazzjoni li jirrigwardaw riskji sitwati barra minn Malta” għandhom jidhlu l-kliem “ristrett għall-kuntratti ta' assigurazzjoni li jirrigwardaw riskji sitwati barra minn Malta jew rabtiet meta Malta ma tkunx il-pajjiż tar-rabta”.

Emenda ta' l-
artikolu 37 ta' l-Att
prinċipali.

150. Fit-test Inġliż tas-subartikolu (6) ta' l-artikolu 37 ta' l-Att prinċipali, minflok il-kliem “in the Tied Insurance Company Register” għandhom jidhlu l-kliem “in the Tied Insurance Intermediaries Company Register”.

Emenda ta' l-
artikolu 45 ta' l-Att
prinċipali.

151. Minflok il-paragrafu (b) tas-subartikolu (2) ta' l-artikolu 45 ta' l-Att prinċipali ghandu jidhol dan li ġej:

“(b) meta jkun hekk meħtieġ fil-parametri tar-rabtiet internazzjonali ta' Malta jew l-obbligi li johorġu mid-Direttiva 2002/92/KE tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Diċembru 2002 dwar il-medjazzjoni ta' l-assigurazzjoni, kif emendata minn żmien għal żmien, u tinkludi kull miżura ta'

implimentazzjoni li tkun ġiet użata jew li tista' tiġi użata taħtha; jew”.

152. Minflok is-subartikoli (2) u (3) ta' l-artikolu 46 ta' l-Att prinċipali għandu jidhol dan li ġej:

Emenda ta' l-artikolu 46 ta' l-Att prinċipali.

“(2) Informazzjoni li tinkiseb mill-awtorità kompetenti jew mill-uffiċjali, impjegati jew aġenti tagħha, kif ukoll minn spetturi, udituri u esperti mqabbdha mill-awtorità kompetenti għall-finijiet ta', jew konformement ma', xi wahda mid-disposizzjonijiet ta' dan l-Att, jew ta' kull regolament magħmul tahtu, jew ta' xi regola dwar intermedjarji fl-assigurazzjoni, jew fit-twettiq ta' funzjonijiet taht xi wahda mid-disposizzjonijiet imsemmija, għandhom jiġu trattati bhala kunfidenzjali u jkunu protetti bid-dmir ta' segretezza professjonali, u m'għandu jkun żvelat xejn lil xi persuna oħra, hlief f'dawn il-kazijiet li ġejjin –

Kap. 345.

(a) meta l-informazzjoni tiġi żvelata bil-għan li jinbdeu, jew xort' oħra għall-finijiet ta', proċeduri kriminali jew ta' xi proċeduri mill-awtorità kompetenti quddiem xi qorti taht dan l-Att;

(b) meta l-informazzjoni tiġi żvelata bil-għan li l-awtorità kompetenti tinghata s-setgħa jew tkun qegħda tiġi mghejjuna fit-twettiq jew fl-għemil ta' xi wahda mill-funzjonijiet tagħha taht dan l-Att;

(ċ) meta l-informazzjoni tkun saret disponibbli għall-pubbliku minhabba li din tkun ġiet żvelata f'ċirkostanzi li fihom, jew għal xi għan li dwaru, l-iżvelar mhux prekluz b'dan l-artikolu;

(d) meta tiġi preparata jew mogħtija ġabra jew kollezzjoni ta' informazzjoni b'tali mod li l-identità tal-persuna li l-informazzjoni jkollha x'taqsam magħha ma tkunx tista' tiġi identifikata;

(e) meta l-informazzjoni tiġi żvelata lil uditur meta dak l-iżvelar ikun jghin lill-uditur fl-eżerizzju tal-funzjonijiet tiegħu taht l-artikolu 28;

(f) meta l-informazzjoni tiġi provduta lill-Bank Ċentrali ta' Malta jew lill-Awtorità dwar l-Elenku taht l-Att dwar is-Swieq Finanzjarji fl-eżerizzju tal-funzjonijiet rispettivi tagħhom skond il-liġi;

(g) meta l-informazzjoni tiġi provduta lil dawk l-awtoritajiet lokali jew barranin l-oħra ta' xorta regolatorja, ġudizzjarja jew infurzar meta dak l-iżvelar ikun mehtieġ jew mitlub sabiex jitwettqu ċerti htigiet regolatorji gravi jew il-kxif, il-prevenzjoni jew il-prosekuzzjoni ta' reati kriminali;

(h) meta l-informazzjoni tiġi żvelata fi proċeduri ċivili jew kummerċjali f'dak li għandu x'jaqsam mal-falliment jew l-istral obbligatorju ta' intermedjarju fl-assigurazzjoni sakemm dik l-informazzjoni ma tkunx tirrigwarda lil terzi involuti f'tentattivi biex jilliberaw lil dak l-intermedjarju fl-assigurazzjoni, u lil dawk il-korpi barranin responsabbli għal-likwidazzjoni u l-falliment ta' persuna li jkollha l-awtorizzazzjoni jew licenza ekwivalenti minghand l-awtorità regolatorja barranija.

(3) Bla hsara għad-disposizzjonijiet ta' l-artikolu 45, informazzjoni miksuba minghand l-awtorità regolatorja estera tista' biss tiġi żvelata lil persuna oħra, lil awtorità regolatorja estera oħra jew lil terzi oħra bl-approvazzjoni mogħtija bil-quddiem ta' l-awtorità li tkun iprovdiet l-informazzjoni.”.

Emenda ta' l-artikolu 48 ta' l-Att prinċipali.

153. Fil-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 48 ta' l-Att prinċipali, minflok il-kliem “taht l-artikolu 36” għandhom jidhlu l-kliem “taht l-artikolu 37”.

Emenda fl-Iskeda li tinsab ma' l-Att prinċipali.

154. It-Tielet Kolonna fl-Iskeda li tinsab ma' l-Att prinċipali, għandha tiġi emendata kif ġej:

(a) fil-paragrafu 2, fit-tifsira “Agent fl-assigurazzjoni”, minflok il-kliem “li jiġu mahtura minn kumpannija awtorizzata”, għandhom jidhlu l-kliem, “li jiġu mahtura minn kumpannija awtorizzata taht l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni u, jew’ minn impriża ta’ l-assigurazzjoni Ewropea”;

(b) fis-subparagrafu (b) tal-paragrafu 3, fit-tifsira “*Manager* fl-assigurazzjoni”, minflok il-kliem “ristrett għal kuntratti ta’ assigurazzjoni li jirrigwardaw riskji sitwati barra minn Malta” għandhom jidhlu l-kliem “ristrett għal kuntratti ta’ assigurazzjoni li jirrigwardaw riskji sitwati barra minn Malta jew rabtiet meta Malta ma tkunx il-pajjiż tar-rabta”.

TAQSIMA VII

DISPOSIZZJONIJIET MIXXELLANJI

155. (1) B’sehh minn dik id-data li l-Ministru jista’ jistabbilixxi b’ordni, hawn iżjed ’il quddiem imsejha “id-data operattiva”, Malta Stock Exchange plc għandha tkompli fil-personalità tal-Borża ta’ Malta stabbilita taht it-Taqsima IV ta’ l-Att dwar is-Swieq Finanzjarji qabel it-thassir ta’ dik it-Taqsima b’dan l-Att; u bla hsara għall-esklużjoni tal-proprjetà deskritta fis-subartikolu (3) ta’ dan l-artikolu, il-Borża ta’ Malta plc għandha skond dan tissuiedi f’dak li huhl-attiv, drittijiet, passiv u obligazzjonijiet kollha tagħha, inklużi l-ordni ta’ rikonoxximent mahruġa għall-Borża ta’ Malta skond it-Taqsima II ta’ l-Att dwar is-Swieq Finanzjarji, li, kemm-il darba ma tiġix speċifikament kanellata jew imħassra, għandha tibqa’ fis-sehh sad-data operattiva.

Disposizzjonijiet
transitorji.

(2) Sad-data operattiva:

(a) l-awtorità kompetenti għandha tohroġ favur Malta Stock Exchange plc awtorizzazzjoni skond m’hemm fit-Taqsima II ta’ l-Att dwar is-Swieq Finanzjarji. Malli tinhareg dik l-awtorizzazzjoni, l-ordni ta’ rikonoxximent imsemmi fis-subartikolu (1) għandu jiskadi awtomatikament;

(b) Malta Stock Exchange plc ghandha titqies li tkun issodisfat il-htigiet tat-Taqsima IV ta' l-Att dwar is-Swieq Finanzjarji u l-awtorità kompetenti ghandha tohrog awtorizzazzjoni favur il-kumpannija b'seħh minn dik id-data.

(3) Kull awtorizzazzjoni, deċiżjoni, liċenza, *warrant*, approvazzjoni, avviż u att iehor jew obligazzjoni ohra maghmula jew meħuda mill-Borża ta' Malta, inkluża kull shubija jew dhul fil-lista ufficjali u ma' kull lista rikonoxxuta ohra u kull Avviż tal-Kunsill jew *Bye-law*, kif ukoll kull ftehim, kuntratt ta' impjeg u hatriet u kundizzjonijiet relattivi għall-persunal, għandhom jitqiesu mid-data operattiva li jkunu saru jew ittiehdu u ġew assunti minn Malta Stock Exchange plc, u għandhom, kemm-il darba ma jiġux speċifikament kanċellati jew imhassra, jibqghu fis-seħh skond dan, b'dawk il-modifiki u adattazzjonijiet li jistghu jkunu strettament meħtieġa sabiex tiġi implimentata għal kollox u b'mod korrett is-successjoni u d-devoluzzjoni tan-negozju u d-drittijiet u l-obbligi kif hawn qabel imsemmija tal-Borża ta' Malta lil u favur il-Borża ta' Malta plc skond din it-Taqsima.

(4) Il-proprjetà immobbli u drittijiet pertinenti għaliha kif deskritti fl-Iskeda li tinsab ma' din it-Taqsima ghandha tiddevolvi għal għand id-Dipartiment ta' l-Artijiet jew entità li l-Gvern għandu l-ishma kollha tagħha li għandha fi żmien xahar mid-data operattiva tara li jiġi pubblikat att pubbliku dikjaratorju li jkun fih deskrizzjoni dettaljata ta' l-allokkazzjoni u d-devoluzzjoni favur tagħha u tas-successjoni tagħha għall-proprjetà immobbli u drittijiet pertinenti għaliha li qabel id-data operattiva kienu vestiti fil-Borża ta' Malta, bla ħsara għad-disposizzjonijiet ta' din it-Taqsima, u għandha tiġi iskritta nota dwar dan kif imiss fir-Registru Pubbliku u fir-Registru ta' l-Art, skond il-każ.

(5) Is-successjoni, mid-data operattiva, ta' kull attiv, dritt, passiv u obbligu favur Malta Stock Exchange plc u d-Dipartiment ta' l-Artijiet jew entità li l-Gvern għandu l-ishma kollha tagħha, skond il-każ, deskritti f'din it-Taqsima, għandhom ikunu wkoll validi u effettivi għar-rigward ta' terzi bis-sahha tal-liġi mingħajr il-htieġa għal ebda formalità ohra, hlief għal att pubbliku u n-noti meħtieġa taht dan l-artikolu, u għandhom ikunu eżenti mill-hlas tat-taxxa fuq l-*income*, it-taxxa fuq id-dokumenti u kull hlas fiskali iehor, minkejja kull disposizzjoni ohra tal-liġi.

(6) Kemm-il darba r-rabta tal-kliem ma tkunx tehtieg mod ieħor, kull riferenza f'kull liġi għall-Borża ta' Malta għandha wara d-data operattiva titqies bħala riferenza għall-Borża ta' Malta plc; u kull riferenza għall-Kunsill, membru tal-Kunsill jew xi uffiċjal jew impjegat tal-Borża ta' Malta għandha wara d-data operattiva titqies bħala riferenza għall-Bord tad-Diretturi, direttur tal-kumpannija u l-uffiċjali jew l-impjegati tal-kumpannija, rispettivament.

SKEDA

(Artikolu 155)

Il-proprjetà immobbli li tiddevolvi għal għand MSE (Holdings) Limited li tikkonsisti fl-uffiċċji u l-fondi magħrufin bhala “*Il-Borża ta’ Malta*” jew “*Borża ta’ Malta*”, b’kull bini u kull benefikat li sar fiha, inklużi d-drittijiet u l-pertinenzi kollha li jappartjenu għaliha, qabel magħrufa bhala l-“*Post Office Central Mailing Room*”, aktar qabel magħrufa wkoll bhala l-“*Barrakka Garrison Church*”, li tinsab fi Pjazza Kastilja, Valletta, mingħajr m’għandha ebda numru uffiċjali, flimkien mal-ġnien li jiċċirkondaha, ta’ madwar elf mija u tletin metru kwadru (1130 m²) u li tmiss minn kullimkien mill-Grigal u mill-Majjistral ma’ Pjazza Kastilja u mix-Xlokk mal-Barrakka ta’ Fuq, kif aħjar deskritta fil-kiri b’emfitwesi bejn il-Borża ta’ Malta u l-Kummissarju ta’ l-Artijiet għan-nom tal-Gvern ta’ Malta, iffirmit fil-11 ta’ Diembru 2007 fl-Atti ta’ Vincent Miceli, Nutar Pubbliku f’Malta fid-Dipartiment ta’ l-Artijiet.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 553 tat-18 ta’ Lulju, 2007.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

3rd August, 2007

ACT No. XX of 2007

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:-

1. The short title of this Act is the Various Financial Services Laws (Amendment) Act, 2007. Short title.

PART I

2. (1) 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”. Malta Financial Services Authority Act. Cap.330

(2) The provisions of this Part shall come into force on the date of publication of this Act.

3. In the definition “financial services” in article 2 of the principal Act, for the words “be placed by the Minister under the supervisory and regulatory authority of the Authority;”, there shall be substituted the words “be placed under the supervisory and regulatory competence of the Authority by the Minister or by any other law;”. Amendment of article 2 of the principal Act.

Amendment of
article 4 of the
principal Act.

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

(a) in paragraph (c) of sub-article (1) thereof, for the words “and guidelines to”, there shall be substituted the words “and guidance to”; and

(b) in sub-article (4) thereof, for the words “international commitments.” there shall be substituted the words “international commitments including its obligations under the Treaty within the meaning of the European Union Act.”.

Amendment of
article 16 of the
principal Act.

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

(a) for sub-article (2) thereof, there shall be substituted the following: -

“(2) The Authority may:

(a) issue Rules regulating the procedures and duties of persons licensed or authorised by it, or falling under its regulatory or supervisory functions and such Rules may:

(i) provide for the returns, statements and notices to be made or given for any purposes in regard to which the Authority exercises supervisory or regulatory functions under this or any other Act, and the form and contents thereof; and

(ii) prescribe the information that such persons are to submit to the Authority;

(b) issue an order in writing requiring a holder of a licence or other authorisation, and, or any official thereof, to do or to refrain from doing any act, including such prohibitions, restrictions and conditions as may be specified in the notice; and any such order may be issued in respect of specific cases or classes of cases; any holder of the licence or other authorisation and, or the official to whom the notice is addressed shall obey, comply with and give effect to any such order within the time and manner stated in the order.”;

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

(i) for the words “or any directives or guidelines” there shall be substituted the words “or any orders or Rules”;

(ii) for the words “in writing impose” , there shall be substituted the words “in writing and without recourse to a court hearing impose”; and

(iii) for the words “penalty and the provisions of article 6(9) and (11) of the Investment Services Act shall apply *mutatis mutandis*.”, there shall be substituted the words “penalty which may not exceed forty thousand liri.”;

(c) sub-articles (4) and (5) thereof shall be re-numbered as sub-article (5) and (6);

(d) immediately after sub-article (3) thereof there shall be inserted the following new sub-article (4):

“(4) Where a notice as referred to in sub-article (3) of this article has not been appealed, or where such notice has been appealed, within fifteen days of the determination by the Tribunal of such appeal, the administrative penalty as contained in the notice or as reduced or increased by the decision of the Tribunal shall be due to the competent authority. Upon the service of a copy of the notice of the decision, as the case may be, by means of a judicial act on the person indicated in the notice or decision, the said notice or decision shall constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.”; and(e) sub-article (6) as re-numbered shall be amended as follows:

(i) for the words “of the provisions of sub-article (4), the following rules”, there shall be substituted the words “of sub-article (5), the following provisions”; and

(ii) in paragraphs (a) and (b), for the words “in sub-article (4)” there shall be substituted the words “in sub-article (5)”.

6. In sub-article (1) of article 17 of the principal Act, for the words “who had divulged the information.”, there shall be substituted the words “who had divulged the information. For the purposes of this sub-article, “employees” and “officials” shall include former employees and officials.”.

Amendment of article 17 of the principal Act.

7. Immediately after article 17 of the principal Act there shall be inserted the following new articles:

Addition of new articles 17A and 17B to the principal Act.

Attachment
orders.

17A. (1) Where, upon information received from the Authority, the Attorney General has reasonable cause to suspect that a person (hereinafter referred to as “the suspect”) is guilty of a breach of this Act or of any other Act, the Attorney General may apply to the Criminal Court for an order (hereinafter referred to as an “attachment order”) –

(a) attaching in the hands of such persons (hereinafter referred to as “the garnishees”) as are mentioned in the application all moneys and other movable property due or pertaining or belonging to the suspect;

(b) requiring the garnishee to declare in writing to the Attorney General, not later than twenty-four hours from the time of service of the order, the nature and source of all money and other movable property so attached; and

(c) prohibiting the suspect from transferring or otherwise disposing of any movable or immovable property.

(2) Before making an attachment order, the Criminal Court may require hearing the Attorney General in chambers and shall not make such order unless it concurs with the Attorney General that there is reasonable cause as provided in sub-article (1).

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(3) The provisions of article 381(1)(a), (b) and (e) and of article 382(1) of the Code of Organization and Civil Procedure shall, *mutatis mutandis*, apply to the attachment order.

(4) An attachment order shall be served on the garnishee and on the suspect by an officer of the Executive Police not below the rank of inspector.

(5) An attachment order shall, unless it is revoked earlier by the Attorney General by notice in writing served on the suspect and on the garnishee in the manner provided for in sub-article (4), cease to be operative on the expiration of thirty days from the date on which it is made; and the court shall not make another attachment order with respect to that suspect unless it is satisfied that substantially new information with regard to the breach of this Act is available:

Provided that the said period of thirty days shall be held in abeyance for such time as the suspect is away from Malta and the Attorney General informs of this fact the garnishee by notice in writing served in the manner provided for in sub-article (4).

(6) Where an attachment order has been made or applied for, whosoever, knowing or suspecting that the attachment order has been so made or applied for, makes any disclosure likely to prejudice the effectiveness of the said order or any investigation connected with it shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding five thousand liri or to imprisonment not exceeding twelve months, or to both such fine and imprisonment:

Provided that in proceedings for an offence under this subarticle, it shall be a defence for the accused to prove that he did not know or suspect that the disclosure was likely to prejudice the investigation or the effectiveness of the attachment order.”;

Freezing of funds.

17B. (1) (a) Where a person (hereinafter referred to as “the person charged or accused”) has been charged with a criminal offence, the Attorney General may apply to the Criminal Court for an order (hereinafter referred to as a “freezing order”) –

(i) attaching in the hands of third parties all moneys and other movable property due or pertaining to the person charged or accused; and

(ii) prohibiting the person charged or accused from transferring, pledging, hypothecating or otherwise disposing of any movable or immovable property:

Provided that the Criminal Court shall in such order determine what moneys may be paid to or received by the person charged or accused during the subsistence of such order, specifying the sources, manner and other modalities of payment, including salary, wages, pension and social security benefits payable to the person charged or accused, to allow him and his family a decent living in the amount, where the means permit, of six thousand liri every year:

Provided further that the Criminal Court may also –

(i) authorise the payment of debts which are due by the person charged or accused to bona fide creditors and which were contracted before such order was made; and

(ii) on good grounds authorise the person charged or accused to transfer movable or immovable property.

(b) Any addressee shall promptly comply with any written order issued by the Criminal Court in accordance with the provisions of this article with regards to such funds and assets.

(2) A freezing order shall –

(a) become operative and binding on all third parties immediately it is made, and the Registrar of the Court shall cause a notice thereof to be published without delay in the Gazette, and shall also cause a copy thereof to be registered in the Public Registry in respect of immovable property; and

(b) remain in force until the final determination of the administrative or criminal proceedings against the person charged, as the case may be.

(3) The Criminal Court may for particular circumstances vary such freezing order, and the provisions of the foregoing sub-articles shall apply to such order as so varied.

(4) To the extent possible, a freezing order shall contain the name and surname of the person charged, his profession, trade or other status, father's name, mother's name and maiden surname, place of birth and place of residence and the number of his identity card or other identification document, if any.

(5) Where any money is or becomes due to the person charged from any person while such order is in force, such money shall, unless otherwise directed in the freezing order, be deposited in a bank to the credit of the person charged.

(6) When such freezing order ceases to be in force as provided in sub-article (2)(b), the Registrar of the Court shall cause

a notice to that effect to be published in the Gazette, and shall enter in the Public Registry a note of cancellation of the registration of that order.

(7) The Authority shall liaise with the Attorney General on matters arising under this article and article 17A and may exchange information, subject to the obligation of professional secrecy.”.

(8) Any person who acts in contravention of a court order mentioned in sub-article (1) shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding five thousand liri, or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment, and the court may order the person so found guilty to deposit in a bank to the credit of the accused the amount of moneys or the value of other movable property paid or delivered in contravention of that court order.

8. Immediately after sub-article (3) of article 20 of the principal Act there shall be inserted the following new sub-articles: Amendment of article 20 of the principal Act.

“(4) In furtherance of his functions under this article, the Consumer Complaints Manager shall, whenever the circumstances of a complaint so warrant, encourage the parties to the dispute, to reach an out-of-court settlement of the consumer dispute.

(5) The Consumer Complaints Manager shall, to the extent possible, assist and cooperate with bodies responsible for out-of-court settlement of consumer disputes in Malta and in other Member States and EEA States in the resolution of local and cross-border consumer disputes concerning financial services.”.

9. Articles 20A, 20B and 20C of the principal Act shall be re-numbered as articles 20B, 20C and 20D respectively. Re-numbering of articles 20A, 20B and 20C.

10. Immediately after article 20 of the principal Act, there shall be inserted the following new article 20A: Addition of new article 20A.

“Power to make regulations.

20A. The Minister, acting on the advice of the competent authority, 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;”.

Amendment of
article 21 of the
principal Act.

11. Article 21 of the principal Act shall be amended as follows:

(a) sub-article (8) thereof shall be re-numbered as sub-article (13);

(b) sub-article (10) thereof shall be re-numbered as sub-article (11);

(c) sub-article (11) thereof shall be re-numbered as sub-article (8);

(d) in sub-article (8) thereof as re-numbered, for the words “An appeal to” there shall be substituted the words “An appeal within the terms of sub-article (9) of this article to”;

(e) sub-article (12) thereof shall be re-numbered as sub-article (10);

(f) immediately after sub-article (11) as re-numbered, there shall be inserted the following new sub-article (12):

“(12) (a) All evidence must be relevant to the matter in issue between the parties.

(b) In all cases the Tribunal shall require the best evidence that the party may be able to produce.

(c) The Tribunal shall disallow any evidence which it considers to be irrelevant or superfluous, or which it does not consider to be the best which the party can produce.”;

(g) sub-article (13) thereof shall be re-numbered as sub-article (15);

(h) in sub-article (14) thereof, immediately after the words “to the Court of Appeal.” there shall be added the words “An appeal shall be made by not later than twenty days from the date of the decision of the Tribunal.”;

(i) in sub-article (15) as re-numbered for the words “the procedure for” there shall be substituted the words “the procedure and fees for”; and

(j) sub-articles (15), (16) and (17) thereof shall be re-numbered as sub-articles (16), (17) and (18) respectively.

PART II

12. (1) 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 the Financial Markets Act, Cap. 345.

(2) The provisions of this Part shall come into force on the 1st November, 2007.

13. For the long title to the Act there shall be substituted the following: Amendment of the long title to the Act.

“To provide for the authorisation of regulated markets, central securities depositories and for the orderly trading in transferable securities and to provide for matters ancillary or incidental thereto or connected therewith.”.

14. In the “Arrangement of Act”, for the words “Recognised Investment Exchanges”, there shall be substituted the words “Regulated Markets”, and for the words “Recognised Investment Exchange” and, or “Recognised Investment Exchanges”, wherever they appear in the principal Act, there shall be substituted the words “Regulated Market” and, or “Regulated Markets”, as the case may be, and for the words “Malta Stock Exchange”, there shall be substituted the words “central securities depository”. Amendment of “Arrangement of Act”, and of the principal Act.

15. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) article 2 thereof shall be re-numbered as sub-article (1) thereof;

(b) in sub-article (1) as re-numbered:

(i) the definition “Borża” shall be deleted;

(ii) for the definition “bye-laws”, there shall be substituted the following:

““bye-laws” means the bye-laws made in terms of article 4C;”;

(iii) in the definition “Central Bank”, for the words “Bank of Malta,” there shall be substituted the words “Bank of Malta as defined by the Central Bank of Malta Act;”;

(iv) for the definition “central securities depository” there shall be substituted the following;

“ “central securities depository” means a person authorised in terms of Part IV of this Act to provide one or more of the functions stipulated in article 26;”;

(v) immediately after the definition “central securities depository”, there shall be inserted the following new definition:

“ “the Community” means the European Community established by the Treaty of Rome in 1957 and amended institutionally and otherwise in 1986 by the Single European Act, in 1993 by the Treaty on European Union, in 1997 by the Treaty of Amsterdam and in 2001 by the Treaty of Nice, and as amended by accession agreements and as may be further amended from time to time;”;

(vi) the definition “Chairman” shall be deleted;

(vii) the definition “corporate body” shall be deleted;

(viii) the definition “Council” shall be deleted;

(ix) the definition “Exchange” shall be deleted;

(x) immediately after the definition “competent authority”, there shall be inserted the following new definitions:

“ “designated financial instruments” refers to the instruments regulated by the provisions of article 28;

“the 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;

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May, 1992 as amended by the Protocol signed at Brussels on the 17th March, 1993 and as amended by any subsequent acts;

“European regulatory authority” means the body or bodies designated by a Member State or EEA State in accordance with Article 48 of the Directive to carry out each of the duties provided for under the different provisions of the Directive;”;

(xi) for the definition “financial instruments”, there shall be substituted the following:

“ “financial instruments” shall have the same meaning assigned to the term “instruments” in the Second Schedule to the Investment Services Act;”;

(xii) immediately after the definition “financial instruments”, there shall be inserted the following new definition:

“ “Financial Market Rules” refers to Rules issued by the competent authority under various articles of this Act”;

(xiii) the definition “financial year” shall be deleted;

(xiv) the definition “insider dealing” shall be deleted;

(xv) in the definition “Listing Authority”, the words “, provided that until such time as the Minister makes such appointment any reference to the Listing Authority shall be interpreted as a reference to the Council” shall be deleted;

(xvi) immediately after the definition “market abuse”, there shall be inserted the following new definition:

“ “Market operator” means a person who manages and, or operates the business of a regulated market. The market operator may be the regulated market itself;”;

(xvii) immediately after the definition “members” there shall be inserted the following new definition:

“ “Member State” means a Member State of the European Communities;”;

(xviii) immediately after the definition “Minister”, there shall be inserted the following new definition:

“ “multilateral system” includes all those markets that are composed of a set of bye-laws and a trading platform as well as those that only function on the basis of a set of bye-laws but excludes bilateral systems where a person enters into every trade on own account and not as a riskless counterparty interposed between buyer and seller;”;

(xix) the definition “official list” shall be deleted;

(xx) the definition “orderly” shall be deleted;

(xxi) immediately after the new definition “multilateral system” there shall be inserted the following new definition:

“ “overseas regulatory authority” means an authority in a country or territory outside Malta that is not a Member State or EEA State which exercises any regulatory or supervisory function in relation to financial services corresponding to a function of the competent authority as defined in the Malta Financial Services Authority Act;”;

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(xxii) immediately after the definition “recognised list”, there shall be inserted the following new definition:

“ “regulated market” means a multilateral system operated by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments in the system within the meaning of the Directive. For the purposes of this definition, “buying and selling interests” includes orders, quotes and indications of interest;”;

(xxiii) the definition “securities” shall be deleted;

(xxiv) the definition “statute” shall be deleted;

(xxv) the definition “stockbroker” shall be deleted;

(xxvi) immediately after the definition “related company”, there shall be inserted the following new definition:

“ “Takeover Bids Directive” means Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;”;

(xxvii) in the definition “trading”, for the words “financial instruments; and”, there shall be substituted the words “financial instruments;”;

(xxviii) immediately after the definition “trading”, there shall be inserted the following new definitions:

“ “transferable securities” has the same meaning as that given to the term in the Schedule to the Investment Services Act;”;

“ “Transparency Directive” means Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;”;

(xxix) in the definition of “tribunal”, the proviso shall be deleted and for the words “Act.”, there shall be substituted the words “Act.”;

(c) immediately at the end of the definition “tribunal”, there shall be inserted the following new sub-article (2):

“(2) The objective of this Act is, in part, to transpose and implement the provisions of the Directive, and

consequently this Act and any regulations adopted thereunder shall be interpreted and applied accordingly.”.

Amendment of
article 3 of the
principal Act.

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

(a) in paragraph (a) thereof, for the words “by an investment exchange if it is to qualify as a recognised investment exchange and in respect of which the competent authority may make an order hereinafter in this Act referred to a “recognition order” under this part of the Act”, there shall be substituted the words “by a market if it is to qualify as a regulated market in respect of which an authorisation may be issued by the competent authority”;

(b) in paragraph (b) thereof, for the words “including reporting requirements”, there shall be substituted the words “including reporting and transparency requirements”;

(c) in paragraph (c) thereof, for the words “a recognition order or”, there shall be substituted the words “an authorisation or”;

(d) for paragraph (d) thereof there shall be substituted the following:

“(d) requirements for the regulation and supervision of market operators and, or regulated markets;”;

(e) in paragraph (e) thereof, for the words “complaints about”, there shall be substituted the words “complaints about market operators and, or”;

(f) in paragraph (f) thereof, for the words “the rules of a recognized investment exchange by persons subject to such rules;”, there shall be substituted the words “the bye-laws of regulated markets by persons subject to such bye-laws;”;

(g) for paragraph (g) thereof there shall be substituted the following:

“(g) arrangements for the scrutiny of practices of market operators and, or bye-laws and practices of regulated markets and for preventing restrictive practices in terms of the Competition Act and any regulations made thereunder;”;
and

(h) in paragraph (i) thereof, for the words “for a recognition order under”, there shall be substituted the words “for an authorisation under”.

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

(a) in paragraph (a) of sub-article (1) thereof, for the words “of an investment exchange in or from within Malta unless such person is in possession of a recognition order”, there shall be substituted the words “of a regulated market in or from within Malta unless such person is in possession of an authorisation”;

(b) in paragraph (b) of sub-article (1) thereof, for the words “for a recognition order under this Part of the Act declaring it to be a recognised”, there shall be substituted the words “for an authorisation under this Part of the Act declaring it to be an authorised”;

(c) immediately after paragraph (b) of sub-article (1) thereof, there shall be inserted the following new paragraphs (c) and (d):

“(c) A regulated market shall only be authorised where the competent authority is satisfied that both the market operator and the systems of the regulated market comply with the applicable requirements laid down in this Act and any regulation or Financial Market Rules made thereunder.

(d) Where a regulated market is a legal person and is managed or operated by a market operator other than the regulated market itself, the competent authority shall establish by means of Financial Market Rules how the different obligations imposed on the market operator under the Directive are to be allocated between the regulated market and the market operator.”;

(d) for sub-article (2) thereof, there shall be substituted the following new sub-article:

“(2) (a) The market operator of the regulated market shall provide all information, necessary to enable the competent authority to satisfy itself that the regulated market has established, at the time of initial authorisation, all the necessary arrangements to meet its obligations under the Act or any regulations or Financial Market Rules made thereunder.

(b) An application shall be made in such a manner as the competent authority may establish by Financial Market Rules and shall be accompanied by:

(i) a programme of operations setting out *inter alia* the types of business envisaged;

(ii) a full description of the organisational structure and the proposed bye-laws or similar arrangements of the applicant;

(iii) detailed information as required by the competent authority on the:

(a) persons who effectively direct the business and the operations of the regulated market;

(b) those persons who own the regulated market; and

(c) the market operator; and

(iv) any other information required by the competent authority.”;

(e) sub-articles (3) to (11) shall be re-numbered as sub-articles (4) to (12) respectively;

(f) immediately after sub-article (2) thereof, there shall be inserted the following new sub-article (3):

“(3) The market operator shall notify the competent authority immediately of any changes or corrections to the information provided in terms of sub-article (2) of this article:

Provided that in the case of changes to the persons who effectively direct the business and the operations of the regulated market the prior authorisation of the competent authority shall be requested:

Provided further that where there are objective and demonstrable grounds for believing that the appointment or election of an officer poses or may pose a material threat to the sound and prudent management and operation of the regulated market, the competent authority shall refuse to approve such appointment or election.”;

(g) in sub-article (4) thereof as re-numbered, for the words “The competent authority may issue directives setting out —”, there shall be substituted the words “For the better carrying out of the provisions of this Act, the competent authority may, from time to time, issue and publish Financial Market Rules which shall be binding on regulated markets and others as may be specified therein. Such Financial Market Rules may lay down additional requirements and conditions in relation to activities of regulated markets, the conduct of their business, their relations with customers, the public and other parties, their responsibilities to the competent authority, reporting requirements, financial resources, capital adequacy and related requirements, and any other matters as the competent authority may consider appropriate including —”;

(h) in sub-article (6) thereof as re-numbered, for the words “Different directives may be issued by the competent authority under sub-article (3)” there shall be substituted the words “Different Financial Market Rules may be issued by the competent authority under sub-article (4)”;

(i) in sub-article (8) thereof as re-numbered, for the words “and subject to any directives issued under article 4(3) make or refuse to make a recognition order.”, there shall be substituted the words “and subject to any Financial Market Rules issued under sub-article (4) make or refuse to issue an authorisation. Where the competent authority issues an authorisation, the market operator shall be responsible for ensuring that the provisions of the Act, regulations and Financial Market Rules made thereunder and any implementing measures issued by the European Commission in terms of the powers conferred to it by the Directive, which are applicable to regulated markets, are complied with.”;

(j) in sub-article (9) thereof as re-numbered, for the words “A recognition order”, there shall be substituted the words “An authorisation”;

(k) in sub-articles (10) and (11) thereof as re-numbered, for the words “for a recognition order” wherever they occur, there shall be substituted the words “for an authorisation”; and

(l) in sub-article (12) thereof as re-numbered, for the words “A recognition order”, there shall be substituted the words “An authorisation”.

18. Immediately after article 4 of the principal Act there shall be inserted the following new articles 4A, 4B and 4C:

Addition of new articles 4A, 4B and 4C to the principal Act.

“Applicable law when Malta is the home Member State.

4A. Without prejudice to any relevant provisions of Directive 2003/6/EC of the European Parliament and of the Council of 28th January 2003 on insider dealing and market manipulation, the public law within the meaning of the Directive governing the trading conducted under the systems of the regulated market shall be that of Malta when Malta is the home Member State.

Significant influence over the management of a regulated market.

4B. (1) Persons who are in a position to exercise, directly or indirectly, significant influence over the management of the regulated market must be fit and proper.

(2) No person shall acquire a direct or indirect holding in a regulated market and, or the market operator which represents ten (10) per cent or more of the share capital issued by such body or of the voting rights attaching to such share capital or which makes it possible to exercise a significant influence over the management of the regulated market (“qualifying shareholding”) or increase such qualifying shareholding so that the proportion of the voting rights or of the share capital held by him in the regulated market reaches or exceeds twenty (20) per cent, thirty three (33) per cent or fifty (50) per cent unless the competent authority has been notified of that intention by such person or by the relevant regulated market and the competent authority has approved the acquisition of or increase in such qualifying shareholding.

(3) The competent authority shall refuse to approve any changes to controlling interests as proposed by the regulated market and, or the market operator in terms of sub-article (2) of this article where there are objective and demonstrable grounds for believing that they would pose a threat to the sound and prudent management of the said regulated market.

(4) The market operator of a regulated market shall:

(a) provide the competent authority with, and make public, information regarding the ownership of the regulated market and, or the market operator, and in particular, the identity and scale of interests of any parties in a position to exercise significant influence over the management;

(b) inform the competent authority of and make public, any transfer of ownership which gives rise to a change in the identity of the persons exercising significant influence over the operation of the regulated market.

Regulated
market bye-
laws and
arrangements.

4C. (1) Regulated markets shall be obliged to:

(i) have clear and transparent bye-laws regarding the admission of financial instruments to trading which shall ensure that any financial instruments admitted to trading on the regulated market are capable of being traded in a fair, orderly and efficient manner and, that transferable securities are freely negotiable:

Provided that in the case of derivatives such requirements shall also ensure that the design of the derivative contract allows for its orderly pricing as well as for the existence of effective settlement conditions;

(ii) have effective arrangements to verify that issuers of transferable securities that are admitted to trading comply with their obligations under European Community Law in respect of initial, ongoing or *ad hoc* disclosure obligations;

(iii) establish arrangements which facilitate its members or participants in obtaining access to information which has been made public under European Community law;

(iv) establish the necessary arrangements to review regularly the compliance with admission requirements of the financial instruments which are admitted to trading.

(2) A transferable security that has been admitted to trading on a regulated market can subsequently be admitted to trading on other regulated markets, even without the consent of the issuer and in compliance with the relevant provisions of Directive 2003/71/EC of the European Parliament and of the Council of 4 November, 2003 on the prospectus to be published when securities are offered to the public or admitted to trading, and

amending Directive 2001/34/EC and any implementing measures that have been or may be issued thereunder.

(3) The issuer shall be informed by the regulated market of the fact that its transferable securities are traded on that regulated market. The issuer shall not be subject to any obligation to provide information required under paragraph (ii) of sub-article (1) of this article directly to any regulated market which has admitted the issuer's transferable securities to trading without its consent.

(4) In complying with the provisions of this article regulated markets shall also comply with the applicable provisions of Commission Regulation (EC) no 1287/2006 of 10th August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive on pre and post trade transparency and admission to trading as may be amended from time to time.”.

Amendment of article 5 of the principal Act.

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

(a) in the marginal note thereof, for the word “Directives.”, there shall be substituted the words “Financial Market Rules.”;

(b) in sub-article (1) thereof, for the words “may issue directives”, there shall be substituted the words “may issue Financial Market Rules”;

(c) for sub-article (2) thereof, there shall be substituted the following:

“(2) Any Financial Market Rules issued by the competent authority may require information to be given in a specified form and to be verified in a specified manner and any information so required shall be provided promptly.”; and

(d) sub-article (3) thereof shall be deleted.

Amendment of article 6 of the principal Act.

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

(a) in the marginal note thereof, for the words “modification of directives.”, there shall be substituted the words “modification of Financial Market Rules.”;

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

(i) for the words “any of the directives”, there shall be substituted the words “any of the Financial Market Rules”, and for the words “specified in the directive”, there shall be substituted the words “specified in the Financial Market Rule”;

(ii) in paragraph (a) thereof, for the words “the directives”, wherever they appear, there shall be substituted the words “the Financial Market Rules”;

(iii) in paragraph (b) thereof, for the words “the directive”, there shall be substituted the words “the Financial Market Rule”, and for the words “such directives”, there shall be substituted the words “such Financial Market Rules”; and

(c) in sub-article (2) thereof, for the words “A directive issued”, there shall be substituted the words “A Financial Market Rule issued”.

21. Article 7 of the principal Act shall be amended as follows: Amendment of article 7 of the principal Act.

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

(i) in paragraph (a) thereof, for the words “for recognition”, there shall be substituted the words “for authorisation”;

(ii) in sub-paragraph (ii) of paragraph (b) thereof, for the words “or any other requirement whatsoever.”, there shall be substituted the words “or any other requirement whatsoever.”;

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

“(iii) requiring the cessation of any practice that is contrary to the provisions adopted in the implementation of the Directive.”.

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

(a) in the marginal note thereof, for the words “of recognition order.”, there shall be substituted the words “of an authorisation.”;

(b) in sub-article (1) thereof, for the words “A recognition order”, there shall be substituted the words “An authorisation”;

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

(i) in paragraph (a) thereof, for the words “for recognition”, there shall be substituted the words “for authorisation”;

(ii) in paragraph (b) thereof, for the words “under this Act,” there shall be substituted the words “ under this Act, or”;

(iii) immediately after paragraph (b) thereof, there shall be inserted the following new paragraphs (c), (d) and (e):

“(c) does not make use of the authorisation within twelve months, expressly renounces the authorisation or has not operated for the preceding six months, or

(d) has obtained the authorisation by making false statements or by any other irregular means; or

(e) no longer meets the conditions under which authorisation was granted.”;

(iv) in the paragraph immediately following the new paragraph (e) thereof, for the words “the recognition order”, wherever these appear, there shall be substituted the words “the authorisation”;

(d) in sub-article (3) thereof, for the words “revoking a recognition order”, there shall be substituted the words “revoking an authorisation”;

(e) sub-article (4) thereof shall be deleted;

(f) sub-article (5) thereof shall be renumbered as sub-article (4).

23. Article 10 of the principal Act shall be amended as follows: Amendment of article 10 of the principal Act.

(a) the words “rules or bye-laws” wherever they appear, shall be substituted the words “bye-laws”;

(b) in paragraph (c) thereof, for the words “on the exchange”, there shall be substituted the words “on the regulated market”.

24. Immediately after Article 10 of the principal Act there shall be inserted the following new article 10A: Addition of new article 10A to the principal Act.

“Clearing and settlement of transactions.” 10A (1) Regulated markets shall offer all their members or participants the right to designate the systems for the clearing and settlement of transactions in financial instruments undertaken on that regulated market subject to:

(a) such links and arrangements between the designated clearing and settlement system and any other system or facility as are necessary to ensure the efficient and economic settlement of the transaction in question; and

(b) agreement by the competent authority responsible for the supervision of the regulated market that technical conditions for the clearing and settlement of transactions concluded on the regulated market through a clearing and settlement system other than that designated by the regulated market are such as to allow smooth and orderly functioning of financial markets.

(2) Regulated markets shall not be prohibited from entering into appropriate arrangements with a central counterparty or clearing house and a clearing and settlement system of another Member State or EEA State with a view to providing for the clearing and, or settlement of some or all trades concluded by market participants under their systems:

Provided that the competent authority may prohibit a regulated market from entering into such arrangements where it considers this is necessary to maintain the orderly functioning of that regulated market.”.

25. Article 11 of the principal Act shall be amended as follows: Amendment of article 11 of the principal Act.

(a) in paragraph (a) thereof, for the words “to the official lists and to any other recognised list”, there shall be substituted the words “to any recognised list”;

(b) for paragraph (b) thereof there shall be substituted the following:

“(b) to make Listing Rules for the better implementation and purposes of this Part of this Act;”;

(c) in paragraph (c) thereof, immediately after the words “remain listed”, there shall be inserted the following new words “and to monitor the timely disclosure of information by issuers or any other person subject to the Listing Rules with the objective of ensuring effective and equal access to the public in Malta and in all Member States or EEA States where the transferable securities are traded;”;

(d) for paragraph (d) thereof there shall be substituted the following new paragraphs (d) and (e):

“(d) to act as the central competent administrative authority responsible for carrying out the obligations provided for in the Transparency Directive and for ensuring that the provisions adopted pursuant to this Directive are applied and to issue rules in furtherance of its responsibility under any provisions of the said Directive which rules shall be binding on issuers, shareholders and any other person as may be indicated in the said rules;

(e) to act as the authority competent to supervise bids for the purpose of the Listing Rules made or introduced pursuant to the Takeover Bids Directive.”.

Amendment of article 12 of the principal Act.

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

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

(i) in paragraph (a) thereof, for the words “trading on the Official List or on any other recognised list unless the Listing Authority shall have first authorised the admissibility of such financial instruments to listing in accordance with any rules made under article 13.”, there shall be substituted the words “trading on any recognised list unless the Listing Authority shall have first authorised the admissibility of such

financial instruments to listing in accordance with any Listing Rules made under article 13.”;

(ii) in paragraph (b) thereof, for the words “to listing on the official list or on any other recognised list.”, there shall be substituted the words “to listing on any recognised list.”;

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

(i) for the words “The Exchange and every recognised investment exchange may admit to listing and trading to the official list or, as the case may be, to the recognised list concerned”, there shall be substituted the words “Every regulated market may admit to listing and trading to the recognised list concerned”;

(ii) in paragraph (b) thereof, for the words “to the official list or to any other recognised list”, there shall be substituted the words “to any recognised list”;

(iii) in the proviso to paragraph (b) thereof, the words “the Exchange and” shall be deleted.

27. Article 13 of the principal Act shall be amended as follows: Amendment of article 13 of the principal Act.

(a) in the marginal note thereof, for the words “Listing rules” there shall be substituted the words “Listing Rules”;

(b) for the words “listing rules” wherever they appear in the said provision and in the Act there shall be substituted the words “Listing Rules”;

(c) in paragraph (a) thereof, for the words “to the official list or to any other recognised list”, there shall be substituted the words “to any recognised list”;

(d) in paragraph (d) thereof, for the words “in any listing particulars, prospectus” there shall be substituted the words “in any prospectus”;

(e) in paragraph (e) thereof, for the words “of any listing particulars, prospectus” there shall be substituted the words “of any prospectus”;

(f) in paragraph (f) thereof, for the words “the rules the publication” there shall be substituted the words “the Listing Rules”;

the publication”, and for the words “on the official list or on any recognised list”, there shall be substituted the words “on any recognised list”;

(g) in paragraph (g) thereof, for the words “the Listing Authority, the Exchange and other recognised investment exchanges”, there shall be substituted the words “the Listing Authority and regulated markets”;

(h) paragraph (i) thereof shall be renumbered as paragraph (j); and

(i) immediately after paragraph (h) thereof, there shall be inserted the following new paragraph (i):

“(i) transposing, implementing and giving effect to the provisions, requirements, obligations, commitments and measures of the European parliament and of the Council issued in relation to the regulation of admissibility to listing of financial instruments on regulated markets and, or the regulation of issuers or any other person subject to the Listing Rules, 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;”.

Amendment of article 14 of the principal Act.

28. In sub-article (2) of article 14 of the principal Act for the words “such rules of procedure as set out”, there shall be substituted the words “such procedure as is set out”.

Amendment of article 15 of the principal Act.

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

(a) sub-article (2) thereof shall be deleted;

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

(c) in paragraph (a) of sub-article (2) as re-numbered, and wherever it appears in the Act for the words “listing rule” there shall be substituted the word “Listing Rule”.

Amendment of article 16 of the principal Act.

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

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

“(1) The Listing Authority shall notify the applicant of its decision regarding the approval of the prospectus within ten working days of the submission of the draft prospectus.”;

(b) for sub-article (2) thereof, there shall be substituted the following:

“(2) The time limit referred to in sub-article (1) shall be extended to twenty working days if the offer involves transferable securities issued by an issuer which does not have any transferable securities admitted to trading on a regulated market and who has not previously offered transferable securities to the public.”;

(c) sub-articles (3), (4), (5), (6) and (7) thereof shall be respectively renumbered as sub-articles (5), (6), (7), (8) and (9); and

(d) immediately after sub-article (2) thereof, there shall be inserted the following new sub-articles (3) and (4):

“(3) (a) If the Listing Authority finds, on reasonable grounds, that the documents submitted to it are incomplete or that supplementary information is needed, the time limits referred to in sub-articles (1) and (2) shall apply only from the date on which such information is provided by the applicant.

(b) In the case referred to in sub-article (1) the Listing Authority should notify the applicant if the documents are incomplete within ten working days of the submission of the application.

(4) If the Listing Authority fails to give a decision on the prospectus within the time limits mentioned in sub-articles (1) and (2), this shall not be deemed to constitute approval of the prospectus.”; and

(e) in sub-article (6) as re-numbered, for the words “with sub-article (5)”, there shall be substituted the words “with sub-article (7)”.

31. Sub-article (1) 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 “at the request of the Exchange or another” there shall be substituted the words “at the request of a”;

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

“(b) Without prejudice to the right of the Listing Authority under paragraph (a) of this article to demand suspension or removal of an instrument from trading, the market operator of the regulated market may suspend or remove from trading a financial instrument which no longer complies with the bye-laws of the regulated market unless such a step would be likely to cause significant damage to the investors’ interests or the orderly functioning of the market. The market operator of a regulated market that suspends or removes from trading a financial instrument shall make public this decision and communicate the relevant information to the Listing Authority. The Listing Authority shall inform the European regulatory authorities of the other Member States or EEA States of this decision.”;

(c) immediately after paragraph (b) thereof, there shall be inserted the following new paragraph (c):

“(c) When the Listing Authority demands the suspension or removal of a financial instrument from trading on one or more regulated markets, it shall immediately make public its decision and inform the European regulatory authorities of the other Member States or EEA States.”.

Amendment of article 18 of the principal Act.

32. Article 18 of the principal Act shall be amended as follows:

(a) in paragraph (b) of sub-article (3) thereof, for the words “the interest of the Exchange or of any” there shall be substituted the words “the interest of a”;

(b) in sub-article (7) thereof, for the words “to the official list or such other recognised list”, there shall be substituted the words “to any recognised list”.

Amendment of article 19 of the principal Act.

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

(a) in the marginal note thereof, for the words “Penalty or censure in”, there shall be substituted the words “Penalty in”;

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

(i) in paragraph (a) thereof, for the words “instruments, or” there shall be substituted the words “instruments,”;

(ii) in paragraph (b) thereof, for the words “to listing;” there shall be substituted the words “to listing, or”;

(iii) immediately after paragraph (b) thereof, there shall be inserted the following new paragraph (c):

“(c) any other person subject to the Listing Rules;”;

(iv) for the words “not exceeding twenty thousand liri.”, there shall be substituted the words “not exceeding forty thousand liri.”;

(c) sub-article (2) thereof shall be deleted;

(d) sub-articles (3), (4), (5) and (6) thereof shall be re-numbered as sub-article (2),(3), (4) and (5) respectively;

(e) in sub-article (5) thereof as re-numbered, for the words “of sub-article (5)” there shall be substituted the words “of sub-article (4)”.

34. Article 20 of the principal Act shall be amended as follows: Amendment of article 20 of the principal Act.

(a) in the marginal note thereto, for the words “Notice of penalty or censure.” there shall be substituted the words “Notice of penalty.”;

(b) sub-article (3) and (5) thereof shall be deleted;

(c) sub-article (4) and (6) thereof shall be re-numbered as sub-articles (3) and (4) respectively.

35. Article 22 of the principal Act shall be amended as follows: Amendment of article 22 of the principal Act.

(a) for the words “(c) to the Exchange or to such other recognised investment exchange in relation to any financial instruments listed on the Exchange or on the other recognised investment exchange concerned”, there shall be substituted the words “(c) to regulated markets in relation to any financial instruments listed on the regulated markets concerned”;

(b) for paragraph (a) thereof, there shall be substituted the following:

“(a) if the Listing Authority delegates any of its powers to impose an administrative penalty under article 19(1) and (2) to the regulated markets concerned, article 19(3) and article 20 shall apply *mutatis mutandis* to the regulated markets concerned”;

(c) the proviso to paragraph (b) thereof shall be amended as follows:

(i) for the words “under article 19(1), (2) and (3) as aforesaid neither the Listing Authority nor the Exchange or other recognised investment exchange concerned”, there shall be substituted the words “under article 19(1) and (2) as aforesaid neither the Listing Authority nor the regulated markets concerned”; and

(ii) for the words “Authority or the Exchange or recognised investment exchange concerned as the case may be,”, there shall be substituted the words “Authority or the regulated markets concerned,”.

Substitution of Part IV of the principal Act.

36. For Part IV of the principal Act there shall be substituted the following:

“PART IV

CENTRAL SECURITIES DEPOSITORY

Authorisation requirement.

24. (1) No person shall operate a central securities depository or shall provide, or hold itself out to be or provide, the service of a central securities depository in or from Malta unless such person is in possession of a written authorisation issued by the competent authority under this Part.

(2) Any body corporate or unincorporate may apply in writing to the competent authority for an authorisation under this Part, authorizing it to act as a central securities depository for the purposes of this Act.

(3) Authorisation to act as a central securities depository may be granted only where the competent authority is satisfied that the applicant complies and will be in a position to comply with the applicable requirements laid down in this Act and regulations and Financial Market Rules issued hereunder.

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Determination
of an
application.

(4) Nothing in this Act or in any regulation made hereunder shall be construed as enabling or empowering a central securities depository to perform a function or activity which requires an approval or authorisation in terms of the Central Bank of Malta Act or any other law.

25. (1) In determining an application the competent authority shall have regard to such information and other factors as it may consider relevant or material to the application.

(2) The competent authority may, upon receipt of an application duly made in accordance with this Part grant or refuse to grant an authorisation. Where the competent authority issues an authorisation, the central securities depository shall be responsible for ensuring that the provisions of the Act, regulations made thereunder and Financial Market Rules issued by the competent authority, which are applicable to central securities depositories are complied with.

(3) An authorisation shall state the date on which it shall take effect.

(4) Where the competent authority refuses an application for an authorisation it shall give the applicant a notice to that effect stating the reasons for the refusal.

(5) If the competent authority refuses an application for an authorisation the applicant shall have a right of appeal to the Tribunal in accordance with Part VI of this Act.

(6) An authorisation may, in accordance with such regulations as may be prescribed, be varied, suspended or revoked by the competent authority.

(7) An authorisation issued to a central securities depository under this article shall identify the financial instruments, designated or otherwise, which the central securities depository would be authorised to provide services to and shall further identify the functions it is authorised to carry out.

Functions of a
central
securities
depository.

26. Without prejudice to any other power or function conferred on it by law or regulation, the functions of a central securities depository may include the following:

- (a) provision of custody or depository facilities in respect of financial instruments;
- (b) maintenance of registers of members and holders of financial instruments and recording of transactions and holdings in financial instruments;
- (c) provision, management and administration of a securities clearing and settlement system in respect of financial instruments, including the provision of access and interoperable links between such a system and other securities clearing and settlement systems, central securities depositories, central counterparties and clearing houses, and other services ancillary to the above;
- (d) authentication of register of members or holders of designated financial instruments or of any extract thereof; and
- (e) such other ancillary or consequential functions related to the above including any preparatory and other related corporate administrative services in relation to issues of financial instruments which are listed or to be listed, as may be established by Financial Market Rules:

Provided that no central securities depository may be authorised to carry out solely ancillary or consequential functions.

Revocation
of an
authorisation.

27. (1) An authorisation may be revoked by an order issued in writing by the competent authority at the request, or with the consent, of the central securities depository or otherwise as provided in this Act.

(2) An authorisation may be revoked by an order issued in writing without the consent of a central securities depository, if it appears to the competent authority that the central securities depository:

- (a) is failing, or has failed, to satisfy the requirements for authorisation under this Act,

regulations or Financial Market Rules made hereunder; or

(b) is failing or has failed, to comply with any other obligation imposed on it by or under this Act, regulations or Financial Market Rules made hereunder; or

(c) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has not operated for the preceding six months; or

(d) has obtained the authorisation by making false statements or by any other irregular means; or

(e) no longer meets the conditions under which authorisation was granted.

(3) An order under sub-articles (1) and (2) revoking an authorisation hereinafter referred to as a “revocation order” shall specify the date on which it is to take effect.

(4) A revocation order may contain such transitional provisions and other terms and conditions as the competent authority may consider necessary or expedient.

(5) If a revocation order is issued, a central securities depository shall have a right of appeal to the Tribunal in accordance with Part VI.

Special rules
for
designated
financial
instruments.

28. (1) Notwithstanding the provision of any other law, the title to and rights in respect of designated financial instruments, the register of which is maintained in a central securities depository, may be created and, or transferred by an entry on the register maintained in a central securities depository and no instrument in writing shall be required for this purpose.

(2) Notwithstanding the provisions of any other law, the title to and rights in respect of designated financial instruments, the register of which is maintained in a central securities depository, may be held or evidenced in a dematerialised or uncertificated form.

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(3) The provisions of article 1966 (3) and (4) of the Civil Code shall not apply in respect of designated financial instruments and the privilege referred to in Title XXI of Part II of Book Second of the said Code shall arise where the pledge has been duly registered with a central securities depository.

(4) The authentic record of members and holders of financial instruments and of transactions and holdings of a designated financial instrument may be held, maintained and evidenced by a central securities depository duly authorised in terms of this Part.

(5) The register and documents kept by a central securities depository in respect of designated financial instruments shall, at a reasonable cost, be open for inspection by any person as may be prescribed by regulations which shall establish which records and registers held by a central securities depository will be open to public inspection and under what conditions.

Application of other articles.

29. The provisions of articles 4B, 6, 7, and 9 of Part II of this Act shall apply *mutatis mutandis* to central securities depositories authorised under this Part.

Powers of the Minister to make regulations.

30. (1) The Minister, acting on the advice of the competent authority, may make regulations setting out:

(a) the requirements and conditions which must be satisfied by a person if it is to provide the services of a central securities depository in respect of which the competent authority may issue an 'authorisation' under this Act;

(b) the requirements which a central securities depository must continue to satisfy if it is to remain authorised, including the amount of fees to be payable to the competent authority;

(c) the circumstances and the manner in which an authorisation or the requirements and conditions to which it is subject may be varied, suspended or revoked;

(d) requirements for the authorisation, operation, functions, regulation and supervision of a central securities depository;

(e) requirements for the creation, holding or evidencing of title to and rights in respect of Financial Instruments in a dematerialised or uncertificated form;

(f) arrangements for the investigation of complaints and or grievances about central securities depositories and remedies in respect thereof;

(g) arrangements for the ascertainment of compliance by central securities depositories and the scrutiny of rules and requirements of central securities depositories;

(h) exemptions from the requirement for an authorisation which may be subject to such variations, additions, adaptations and modifications as may be prescribed and which may be subject to such conditions or other requirements, including other forms of authorisation and notification procedures;

(i) the categories or classes of financial instruments which, for the purpose of the Act, qualify as designated financial instruments;

(j) prescribing anything that is incidental to or connected with any of the above matters.

(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 categories or classes of financial instruments and for different circumstances or purposes.

Financial
Market Rules

31. The competent authority may from time to time issue Financial Market Rules which shall be binding on central securities depositories authorised under this Part and on others as may be specified, and such Rules may be issued in respect of any matter raised in this Part, including Rules for the better regulation of and for securing compliance by central securities depositories and their officials with the requirements and obligations arising under this Act or regulations made thereunder.”.

37. Article 32 of the principal Act shall be amended as follows: Amendment of article 32 of the principal Act.

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

(i) in paragraph (i) thereof, for the words “any recognised investment exchange”, there shall be substituted the words “any regulated market or central securities depository”;

(ii) in paragraph (iii) thereof, for the words “a recognised investment exchange or any other person who is or was involved in the operations of a recognised investment exchange”, there shall be substituted the words “a regulated market or central securities depository, or any other person who is or was involved in the operations of a regulated market or central securities depository”;

(iii) immediately after paragraph (iv) thereof, there shall be added the following new paragraphs (v) and (vi):

“(v) any auditor of a regulated market who appears to be in possession of relevant information;

(vi) any other person who appears to be in possession of relevant information;”;

(iv) in paragraph (a) thereof, for the words “as it may require;”, there shall be added the words “as it may require, including the power to require existing telephone and existing data traffic records;”;

(b) sub-articles (4) to (8) thereof shall be deleted.

Amendment of
article 33 of the
principal Act.Cap.
281.

38. Article 33 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words “article 32(1)(i) to (iv) there shall be substituted the words “article 32(1)(i) to (vi);

(b) in paragraph (b) of sub-article (2) thereof, for the words “competent authority by article 32, including the power to apply to the Court of Appeal in the circumstances described in sub-article (4) of that article, and any”, there shall be substituted the words “competent authority by article 32, and any”;

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

(d) immediately after sub-article (3) thereof there shall be added the following new sub-article (4):

“(4) For the purposes of this article inspectors may include an advocate, a person authorised to carry on the profession of accountant or auditor in terms of the Accountancy Profession Act, or a person considered by the competent authority as possessing suitable expertise to exercise such function.”.

Cap.281.

39. Immediately after article 34 of the principal Act there shall be inserted the following new article:

Addition of new article 34A to the principal Act.

34A. Any decision taken under this Act by the competent authority in terms of any provisions which transpose the Directive, including any regulations, Financial Market Rules or administrative provisions made thereunder for the said transposition, shall state the grounds on which such a decision has been based.”.

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

Amendment of article 35 of the principal Act.

(a) for the words “any rules or bye-laws”, there shall be substituted the words “any bye-laws”; and

(b) for the words “the rules and bye-laws”, there shall be substituted the words “the bye-laws”.

41. Article 36 of the principal Act shall be amended as follows:

Amendment of article 36 of the principal Act.

(a) for the marginal note thereof, there shall be substituted the following “Report on market abuse.”; and

(b) the words “the Exchange or” shall be deleted.

42. Article 37 of the principal Act shall be amended as follows:

Amendment of article 37 of the principal Act.

(a) in the marginal note thereof, for the words “Co-operation with overseas regulatory authority.”, there shall be substituted the words “Co-operation with European regulatory authorities.”;

(b) sub-article (1) thereof shall be renumbered as sub-article (11);

(c) sub-article (2) thereof shall be deleted and there shall be inserted the following new sub-articles as follows:

“(1) The competent authority shall act as the contact point in terms of and for the purposes of sub-article (1) of article 56 of the Directive.

(2) The competent authority shall cooperate with other European regulatory authorities whenever necessary for the purpose of carrying out its duties under the Directive. It shall render the necessary assistance to other European regulatory authorities, in particular by exchanging information and cooperating in any investigatory or supervisory function. In terms of the Directive, the competent authority may use its powers for the purposes of cooperation even in cases where the conduct under investigation does not constitute an infringement of any provisions of this Act, regulations or Financial Market Rules issued thereunder.

(3) Upon receipt of a request from European regulatory authorities designated as contact points within the individual Member States or EEA States under sub-article (1) of Article 56 of the Directive, the competent authority shall immediately take the necessary measures in order to gather the information required for the carrying out of their duties pursuant to the Directive. If the competent authority is not able to supply the required information immediately, it shall notify the requesting European regulatory authority of the reasons.

(4) At the time of communicating information to the European regulatory authorities, whether designated as contact points or not, the competent authority may stipulate that the information must not be disclosed without its express agreement, in which case such information may be exchanged solely for the purposes for which the competent authority had given its agreement.

(5) Where a European regulatory authority exchanging information with the competent authority stipulates at the time of communication of the information that such information must not be disclosed without its express agreement, such information may be used by the competent authority solely for the purposes for which the European regulatory authority would have given its agreement.

(6) Information received by the competent authority from contact points in the other Member States or EEA States may be transmitted to other bodies or natural or legal persons, provided that:

(a) the express agreement of the contact points which disclosed the information is obtained; and

(b) the information is used solely for the purposes for which the contact points gave their agreement:

Provided further that in duly justified circumstances the competent authority can transmit information to other bodies or natural or legal persons without satisfying the conditions in paragraphs (a) and (b) of this sub-article, in which case the competent authority shall immediately inform the contact point that sent the information.

(7) Where the competent authority receives confidential information from contact points in the other Member States or EEA States or from overseas regulatory authorities under articles 37C of this Act, or when other bodies or natural or legal persons receive confidential information from the competent authority, they may only use such confidential information in the course of their duties, in particular:

(a) to monitor the proper functioning of trading venues within the meaning of the Directive;

(b) to impose penalties or adopt other administrative measures and to consider representations received in their regard;

(c) in appeals under article 42 of this Act; or

(d) to investigate complaints received from consumers in terms of article 20 of the Malta Financial Services Authority Act. Cap. 330.

(8) Without prejudice to the powers of the competent authority under this Act or any other law, where the competent authority has good reason to suspect that acts contrary to the provisions of the Directive are being or have been carried out on the territory of another Member State or EEA State by entities not subject to its supervision, it shall notify this in as specific a manner as possible to the contact point in the other Member State or EEA State.

(9) Where the information in the possession of the competent authority had originated from a European regulatory authority or an overseas regulatory authority, it may not be disclosed to a European regulatory authority or to

any other third party without the express agreement of the European regulatory authority or the overseas regulatory authority which had transmitted it and, where appropriate, solely for the purposes for which that authority had given its agreement.

(10) Where a European regulatory authority suspects that acts carried out by entities not subject to its supervision and which are contrary to the provisions of the Directive are being or have been carried out in Malta and notifies the competent authority to this effect, the competent authority shall take appropriate action. The competent authority shall inform the notifying European regulatory authority of the outcome of any such action and, to the extent possible, of significant interim developments:

Provided that any such action taken by the competent authority shall be without prejudice to the powers and functions of the European regulatory authority that has forwarded the information.”;

(d) sub-article (11) as re-numbered shall be amended as follows:

(i) for the words “an overseas regulatory authority” there shall be substituted the words “a European regulatory authority”;

(ii) paragraph (c) thereof shall be re-numbered as paragraph (e);

(iii) immediately after paragraph (b) thereof there shall be inserted the following new paragraphs:

“(c) the powers to issue directives under article 5;

(d) the powers of entry under article 34;”;

(iv) in paragraph (e) thereof, as re-numbered, for the words “overseas regulatory authority” there shall be substituted the words “European regulatory authority”.

43. Immediately after article 37 of the principal Act there shall be inserted the following new articles:

“Co-operation in supervisory functions, on-site verifications or investigations.

37A. (1) The competent authority may request the co-operation of a European regulatory authority in supervisory functions or for on-site verifications or investigations, and a European regulatory authority may likewise request the co-operation of the competent authority in the performance of its supervisory functions or in verifications or investigations.

(2) In the exercise of such co-operation between the competent authority and European regulatory authorities the provisions of article 17A of the Investment Services Act shall apply *mutatis mutandis*.

Refusal to cooperate.

37B. The competent authority may refuse to act on a request for co-operation in carrying out supervisory functions, on-site verifications or investigations in terms of article 37A or to exchange information with European regulatory authorities designated as contact points under article 56(1) of the Directive, in the circumstances laid down in Article 17B of the Investment Services Act.

Co-operation with overseas regulatory authorities.

37C. (1) Co-operation agreements with overseas regulatory authorities or other authorities, bodies and natural or legal persons in a country that is not a Member State or EEA State may be entered into only if the information disclosed is subject to guarantees of professional secrecy at least equivalent to those required under article 38 of this Act. Such exchange of information must be intended for the performance of the functions of those overseas regulatory authorities or other authorities, bodies and natural or legal persons:

Provided that the transfer of personal data to countries that are not Member States or EEA States shall be in accordance with the provisions of Chapter IV of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(2) In the conclusion of co-operation agreements providing for the exchange of information with overseas regulatory authorities, other authorities or with bodies and natural or legal persons in countries that are not Member States or EEA States, the provisions of sub-article (2) of article 17D of the Investment Services Act shall apply *mutatis mutandis*.

(3) Where the information in the possession of the competent authority had originated from a European regulatory authority or an overseas regulatory authority, it may not be disclosed to an overseas regulatory authority or to any other third party without the express agreement of the European regulatory authority or the overseas regulatory authority which had transmitted it and, where appropriate, solely for the purposes for which that authority had given its agreement.

(4) Without prejudice to the foregoing provisions of this article, at the request of, or for the purposes of assisting an overseas regulatory authority, the competent authority may exercise the powers listed in sub-article (11) of article 37 of the Investment Services Act, and for the purposes of this sub-article the words “European regulatory authority” shall be read as “overseas regulatory authority.”.

Substitution of article 38 of the principal Act.

44. For article 38 of the principal Act there shall be substituted the following:

“(1) Regulated markets, central securities depositories, the Listing Authority, the competent authority, their respective members, officers, employees or agents, as well as auditors, inspectors and experts, as the case may be, engaged in terms and for the purposes of any of the provisions of this Act –

(a) shall deal with all documents and other information relating to the relevant regulated market or to dealings therewith or therein, or otherwise obtained for the purposes of, or pursuant to, any of the provisions of this Act or of any regulations made thereunder and not yet officially divulged, as confidential and protected by the duty of professional secrecy, and shall not disclose the same to any other person;

(b) are prohibited from using such documents and information and all other matters which are confidential and protected by the duty of professional secrecy and which come to their knowledge by virtue of their position, in order to secure any advantage for themselves or for any third parties whether such third parties are connected or not with the financial instruments market.

(2) Article 26 of the Investment Services Act shall apply *mutatis mutandis* to regulated markets, the Listing Authority, the competent authority, their respective members, officers, employees

or agents, as well as auditors, inspectors and experts engaged for the purposes of any of the provisions of this Act, bound by the obligation of confidentiality in terms of sub-article (1) of this article.

(3) Any person who acts in contravention of this article shall, without prejudice to the provisions of the Prevention of Financial Markets Abuse Act, be guilty of an offence against this Act, and shall on conviction be liable to a fine (*multa*) of five thousand liri or to a term of imprisonment not exceeding two years or to both such fine and imprisonment. Cap. 476.

(4) Any person other than those mentioned in sub-articles (1) and (2) who acquires any documents or any other information to which the said sub-articles relate and who uses such documents or information, with intent to secure advantage either for himself or any other person, shall, without prejudice to the Prevention of Financial Markets Abuse Act, be guilty of an offence against this Act and shall on conviction be liable to the same penalty established for an offence against the provisions of this article.”. Cap. 476.

45. Article 39 of the principal Act shall be amended as follows: Amendment of article 39 of the principal Act.

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

(i) in paragraph (a) thereof, for the words “or the rules or bye-laws of a recognised investment exchange or will contravene or fail to comply with any obligation, requirement, directive or order made or given under any of the provisions of this Act, the regulations made thereunder or the rules or bye-laws of a recognised investment exchange;”, there shall be substituted the words “or the bye-laws of a regulated market or will contravene or fail to comply with any obligation, requirement, Financial Market Rule, Listing Rule, directive or order made or given under any of the provisions of this Act, the regulations made thereunder or the bye-laws of a regulated market;”;

(ii) in paragraph (b) thereof, for the words “requirement, directive, or order”, there shall be substituted the words “requirement, directive, Financial Market Rule, Listing Rule or order”;

(b) in paragraph (a) of sub-article (2) thereof for the words “the rules of a recognised investment exchange or any obligation, requirement, directive, or order made or given under any of the provisions of this Act or under the rules or bye-laws of a recognised

investment exchange;”, there shall be substituted the words “the bye-laws of a regulated market or any obligation, requirement, Financial Market Rule, Listing Rule, directive or order made or given under any of the provisions of this Act or under the bye-laws of a regulated market;”;

(c) in paragraph (a) of sub-article (3) thereof, for the words “the rules or bye-laws of a recognised investment exchange or any obligation, requirement, directive, or order made or given under any of the provisions of this Act, the regulations made thereunder or the rules or bye-laws of a recognised investment exchange;”, there shall be substituted the words “the bye-laws of a regulated market or any obligation, requirement, Financial Market Rule, Listing Rule, directive or order made or given under any of the provisions of this Act, the regulations made thereunder or the bye-laws of a regulated market”;

Addition of new article 39A to the principal Act.

46. Immediately after article 39 of the principal Act there shall be inserted the following new article:

“Administrative penalties.

39A. (1) Where any person contravenes or fails to comply with any provision of this Act, other than Part III thereof, including failure to cooperate in an investigation, or of any regulations, Financial Market Rules made thereunder adopted in the implementation of the Directive, the competent authority may by notice in writing and without recourse to a court hearing impose on any such person or persons, as the case may be, an administrative penalty which may not exceed forty thousand liri.

(2) The competent authority may disclose to the public any penalty imposed under the immediately preceding sub-article:

Provided that the competent authority shall withhold such publication where it deems that such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

(3) Persons upon whom notice is served under sub-article (1) of this article shall have a right of appeal to the Tribunal in accordance with article 43 of this Act.

(4) Where a notice as referred to in sub-article (1) of this article has not been appealed, or where such notice has been appealed, within fifteen days of the determination

by the Tribunal of such appeal, the administrative penalty as contained in the notice or as reduced or increased by the decision of the Tribunal shall be due to the competent authority. Upon the service of a copy of the notice of the decision as the case may be, by means of a judicial act on the person indicated in the notice or decision, the said notice or decision shall constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.”.

47. Article 40 of the principal Act shall be amended as follows: Amendment of article 40 of the principal Act.

(a) in sub-article (1) thereof, for the words “order, directive, rule or regulation”, there shall be substituted the words “order, directive, Financial Market Rule, Listing Rule or regulation”;

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

“(2) Any person who knowingly or recklessly gives the competent authority, any person appointed by it under article 32(1)(c) or any inspector appointed under article 33, information which is false or misleading shall be guilty of an offence.”;

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

“(3) Any person who removes, destroys, conceals or fraudulently alters any book, document or other paper, including information stored in electronic format, which is or is likely to be relevant to a request for information or documentation or an inspection or an investigation in terms of this Act, shall be guilty of an offence.”; and

(d) in sub-article (4) thereof, for the words “who intentionally obstructs”, there shall be substituted the words “who obstructs”.

48. Immediately after article 41 of the principal Act there shall be inserted the following new article 41A: Addition of new article 41A.

“Issue of public statement.

41A. If it appears to the competent authority or the Listing Authority that a person has contravened any of the provisions of this Act or of any regulations made under this Act or has contravened or failed to comply with any condition,

obligation, requirement, Financial Market Rules, Listing Rules or directives made or given under any of the provisions of this Act, the competent authority or the Listing Authority, as the case may be, may publish a statement to that effect.”;

Amendment of article 42 of the principal Act.

49. Article 42 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words “articles 4(10), 16(7), 17(3), 18(6), 20(6) and 33(5)” there shall be substituted the words “articles 4(11), 16(9), 17(3), 18(6), 20(4), 25(5), 27(5), 33(6) and 39A”; and

(b) in sub-article (2) thereof, the words “from a decision of the Council of the Malta Stock Exchange under paragraphs 5(1), 6(1) and 6(2) of the Statute as well as” shall be deleted.

Amendment of article 43 of the principal Act.

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

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

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

“(a) that the competent authority, the Listing Authority or the regulated market concerned, as the case may be, has wrongly applied any of the provisions of this Act, of the regulations made thereunder, or of the bye-laws of the regulated market concerned; or”

(ii) in paragraph (b) thereof, for the words “Listing Authority, the Exchange or the recognised investment exchange concerned,” there shall be substituted the words “Listing Authority or the regulated market concerned.”;

(b) in sub-article (2) thereof, for the words “from:

(a) a decision to discontinue the listing of any financial instruments as is mentioned in article 18(5); and

(b) a decision to publish a statement of censure under article 20:

Provided that a decision on any of the matters as is referred to in paragraphs (a) and (b) shall become operative”,

there shall be substituted the words “from a decision to discontinue the listing of any financial instruments as is mentioned in article 18 (5) in which case the decision shall become operative”.

51. For article 44 of the principal Act there shall be substituted the following: Substitution of article 44 of the principal Act.

“Applicability of article 21 of the Malta Financial Services Authority Act. Cap. 330.

44. Subject to article 43 of this Act, the provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to appeals that may be brought before the Tribunal under this article.”.

52. For article 45 of the principal Act there shall be substituted the following: Substitution of article 45 of the principal Act.

“Trading outside regulated markets.

45. (1) Quoted financial instruments may be traded outside the regulated market on which they are listed.

(2) The Minister may make regulations to establish conditions and procedures under which quoted financial instruments may be traded outside the regulated markets on which such quoted financial instruments are listed and other than by means of facilities provided by any such regulated markets.”.

53. In article 47 of the principal Act, for the words “with the Exchange”, there shall be substituted the words “with a regulated market”. Amendment of article 47 of the principal Act.

54. Article 49 of the principal Act shall be amended as follows: – Amendment of Article 49 of the principal Act.

(a) the said article 49 shall be re-numbered as sub-article (1) of article 49;

(b) sub-article (1) as re-numbered shall be amended as follows:

(i) in paragraph (a) thereof, for the words “of recognised investment exchanges” there shall be substituted the words “of regulated markets and central securities depositories”;

(ii) in paragraph (c) thereof, the words “other than the Exchange,” shall be deleted;

(iii) in paragraph (d) thereof, for the words “to which Malta is a party.”, there shall be substituted the words “to which Malta is a party;”;

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

“(e) to transpose, implement and give effect to the provisions and requirements of the Directive, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder.”;

(c) immediately after sub-article (1) as re-numbered, there shall be inserted the following new sub-articles:

“(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.

(3) Where regulations have been issued in terms of this article, the competent authority may issue Financial Market Rules within the meaning of article 4 of this Act for the better carrying out and to better implement the provisions of the regulations.”.

Amendment of article 50 of the principal Act.

55. For article 50 of the principal Act, there shall be substituted the following:

“50. Notwithstanding anything contained in the Duty on Documents and Transfers Act, or in any Act replacing that Act, no duty shall be payable in accordance with that Act in respect of any transfer of any financial instruments of a quoted company, or the transfer of any financial instruments of the Government or any body corporate established by law, where such transfer is made either on a regulated market or outside the regulated market on which they are listed in terms of article 45.”.

Amendment of article 51 of the principal Act.

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

(a) in sub-article (1) thereof, for the words “under article 33(4)”, there shall be substituted the words “under article 33(5)”; and

(b) in sub-article (2) thereof, for the words “under article 33(4)”, there shall be substituted the words “under article 33(5)”.

57. In article 52 of the principal Act, for the words “or any rules or regulations made thereunder” there shall be substituted the words “or any regulations or Financial Market Rules or Listing Rules made thereunder”.

Amendment of article 52 of the principal Act.

58. Immediately after article 52 of the principal Act, there shall be inserted the following new article 53:

Addition of new article 53 to the principal Act.

“Objective. **53.** The purpose of this Act is to regulate regulated markets, central securities depositories, and to provide for orderly trading in transferable securities and for matters ancillary or incidental thereto or connected therewith, and to implement the relevant provisions of the Directive which shall be interpreted and applied accordingly.”.

59. The Schedule to the principal Act shall be repealed.

Repeal of Schedule to the principal Act.

PART III

60. (1) 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.

(2) The provisions of this Part shall come into force on the 1st November, 2007.

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

Amendment of article 2 of the principal Act.

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

(i) immediately after the definition “collective investment scheme licence” there shall be added the following new definition:

“ “the Community” means the European Community established by the Treaty of Rome in 1957 and amended institutionally and otherwise in 1986 by the Single European Act, in 1993 by the Treaty on European Union, in 1997 by the Treaty of Amsterdam and in 2001 by the Treaty of Nice, and as amended by accession agreements and as may be further amended from time to time;”;

(ii) in the definition “competent authority”, for the words “of article 2A;” there shall be substituted the words “of article 2A, which body shall also carry out the duties as competent authority for all purposes of the Directive;”;

(iii) immediately after the definition “competent authority” there shall be added the following new definitions:

“ “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;

(iv) immediately after the definition “ “document” or “documentation” there shall be added the following new definitions:

“ “EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May, 1992 as amended by the Protocol signed at Brussels on the 17th March, 1993 and as amended by any subsequent acts;”;

“ “European regulatory authority” means the body or bodies designated by a Member”State or EEA State in accordance with Article 48 of the Directive to carry out each of the duties provided for under the different provisions of the Directive;”;

(v) immediately after the definition “investment services licence” there shall be added the following new definition:

“ “Investment Services Rules” refers to Rules issued by the competent authority under various articles of this Act;”;

(vi) immediately after the definition “Malta’s international commitments” there shall be added the following new definition:

“ “Member State” means a Member State of the European Communities;”;

(vii) for the definition “overseas regulatory authority” there shall be substituted the following:

“ “overseas regulatory authority” means an authority in a country or territory outside Malta that is not a Member State or EEA State which exercises any regulatory or supervisory function in relation to financial services corresponding to a function of the competent authority as defined in the Malta Financial Services Authority Act;”;

(viii) in the definition “prescribed” for the words “prescribed by rules or regulations” there shall be substituted the words “prescribed by regulations”;

(ix) in the definition “recognised investment exchange”, for the words “recognised investment exchange”, there shall be substituted the words “regulated market”;

(b) immediately after sub-article (2) thereof there shall be inserted the following new sub-article (3):

“(3) The objective of this Act is, in part, to transpose and implement the provisions of the Directive, and consequently this Act and any regulations adopted thereunder shall be interpreted and applied accordingly.”.

62. Article 6 of the principal Act shall be amended as follows: Amendment of article 6 of the principal Act.

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

(i) paragraph (a) shall be re-numbered as paragraph (a)(i);

(ii) in paragraph (a)(i) as re-numbered, for the words “observe any rules and regulations made under this Act” there shall be substituted the words “observe any Investment Services Rules and regulations made under this Act”;

(iii) immediately after paragraph (a)(i) as re-numbered, there shall be inserted the following new paragraph (a)(ii):

“(ii) grant an investment services licence:

(a) if the applicant is a body corporate, unless it has both its head office and registered office in Malta;

(b) if the applicant is a body corporate with no registered office under its national law, unless it has its head office in Malta; or

(c) if the applicant is not a body corporate unless the applicant's head office is in Malta; ”;

(iv) paragraph (b) thereof shall be amended as follows:

(a) for the words “with any rules and regulations made under this Act” there shall be substituted the words “with any Investment Services Rules and regulations made under this Act”;

(b) for the words “with the scheme.”, there shall be substituted the words “with the scheme;”;

(v) immediately after paragraph (b) there shall be inserted the following new paragraph (c):

“(c) grant a licence to an applicant unless the relevant European regulatory authorities have been consulted in the instances referred to in article 17C of this Act.”;

(b) in paragraph (b) of sub-article (2) thereof and wherever else it appears in the principal Act, for the word “guidelines”, there shall be substituted the words “Investment Services Rules”;

(c) for sub-article (9) thereof there shall be substituted the following new sub-article:

“(9) The competent authority shall establish a register of all holders of an investment services licence. This register, which shall be publicly available, shall also indicate the services in relation to which each investment services licence was issued and shall be updated on a regular basis.”;

and

(d) sub-articles (10) and (11) thereof shall be deleted.

63. Article 7 of the principal Act shall be amended as follows: Amendment of article 7 of the principal Act.

(a) in paragraph (b) of sub-article (2) thereof, for the words “of any rules or regulations made thereunder,”, there shall be substituted the words “of any Investment Services Rules or regulations made thereunder,”; and

(b) in paragraph (b) of sub-article (3) thereof, for the words “of any rules or regulations made thereunder,”, there shall be substituted the words “of any Investment Services Rules or regulations made thereunder,”.

64. 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 amended as follows:

(i) for the words “may make rules or regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing may, by such rules or regulations,”, there shall be substituted the words “may make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing may, by such regulations,”;

(ii) in paragraph (b) thereof, for the words “and to regulate the management companies of such schemes; and to make provisions on capital adequacy requirements”, there shall be substituted the words “and to regulate the management companies of such schemes;”;

(iii) in paragraph (f) thereof, for the words “to prescribe rules governing the disclosure”, there shall be substituted the words “to prescribe regulations governing the disclosure”;

(iv) in paragraph (h) thereof, for the words “or any rules or regulations made under this article”, there shall be substituted the words “or any regulations made under this article”;

(v) in paragraph (j) thereof, for the words “applicable to a licence holder;”, there shall be substituted the words “applicable to a licence holder, as amended from time to time, and including any implementing measures issued thereunder;”;

(vi) paragraphs (k) and (l) thereof shall be re-numbered as paragraphs (n) and (o);

(vii) immediately after paragraph (j) thereof, there shall be inserted the following new paragraphs:

“(k) transpose, implement and give effect to the provisions and requirements of the Directive;

(l) establish financial resources requirements for licence holders and to transpose, implement and give effect to the provisions of Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast), as may be amended from time to time, and including any implementing measures issued thereunder;

(m) provide for reporting and other requirements and conditions which a person operating a multilateral trading facility must satisfy, on a continuing and ongoing basis and to establish the circumstances and the manner in which requirements and conditions may be varied, suspended or revoked, and to transpose the requirements of the Directive thereon;”;

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

(i) for the words “Rules or regulations made”, there shall be substituted the words “Regulations made”; and

(ii) in paragraph (a) thereof, for the words “under the rules or regulations”, there shall be substituted the words “under the regulations”;

(c) in sub-article (2)(B) thereof, for the words “Rules or regulations made” there shall be substituted the words “Regulations made”;

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

(i) for the words “Rules or regulations made”, there shall be substituted the words “Regulations made”; and

(ii) for the words “of the rules or regulations as”, there shall be substituted the words “of the regulations as”;

(e) sub-articles (4) and (5) thereof shall be re-numbered as sub-article (5) and (6) respectively;

(f) immediately after sub-article (3) thereof, there shall be inserted the following new sub-article (4):

“(4) Where regulations have been issued in terms of this article, the competent authority may issue Investment Services Rules within the meaning of article 6 of this Act for the better carrying out and to better implement the provisions of the regulations.”; and

(g) in sub-article (5) thereof, as re-numbered, for the words “rules or regulations made” there shall be substituted the words “Regulations made”.

65. In paragraph (a) of sub-article (1) of article 13 of the principal Act, for the words “as it may require”, there shall be substituted the words “as it may require, including the power to require existing telephone and existing data traffic records,”. Amendment of article 13 of the principal Act.

66. Immediately after sub-article (3) of article 14 of the principal Act there shall be inserted the following new sub-article (4): Amendment of article 14 of the principal Act.

“(4) For the purposes of this article inspectors may include an advocate, a person authorised to carry on the profession of accountant or auditor in terms of the Accountancy Profession Act, or a person considered by the competent authority as possessing suitable expertise to exercise such function.”. Cap. 281.

67. Sub-article (2) of Article 15 of the principal Act shall be amended as follows: Amendment of article 15 of the principal Act.

(a) in paragraph (e) thereof, for the words “such other person.”, there shall be substituted the words “such other person;”; and

(b) immediately after paragraph (e) there shall be inserted the following new sub-paragraphs (f) and (g):

“(f) require the cessation of any practice that is contrary to the provisions adopted in the implementation of the Directive;

(g) require the removal of a financial instrument from trading, on trading arrangements within the meaning of the

Directive, other than on regulated markets in terms of the Financial Markets Act”.

Adds new article 16A and 16B to the principal Act.

68. Immediately after article 16 there shall be inserted the following new articles:

“Administra-
tive penalties
and other
measures.

16A. (1) Without prejudice to any other powers assigned to the competent authority in terms of this Act, where a licence holder or the manager, secretary, director or any other person responsible for a licence holder contravenes or fails to comply with any of the conditions imposed in a licence, and, or where the competent authority is satisfied that a person’s conduct amounts to a breach of any of the provisions of this Act, regulations or Investment Services Rules issued thereunder, including failure to cooperate in an investigation, the competent authority may by notice in writing and without recourse to a court hearing impose on the licence holder, manager, secretary, director, and, or any other person as the case may be, an administrative penalty which may not exceed forty thousand liri.

(2) Investment Services Rules may provide for the imposition of administrative penalties or other measures that may be imposed by the competent authority on licence holders or others, as may be specified, whether in the form of a fixed penalty, a daily penalty, or both, for any breach of the Rules.

(3) The imposition by the competent authority of an administrative penalty in terms of this article shall be without prejudice to any other consequence of the act or omission of the offender under civil or criminal law:

Provided that in all cases where the competent authority imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

(4) Upon the conclusion of any appeal proceedings in terms of article 19 of this Act, or the lapse of time required to lodge such an appeal, the competent authority may, by means of a public statement, disclose the name of the person sanctioned, the particular breach of the provision of this Act, regulations or Investment Services Rules issued

thereunder, and the penalty or administrative measure imposed. The competent authority shall withhold such public disclosure where it deems that such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

Obligation to state grounds for decisions.

16B. Any decision taken under this Act by the competent authority in terms of any provisions which transpose the Directive, including any regulations, Investment Services Rules, or administrative provisions made thereunder for the said transposition, shall state the grounds on which such a decision has been based.”.

69. The sub-title “CO-OPERATION WITH OVERSEAS REGULATORY AUTHORITY” immediately preceding article 17 shall be substituted by the new sub-title “CO-OPERATION WITH EUROPEAN REGULATORY AUTHORITIES AND OTHER BODIES”

Amendment of sub-title preceding article 17 of the principal Act.

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

Amendment of article 17 of the principal Act.

(a) sub-article (1) thereof shall be re-numbered as sub-article (11);

(b) sub-article (2) thereof shall be deleted and there shall be inserted the following new sub-articles as follows:

“(1) The competent authority shall act as the contact point in terms of and for the purposes of sub-article (1) of article 56 of the Directive.

(2) The competent authority shall cooperate with other European regulatory authorities whenever necessary for the purpose of carrying out its duties under the Directive. It shall render the necessary assistance to other European regulatory authorities, in particular by exchanging information and cooperating in any investigatory or supervisory function. In terms of the Directive, the competent authority may use its powers for the purposes of cooperation even in cases where the conduct under investigation does not constitute an infringement of any provisions of this Act, regulations or Investment Services Rules issued thereunder.

(3) Upon receipt of a request from European regulatory authorities designated as contact points within the individual Member States or EEA States under sub-article (1) of Article

56 of the Directive, the competent authority shall immediately take the necessary measures in order to gather the information required for the carrying out of its duties pursuant to the Directive. If the competent authority is not able to supply the required information immediately, it shall notify the requesting European regulatory authority of the reasons.

(4) At the time of communicating information to the European regulatory authorities, whether designated as contact points or not, the competent authority may stipulate that the information must not be disclosed without its express agreement, in which case such information may be exchanged solely for the purposes for which the competent authority had given its agreement.

(5) Where a European regulatory authority exchanging information with the competent authority stipulates at the time of communication of the information that such information must not be disclosed without its express agreement, such information may be used by the competent authority solely for the purposes for which the European regulatory authority would have given its agreement.

(6) Information received by the competent authority from contact points in the other Member States or EEA States may be transmitted to other bodies or natural or legal persons, provided that:

(a) the express agreement of the contact points which disclosed the information is obtained; and

(b) the information is used solely for the purposes for which the contact points gave their agreement:

Provided that in duly justified circumstances the competent authority can transmit information to other bodies or natural or legal persons without satisfying the conditions in paragraphs (a) and (b) of this sub-article, in which case the competent authority shall immediately inform the contact point that sent the information.

(7) Where the competent authority receives confidential information from contact points in the other Member States or EEA States or from overseas regulatory authorities or auditors under articles 17D and 18 of this Act, or when other bodies or natural or legal persons receive confidential information from the competent authority, they

may only use such confidential information in the course of their duties, in particular:

(a) to check that the conditions governing the taking-up of the business of investment services licence holders are met and to facilitate the monitoring, on a non-consolidated or consolidated basis, of the conduct of that business, especially with regard to the financial resources requirements;

(b) to monitor the proper functioning of trading venues within the meaning of the Directive;

(c) to impose penalties or adopt other administrative measures and to consider representations received in their regard;

(d) in appeals under article 19 of this Act; or

(e) to investigate complaints received from consumers in terms of article 20 of the Malta Financial Services Authority Act.

(8) Without prejudice to the powers of the competent authority under this Act or any other law, where the competent authority has good reason to suspect that acts contrary to the provisions of the Directive are being or have been carried out on the territory of another Member State or EEA State by entities not subject to its supervision, it shall notify this in as specific a manner as possible to the contact point in the other Member State or EEA State.

(9) Where the information in the possession of the competent authority had originated from a European regulatory authority or an overseas regulatory authority, it may not be disclosed to a European regulatory authority or to any other third party without the express agreement of the European regulatory authority or the overseas regulatory authority which had transmitted it and, where appropriate, solely for the purposes for which that authority had given its agreement.

(10) Where a European regulatory authority suspects that acts carried out by entities not subject to its supervision and which are contrary to the provisions of the Directive are being or have been carried out in Malta and notifies the

competent authority to this effect, the competent authority shall take appropriate action. The competent authority shall inform the notifying European regulatory authority of the outcome of any such action and, to the extent possible, of significant interim developments:

Provided that any such action taken by the competent authority shall be without prejudice to the powers and functions of the European regulatory authority that has forwarded the information.”;

(c) sub-article (11) as re-numbered shall be amended as follows:

(i) for the words “The competent authority may exercise the following powers at the request of or for the purposes of assisting an overseas regulatory authority:”, there shall be substituted the words “Without prejudice to the foregoing provisions of this article, the competent authority may exercise the following powers at the request of or for the purpose of assisting a European regulatory authority:”; and

(ii) in paragraph (g) thereof, for the words “overseas regulatory authority”, there shall be substituted the words “European regulatory authority”.

Addition of new articles 17A, 17B, and 17C to the principal Act.

71. Immediately after article 17 there shall be inserted the following new articles:

“Co-operation in supervisory functions, on-site verifications or investigations.

17A. (1) The competent authority may request the cooperation of a European regulatory authority in carrying out its supervisory functions or for an on-site verification or in an investigation:

Cap. 345.

Provided that in the case of a person holding a licence or other equivalent authorisation from a European Regulatory Authority and who is a remote member within the meaning of the Directive of a regulated market authorised in terms of the Financial Markets Act, the competent authority may communicate with such person directly, in which case the competent authority shall inform the contact point of the home Member State of such person accordingly.

(2) A European regulatory authority may request the cooperation of the competent authority in carrying out its supervisory functions or for an on-site verification or in an

investigation, in which case the competent authority shall, within the framework of its powers:

- (a) carry out the verifications or the investigation itself; or
- (b) allow the requesting authority to carry out the verification or investigation; or
- (c) allow inspectors or experts within the meaning of article 14 of this Act to carry out the verification or investigation.

Refusal to cooperate.

17B. The competent authority may refuse to act on a request for cooperation in carrying out an investigation, on-site verification or supervisory function under article 17A of this Act or to exchange information with European regulatory authorities designated as contact points under sub-article (1) of article 56 of the Directive only where:

- (a) such an investigation, on-site verification, supervisory function or exchange of information might adversely affect the sovereignty, security or public policy of Malta;
- (b) judicial proceedings have already been initiated in respect of the same actions and against the same persons before the courts of Malta; or
- (c) a final judgment has already been delivered in relation to such persons for the same actions in Malta:

In any case above-mentioned, the competent authority shall notify the requesting European regulatory authority accordingly, providing as much detailed information as possible for such refusal.

Inter-authority consultation prior to granting of a licence.

17C. (1) Prior to granting a licence to an applicant which is:

- (a) a subsidiary of a person holding an investment services licence or an equivalent authorisation or of a credit institution authorised in another Member State or EEA State; or

(b) a subsidiary of the parent undertaking of a person holding an investment services licence or an equivalent authorisation or of a credit institution authorised in another Member State or EEA State; or

(c) controlled by the same natural or legal persons which control a holder of an investment services licence or the holder of an equivalent authorisation or a credit institution authorised in another Member State or EEA State,

the competent authority shall consult with the relevant European regulatory authorities.

(2) Prior to granting a licence to an applicant which is:

(a) a subsidiary of a credit institution or insurance undertaking authorised in another Member State or EEA State; or

(b) a subsidiary of the parent undertaking of a credit institution or insurance undertaking authorised in another Member State or EEA State; or

(c) controlled by the same person, whether natural or legal, who controls a credit institution or insurance undertaking authorised in another Member State or EEA State,

the competent authority shall consult with the European regulatory authority responsible for the supervision of credit institutions or insurance undertakings.

(3) Consultation between the competent authority and the European regulatory authorities shall in particular take place when assessing the suitability of the shareholders or members and the reputation and experience of persons who effectively direct the business involved in the management of another entity of the same group. The competent authority shall exchange all information that is of relevance to the other European regulatory authorities involved regarding the suitability of shareholders or members and the reputation and experience of persons who effectively direct the business, both for the granting of a licence as well as for the ongoing assessment of compliance with operating conditions.”.

72. Immediately after article 17C there shall be inserted the following new sub-title “CO-OPERATION WITH OVERSEAS REGULATORY AUTHORITIES AND OTHER BODIES”, and immediately thereafter there shall be added the following article: -

Addition of new sub-title to the principal Act.

“Co-operation with overseas regulatory authorities.

17D. (1) Co-operation agreements with overseas regulatory authorities or other authorities, bodies and natural or legal persons in countries that are not Member States or EEA States may be entered into only if the information disclosed is subject to guarantees of professional secrecy at least equivalent to those required under article 26 of this Act. Such exchange of information must be intended for the performance of the functions of those overseas regulatory authorities or other authorities, bodies and natural or legal persons:

Provided that the transfer of personal data to countries that are not Member States or EEA States shall be in accordance with the provisions of Chapter IV of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(2) The competent authority may conclude co-operation agreements providing for the exchange of information with overseas regulatory authorities, other authorities or with bodies and natural or legal persons in countries that are not Member States or EEA States responsible for:

(i) the supervision of credit institutions, other financial organisations, persons holding a licence, insurance undertakings and the supervision of financial markets;

(ii) the liquidation and bankruptcy of persons holding a licence or an equivalent authorisation and other similar procedures;

(iii) carrying out statutory audits of the accounts of persons holding a licence or an equivalent authorisation and other financial institutions, credit institutions and insurance undertakings, in the performance of their supervisory functions, or which

administer compensation schemes, in the performance of their functions;

(iv) overseeing the bodies involved in the liquidation and bankruptcy of persons holding a licence or an equivalent authorisation and other similar procedures;

(v) overseeing persons charged with carrying out statutory audits of the accounts of insurance undertakings, persons holding a licence or an equivalent authorisation, credit institutions and other financial institutions.

(3) Where the information in the possession of the competent authority had originated from a European regulatory authority or an overseas regulatory authority, it may not be disclosed to an overseas regulatory authority or to any other third party without the express agreement of the European regulatory authority or the overseas regulatory authority which had transmitted it and, where appropriate, solely for the purposes for which that authority had given its agreement.

(4) Without prejudice to the foregoing provisions of this article, at the request of, or for the purposes of assisting an overseas regulatory authority, the competent authority may exercise the powers listed in sub-article (11) of article 17, and for the purposes of this sub-article the words “European regulatory authority” shall be read as “overseas regulatory authority”.

Amendment of article 19 of the principal Act.

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

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

(i) in paragraph (c) thereof, for the words “under article 6(9)”, there shall be substituted the words “under article 16A.”;

(ii) in paragraph (f) thereof, for the words “article 11; or”, there shall be substituted the words “article 11.”;

(iii) paragraph (g) thereof shall be re-numbered as paragraph (h);

(iv) immediately after paragraph (f) thereof there shall be inserted the following new paragraph (g):

“(g) any punishment or penalty imposed under article 12(5); or”;

(b) for sub-articles (3) thereof there shall be substituted the following:

“(3) The provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to appeals that may be brought before the Tribunal under this article.”; and

(c) sub-article (4) thereof shall be deleted.

74. Sub-article (1) of article 21 of the principal Act shall be amended as follows: Amendment of article 21 of the principal Act.

(a) in paragraph (a) thereof, for the words “or of any rules and regulations” there shall be substituted the words “or of any Investment Services Rules and regulations”;

(b) in paragraph (a) thereof and wherever they appear in the said provision for the words “requirement, directive,” there shall be substituted the words “requirement, Investment Services Rules, directive,”.

75. Article 22 of the principal Act shall be amended as follows: Amendment of article 22 of the principal Act.

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

(i) for the words “as applied by article 17”, there shall be substituted the words “as applied by articles 17 and 17D”;

(ii) for the words “of any rules or regulations made”, there shall be substituted the words “of any regulations”;

(b) in sub-article (2) thereof, for the words “of any rules or regulations made”, there shall be substituted the words “of any regulations made”.

76. In article 23 of the principal Act, for the words “under article 12(4)”, there shall be substituted the words “under article 12(5)”. Amendment of article 23 of the principal Act.

77. Sub-article (1) of article 25 of the principal Act shall be amended as follows: Amendment of article 25 of the principal Act.

(a) for the words “a licence has contravened any of the provisions of this Act or of any rules and regulations”, there shall be substituted the words “a licence, or any other person, has contravened any of the provisions of this Act or of any regulations”; and

(b) for the words “directive or order” there shall be substituted the words “Investment Services Rules, directive or order”.

Amendment of
article 26 of the
principal Act.

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

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

(i) for the words “employees or agents” there shall be substituted the words “employees or agents, as well as by inspectors, auditors and experts engaged by the competent authority”;

(ii) for the words “or of any rules or regulations made”, there shall be substituted the words “or of any Investment Services Rules or regulations made”;

(iii) in paragraph (c) thereof, for the words “an overseas regulatory authority”, there shall be substituted the words “a European regulatory authority or an overseas regulatory authority”;

(iv) in paragraph (g) thereof, for the words “or criminal nature.”, there shall be substituted the words “or criminal nature.”;

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

“Provided that this article shall not prevent the competent authority from exchanging or transmitting confidential information in accordance with the Directive and with other Directives of the European Community applicable to licence holders, credit institutions, pension funds, UCITS, insurance and reinsurance intermediaries, insurance undertakings, regulated markets or market operators:

Provided further that this article shall not prevent the competent authority from using such information for other purposes where the body or person communicating information to the competent authority consents thereto.”;

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

“(2) Without prejudice to the cases covered by criminal law, any confidential information received by bodies or natural or legal persons within the meaning of Article 58 of the Directive shall only be used in the performance of their duties and for the exercise of their functions. In addition, such information is to be used specifically for the purpose for which such information was provided to them and, or in the context of administrative or judicial proceedings specifically related to the exercise of those functions:

Provided that where a body or person communicating information to the competent authority consents thereto, such information may be used by the competent authority for other purposes.”; and

(c) immediately after sub-article (2) thereof, there shall be inserted the following new sub-article (3):

“(3) The provisions of this article and of articles 17 and 17D of this Act shall not preclude the competent authority from transmitting to the Central Bank of Malta, the European System of Central Banks and the European Central Bank, in their capacity as monetary authorities, and, where appropriate, to other public authorities responsible for overseeing payment and settlement systems, confidential information intended for the performance of their functions.”

79. In article 27 of the principal Act, for the words “any rules or regulations” wherever they appear in the said provision, there shall be substituted the words “any Investment Services Rules or regulations”. Amendment of article 27 of the principal Act.

80. In article 28 of the principal Act, for the words “or any rules or regulations made” there shall be substituted the words “or any Investment Services Rules or regulations made”. Amendment of article 28 of the principal Act.

81. Article 29 of the principal Act shall be deleted. Deletion of article 29 of the principal Act.

82. For the First Schedule of the principal Act, there shall be substituted the following: Amendment of the First Schedule to the principal Act.

“FIRST SCHEDULE

(Article 2)

Services

1. Reception and Transmission of Orders in relation to one or more instruments

The reception from a person of an order to buy, sell or subscribe for instruments and the transmission of that order to a third party for execution.

2. Execution of orders on behalf of other persons

Acting to conclude agreements to buy, sell or subscribe for one or more instruments on behalf of other persons.

3. Dealing on own account

Trading against proprietary capital resulting in conclusion of transactions in one or more instruments.

4. Management of Investments

Managing or agreeing to manage assets belonging to another person if those assets consist of or include one or more instruments or the arrangements for their management are such that the person managing or agreeing to manage those assets has a discretion to invest any of those assets in one or more instruments.

Management of Investments may also constitute the selection or agreement to select, on a discretionary basis, instruments by reference to which benefits are wholly or partly payable under a contract of insurance falling within class III - linked long term of the Second Schedule to the Insurance Business Act.

Cap. 403.

5. Trustee, Custodian or Nominee Services

(a) Acting as trustee, custodian or nominee holder of an instrument, or of the assets represented by or otherwise connected with an instrument, where the person acting as trustee, custodian or nominee holder is so doing as part of his providing any investment service in paragraphs 1, 2, 3, 4 or 6 of this Schedule:

Provided that for the purposes of this sub-paragraph any person who is authorised or otherwise exempt from authorisation in the terms of article 43 or 43A of the Trusts and Trustees Act shall not by virtue of

Cap. 331.

holding such assets be required to have a licence in terms of this subparagraph if such person does not provide an investment service and delegates all activities which are investment services in terms of this Act to a person who is licenced to provide such services; or

(b) Holding an instrument or the assets represented by or otherwise connected with an instrument as nominee, where the person acting as nominee is so doing on behalf of another person who is providing any investment service in this Schedule or on behalf of a client of such person, and such nominee holding is carried out in relation to such investment service:

Provided that for the purposes of this paragraph any person who is authorised or otherwise exempt from authorisation in the terms of article 43 or 43A of the Trusts and Trustees Act shall not by virtue of holding such assets be required to have a licence in terms of this Act.

(c) Acting as trustee or custodian in relation to a collective investment scheme.

6. Investment Advice

Giving, offering or agreeing to give, to persons in their capacity as investors or potential investors or as agent for an investor or potential investor, a personal recommendation in respect of one or more transactions relating to one or more instruments.

For the purposes of this paragraph, a “personal recommendation” shall mean a recommendation presented as suitable for the person to whom it is addressed, or which is based on a consideration of the circumstances of that person, and must constitute a recommendation to take one of the following steps:

(a) to buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular instrument;

(b) to exercise or not to exercise any right conferred by a particular instrument to buy, sell, subscribe for, exchange, or redeem an instrument;

(c) to select one or more instruments by reference to which benefits are wholly or partly payable under a contract of insurance falling within the meaning of class III —‘linked long term’, of the Second Schedule to the Insurance Business Act.

A recommendation is not a personal recommendation if it is issued exclusively through distribution channels or to the public.

7. Underwriting of instruments and, or placing of instruments on a firm commitment basis

The underwriting or placing of instruments such that the person providing the service assumes the risk of bringing a new securities issue to the market by buying the issue from the issuer thereby guaranteeing the sale of a certain number of shares to investors

8. Placing of Instruments without a firm commitment basis

The marketing of newly-issued securities or of securities which are already in issue but not listed, to specified persons and which does not involve an offer to the public or to existing holders of the issuer's securities' – without assuming the risk of guaranteeing the sale of a certain number of shares by buying the relative securities from the issuer.

9. Operation of a Multilateral Trading Facility

The operation of a multilateral system which brings together multiple third party buying and selling interests in instruments – in the system and in accordance with non-discretionary requirements— in a way that results in a contract.”.

83. For the Second Schedule of the principal Act, there shall be substituted the following:

Amendment of the Second Schedule to the principal Act.

“SECOND SCHEDULE

(Article 2)

Instruments

1. Transferable Securities.

Those classes of securities which are negotiable on the capital market and include:

- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depository receipts in respect of shares;

(b) bonds or other forms of securitised debt, including depository receipts in respect of such securities;

(c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.

2. Money Market Instruments.

Those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.

3. Units in collective investment schemes.

4. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash.

5. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event).

6. Options, futures, swaps, and any other derivative contracts relating to commodities, that can be physically settled provided that they are traded on a regulated market, within the meaning of the Financial Markets Act and, or a Multilateral Trading Facility within the meaning of Schedule 1. Cap. 345.

7. Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled, are not for commercial purposes, are not included in article 6 of this Schedule, and, which have the characteristics of other derivative instruments, having regard to whether, *inter alia*, they are cleared and settled throughout recognized clearing houses or are subject to regular margin calls.

8. Derivative instruments for the transfer of credit risk.

9. Rights under a contract for differences or under any other contract the purpose or intended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price for

property of any description or in an index or other factor designated for that purpose in the contract.

10. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Schedule, which have the characteristics of other derivative instruments, having regard to whether, *inter alia*, they are traded on a regulated market within the meaning of the Financial Markets Act or a Multilateral Trading Facility within the meaning of the First Schedule, are cleared and settled through recognized clearing houses or are subject to regular margin calls.

11. Certificates or other instruments which confer property rights in respect of any instrument falling within this Schedule.

12. Foreign exchange acquired or held for investment purposes.”.

PART IV

Amendment of the Banking Act, Cap. 371.

84. (1) 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”.

(2) The provisions of this Part shall come into force on the date of publication of this Act.

Amendment of article 2 of the principal Act.

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

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

(i) immediately after the words “In this Act, unless the context otherwise requires -” there shall be inserted the following new definition:

“ “Advanced Measurement Approach” means an approach as defined in a Banking Rule on capital requirements;”;

(ii) for the definition “banking directive”, there shall be substituted the following new definition:

“ “Banking Rule” means a Rule issued by the competent authority under various articles of this Act;””,

and for the words “banking directive” and “banking directives”, wherever they appear in the Act, there shall be substituted the words “Banking Rule” and “Banking Rules”, as the case may be;

(iii) immediately after the definition “business of banking”, there shall be inserted the following new definition:

“ “Capital Adequacy Directive” means Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions, as may be amended from time to time, and includes any implementing measures that have been issued or may be issued thereunder;”;

(iv) in the definition “company”, for the words “or a company registered or incorporated outside Malta”, there shall be substituted the words “or a company registered, licensed or holding an equivalent authorisation in another country outside Malta”, and for the word “registered or incorporated under the laws of Malta;”, there shall be substituted the words “registered or licensed under the laws of Malta;”;

(v) in the definition “competent authority”, for the words “in article 3(1);”, there shall be substituted the words “in article 3(1) of this Act;”;

(vi) immediately after the definition “deposit”, there shall be inserted the following new definition:

“ “Directive” means Council Directive 2006/48/EC of 14 June 2006, relating to the taking up and pursuit of the business of credit institutions (recast), as may be amended or updated from time to time, and includes any implementing measures that have been issued or may be issued thereunder;”;

(vii) in the definition “director”, for the words “registered or incorporated outside Malta”, there shall be substituted the words “registered, licensed or holding an equivalent authorisation outside Malta”;

(viii) immediately after the definition “director”, there shall be inserted the following new definition:

““EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May, 1992 as amended by the Protocol signed at Brussels on the 17th March, 1993 and as amended by any subsequent acts;”;

(ix) for the definition “electronic money institutions directive”, there shall be substituted the following new definition:

““Electronic Money Rule” means a Rule issued by the competent authority under various articles of this Act;”,

and for the words “electronic money institutions directive” and “electronic money institutions directives”, wherever they appear in the Act, there shall be substituted the words “Electronic Money Rule”;

(x) immediately after the definition “holding company”, there shall be inserted the following new definition:

““initial capital” means ordinary share capital and reserves as defined in a Banking Rule on the application procedures and requirements for authorisation;”;

(xi) for the definition “large exposures directive”, there shall be substituted the following new definition:

““Large Exposures Rule” means a Rule as shall be issued by the competent authority to regulate large exposures;”,

and for the words “large exposures directive”, wherever they appear in the Act, there shall be substituted the words “Large Exposures Rule”;

(xii) immediately after the definition “licence”, there shall be inserted the following new definition:

““Malta’s international commitments” means Malta’s commitments, responsibilities and obligations

arising out of European Community law, or membership of, or affiliation to, or relationship with, any international, global or regional organisations or grouping of countries or out of any treaty, convention or other international agreement, however called, whether bilateral or multilateral, to which Malta is a party;”;

(xiii) immediately after the definition “manager”, there shall be inserted the following new definitions:

“ “material activities” means:

(i) activities of such importance that any weakness or failure in the provision of these activities could have a significant effect on the licensed entity’s ability to meet its regulatory responsibilities and, or to continue in business;

(ii) any other activities requiring a licence from the supervisory authority;

(iii) any activities having a significant impact on the entity’s risk management; and

(iv) the management of risks related to these activities;

“Member State” means a Member State of the European Communities;”

(xiv) immediately after the definition “officer”, there shall be inserted the following new definitions:

“ “outsourcing” means a licensed entity’s use of a third party (the outsourcing service provider) to perform activities that would normally be undertaken by the licensed entity, now or in the future. The supplier may or may not be a licensed entity;

“outsourcing service provider” means the supplier of goods, services or facilities, which may or may not be an licensed entity, and which may be an affiliated entity within a corporate group or an entity that is external to the group;

“overseas regulatory authority” means an authority which in a country or territory outside Malta exercises

any function corresponding to the functions of the competent authority under this Act;”;

(xv) in the definition “subsidiary”, for the words “by the Companies Act.”, there shall be substituted the words “by the Companies Act;”;

(xvi) immediately after the definition “subsidiary”, there shall be inserted the following new definition:

“ “third country” means a country that is not a Member State or an EEA state.”;

(b) in the first proviso of sub-article (2) thereof, for the words “acceptance of deposits of money for the purposes of this Act.”, there shall be substituted the words “acceptance of deposits of money for the purposes of this Act and any regulations or Banking Rules made thereunder.”;

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

“ (6) The objective of this Act is, in part, to implement the provisions of the Directive and the Capital Adequacy Directive, and shall be interpreted and applied accordingly.

(7) In this Act and in any regulations made thereunder, if there is any conflict between the English and the Maltese texts, the English text shall prevail.”.

Amendment of article 3 of the principal Act.

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

(a) in sub-article (1) thereof, for the words “for the purposes of this Act to carry out the functions of the competent authority under this Act.”, there shall be substituted the words “for the purposes of this Act and any regulations or Banking Rules made thereunder to carry out the functions of the competent authority under this Act and any regulations or Banking Rules made thereunder.”; and

(b) for sub-article (2) thereof, there shall be substituted the following new sub-article (2):

“(2) (a) The Minister, acting on the advice of the competent authority, may make regulations as may be required

to give effect to the provisions of this Act, and may by such regulations transpose, implement and give effect to the requirements of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions and the requirements of Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions.

(b) The Minister, acting on the advice of the competent authority, may in addition amend or revoke such regulations.”.

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

(a) in sub-article (1) thereof, for the words “functions prescribed by this Act and to ensure that credit institutions carrying on business in Malta comply with this Act, regulations and directives issued under this Act”, there shall be substituted the words “functions prescribed by this Act and any regulations, Banking Rules, or Electronic Money Rules made thereunder and to ensure that credit institutions carrying on business in Malta comply with this Act, and any regulations, directives, Banking Rules and Electronic Money Rules issued thereunder”;

(b) for sub-article (2) thereof, there shall be substituted the following new sub-article:

“(2) The competent authority may make, amend or revoke Banking Rules and Electronic Money Rules as may be required for carrying into effect any of the provisions of this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder.”,

(c) sub-articles (3) and (4) thereof shall be renumbered as sub-articles (4) and (5);

(d) immediately after sub-article (2) thereof, there shall be inserted the following new sub-article (3):

“(3) Banking Rules shall be binding on licence holders and others as may be specified therein. Electronic Money Rules may provide that any provision contained in any Banking Rules, as may be specified, shall also apply to electronic money institutions.”.

88. Article 5 of the principal Act shall be amended as follows: Amendment of article 5 of the principal Act.

- (a) sub-articles (2), (3), (4), (5) and (6) thereof shall be renumbered as sub-articles (3), (4), (5), (6) and (7) respectively;
- (b) immediately after sub-article (1) thereof, there shall be inserted the following new sub-article (2):

“(2) No credit institution licensed or holding an equivalent authorisation outside Malta may open a branch, agency or office or set up any subsidiary in Malta unless it is in possession of a licence granted under this Act by the competent authority:

Provided that a credit institution licensed or holding an equivalent authorisation in a Member State or EEA state shall be entitled to exercise their rights under European Community Law.”;

- (c) in sub-article (5) thereof, as re-numbered:

- (i) in paragraph (a) thereof, for the words “that does not exceed two million five hundred thousand Maltese liri;”, there shall be substituted the words “that does not exceed the amount of two million five hundred and seventy five thousand and eight hundred Maltese liri (six million Euro);”;

- (ii) in the proviso to paragraph (c) thereof, for the words “subject to a maximum storage amount of not more than sixty Maltese liri.”, there shall be substituted the words “subject to a maximum storage amount of not more than sixty four Maltese liri and forty cents (one hundred fifty Euro).”.

Amendment of article 7 of the principal Act.

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

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

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

- “(a) its initial capital amounts to not less than two million one hundred and forty six thousand and five hundred Maltese liri (five million Euro) or in the case of an electronic money institution, of four hundred and twenty nine thousand and three hundred Maltese liri (one million Euro):

- Provided that, without prejudice and subject to the provisions of article 16A, the competent authority may

by a provision contained in a Banking Rule, increase the amounts laid down in this paragraph, and such amounts may be designated in such other currency as may be specified in a Banking Rule;”;

(ii) in paragraph (d) thereof, for the words “the provisions of this Act or any banking directive:”, there shall be substituted the words “the provisions of this Act and any regulations or Banking Rules made thereunder:”, and in the first proviso immediately following, for the words “if the applicant is a credit institution authorised in another country,”, there shall be substituted the words “if the applicant is a credit institution licensed or holding an equivalent authorisation in another country,”;

(b) sub-article (2) thereof shall be repealed;

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

(d) immediately after sub-article (3) thereof, there shall be inserted the following new sub-article (4):

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

(e) in sub-article (5) thereof, for the words “prescribed under sub-article (3),”, there shall be substituted the words “prescribed under sub-article (2) of this article,”;

(f) immediately after sub-article (7) thereof, there shall be inserted the following new sub-article (8):

“(8) The competent authority shall notify the Commission of the European Union of every licence issued to a credit institution in terms of the Act and any regulations or Banking Rules and Electronic Money Rules made thereunder.”.

90. In sub-article (2) of article 7A of the principal Act, for the words “shall not exceed five Maltese liri”, there shall be substituted the words “shall not exceed the amount of four Maltese liri and thirty cents (ten Euro).”.

Amendment of
article 7A of the
principal Act.

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

(a) in sub-article (1) thereof, for the words “A company incorporated outside Malta”, there shall be substituted the words “A company licensed or holding an equivalent authorisation in another country outside Malta”;

(b) in sub-article (2) thereof, for the words “in sub-article (1) having”, there shall be substituted the words “in sub-article (1) of this article having”;

(c) in sub-article (4) thereof, for the words “pursuant to sub-article (3) unless it considers”, there shall be substituted the words “pursuant to sub-article (3) of this article unless it considers”;

(d) in sub-article (5) thereof, for the words “pursuant to sub-article (1) to provide”, there shall be substituted the words “pursuant to sub-article (1) of this article to provide”;

(e) for sub-article (7) thereof, there shall be substituted the following new sub-article:

“(7) The competent authority may by a Banking Rule provide that the provisions of articles 20 to 24 of this Act shall apply to representative offices in Malta in the same manner as they apply to credit institutions subject to such variations and conditions as may be established in the Banking Rule.”;

(f) in sub-article (9) thereof, for the words “in sub-article (1), order a company referred to in the said sub-article (1)”, there shall be substituted the words “in sub-article (1) of this article, order a company referred to in the said sub-article (1)”.

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

(a) in paragraph (e) of sub-article (1) thereof, for the words “a credit institution incorporated outside Malta”, there shall be substituted the words “a credit institution licensed or holding an equivalent authorisation in another country outside Malta”;

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

(i) in paragraph (a) thereof, for the words “notify under this Act; or”, there shall be substituted the words “notify under this Act or any regulations or Banking Rules or Electronic Money Rules made thereunder; or”;

(ii) in paragraph (c) thereof, for the words “provisions of this Act or with the conditions”, there shall be substituted the words “provisions of this Act or any regulations or Banking Rules or Electronic Money Rules made thereunder or with the conditions”;

(c) in sub-article (3) thereof, for the words “pursuant to sub-article (2) shall be such restrictions”, there shall be substituted the words “pursuant to sub-article (2) of this Act shall be such restrictions”, and for the words “the provisions of this Act and the conditions,”, there shall be substituted the words “the provisions of this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder and the conditions,”;

(d) in sub-article (6) thereof, for the words “A licence granted to a branch of a credit institution incorporated outside Malta may”, there shall be substituted the words “A licence granted for the establishment in Malta of a branch of a credit institution licensed or holding an equivalent authorisation in another country outside Malta may”;

(e) in sub-article (7) thereof, for the words “a credit institution incorporated in Malta”, there shall be substituted the words “a credit institution licensed in Malta”, and after the words “carrying on the business of banking.”, there shall be added the new words “The competent authority shall notify the Commission of the European Union of any revocation of a licence.”.

93. Article 11 of the principal Act shall be amended as follows: Amendment of article 11 of the principal Act.

(a) in sub-article (1) thereof, for the words “A credit institution shall inform”, there shall be substituted the words “A credit institution licensed in Malta shall inform”;

(b) in sub-article (2) thereof, for the words “no credit institution incorporated in Malta”, there shall be substituted the words “no credit institution licensed in Malta”.

94. 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, for the words “Subject to sub-articles (2) and (3), save with”, there shall be substituted the words “Subject to sub-articles (2) and (3) of this article, save with”;

(b) for sub-article (2) thereof, there shall be substituted the following new sub-article (2):

“(2) A credit institution licensed or holding an equivalent authorisation in another country outside Malta may use the name used in the country where it is licensed or holds an equivalent authorisation, save that, where there is a risk that the use of such a name may be misleading, such credit institution shall add such explanatory particulars to its name as the competent authority shall direct.”.

Amendment of
article 13 of the
principal Act.

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

(a) in sub-article (2) thereof, for the words “a credit institution authorised in another country or is a natural or legal person controlling a credit institution authorised in another country, the competent authority shall, prior to granting consent or otherwise under the provisions of sub-article (1),”, there shall be substituted the words “a credit institution licensed or holding an equivalent authorisation in another country or is a natural or legal person controlling a credit institution licensed or holding an equivalent authorisation in another country, the competent authority shall, prior to granting consent or otherwise under the provisions of sub-article (1) of this article.”;

(b) in sub-article (3) thereof, for the words “Sub-article (1) shall apply”, there shall be substituted the words “Sub-article (1) of this article shall apply”;

(c) in sub-article (4) thereof, for the words “set out in sub-article (1).”, there shall be substituted the words “set out in sub-article (1) of this article.”;

(d) in paragraph (c) of sub-article (5) thereof, for the words “undergo any re-construction;”, there shall be substituted the words “undergo any re-construction; or”;

(e) in sub-article (6) thereof, for the words “set out in sub-article (5).”, there shall be substituted the words “set out in sub-article (5) of this article.”;

(f) in sub-article (7) thereof, for the words “the competent authority may issue”, there shall be substituted the words “the competent authority shall issue”; and

(g) in sub-article (9) thereof, for the words “sub-articles (1) and (5)”, there shall be substituted the words “sub-articles (1) and (5) of this article”, and for the words “imposed under this Act,” there shall be substituted the words “imposed under this Act or

any regulations or Banking Rules and Electronic Money Rules made thereunder.”.

96. In sub-article (4) of article 14 of the principal Act, for the words “make an order requiring such a person to cease to be a controller or”, there shall be substituted the words “make an order requiring such a person to cease to be a controller or director or”.

Amendment of article 14 of the principal Act.

97. Sub-article (1) of article 15 of the principal Act shall be amended as follows:

Amendment of article 15 of the principal Act.

(a) in the proviso to sub-paragraph (i) of paragraph (b) thereof, for the words “exceed the sum of ten thousand Maltese liri;”, there shall be substituted the words “exceed the sum of ten thousand Maltese liri (twenty three thousand two hundred and ninety Euro);”; and

(b) in sub-paragraph (v) of paragraph (d) thereof, for the words “own funds as established under article 17,” there shall be substituted the words “own funds for the calculation of the capital requirements under article 17 of this Act”.

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

Amendment of article 16A of the principal Act.

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

“(1) Without prejudice to the minimum level of the capital requirements laid down in the Banking Rule issued in terms of article 17 (1) of the Act, the own funds of a credit institution may not fall below the amount of initial capital established in its licence in terms of article 7 (1) (a) of the Act or such higher amount as may be required by the competent authority from time to time.”;

(b) sub-articles (2) and (3) thereof shall be re-numbered as sub-articles (3) and (4) respectively;

(c) immediately after sub-article (1) thereof, there shall be inserted the following new sub-article (2):

“(2) A specific own funds requirement in excess of the minimum level laid down in the above mentioned sub-article shall be imposed by the competent authority at least on the credit institutions which do not meet the requirements laid down in Article 109 of the Directive and in article 17B of this

Act, or in respect of which a negative determination has been made on the issue described in article 17D (3) of this Act, if the sole application of other measures is unlikely to improve the arrangements, processes, mechanisms and strategies sufficiently within an appropriate timeframe.”;

(d) in sub-article (3) thereof, as re-numbered, for the words “established under sub-article (1), the competent authority shall”, there shall be substituted the words “established under sub-article (1) of this article, the competent authority shall”.

Amendment of article 17 of the principal Act.

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

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

(i) in paragraph (a) thereof, for the words “maintain a capital adequacy ratio to risk-weighted assets as defined”, there shall be substituted the words “maintain capital requirements to risk-weighted and notional risk-weighted assets as defined”;

(ii) in paragraph (b) thereof, for the words “notify the ratio to the competent authority”, there shall be substituted the words “notify the capital requirements to the competent authority”;

(iii) in paragraph (c) thereof, for the words “upon the ratio falling below”, there shall be substituted the words “upon the capital requirements falling below”, and for the words “measures to restore the ratio to the required level”, there shall be substituted the words “measures to restore the capital requirements to the required level”;

(b) for sub-article (2) thereof, there shall be substituted the following new sub-article:

“(2) Every credit institution, to the exclusion of an electronic money institution, shall maintain adequate provisions for bad and doubtful debts.”.

Amendment of article 17A of the principal Act.

100. In the English text of article 17A of the principal Act, for the words “The competent authority shall issue”, there shall be substituted the words “The competent authority may issue”.

101. Immediately after article 17A of the principal Act, there shall be inserted the following new articles:

Adds new articles 17B, 17C and 17D to the principal Act.

“Internal governance.

17B. (1) Every credit institution shall put in place robust governance arrangements which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and adequate internal control mechanisms including sound and administrative and accounting procedures.

(2) Such arrangements, processes and mechanisms referred to in sub-article (1) of this article, shall be comprehensive and proportionate to the nature, scale and complexity of the credit institution’s activities. Credit institutions shall take into account the technical criteria laid down in a Banking Rule or Electronic Money Rule.

Credit institutions’ internal capital adequacy assessment process.

17C. All credit institutions, to the exclusion of electronic money institutions, shall have in place sound, effective and complete strategies and processes to assess and maintain on an on-going basis, the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of risks to which they are or might be exposed. These strategies and processes shall be subject to regular internal review to ensure that they remain comprehensive and proportionate to the nature, scale and complexity of the activities of the credit institution concerned. The competent authority shall issue a Banking Rule providing for, *inter alia* the internal capital adequacy assessment process that has to be maintained by credit institutions in relation to their risk profile.

Supervisory review and evaluation process.

17D. (1) In carrying out its supervisory review and evaluation process, the competent authority shall review the arrangements, strategies, processes and mechanisms implemented by the credit institutions to comply with this Act, and any regulations or Banking Rules and Electronic Money Rules made thereunder and the technical criteria set out in Annex XI of the Directive, in order to evaluate the risks to which the credit institutions are or might be exposed.

(2) The scope of such review and evaluation referred to in sub-article (1) above shall be that of the requirements of

this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder.

(3) On the basis of such review and evaluation referred to in sub-article (1) above, the competent authority shall determine whether the arrangements, strategies, processes and mechanisms implemented by the credit institutions and the own funds held by these ensure a sound management and coverage of their risks.

(4) The competent authority shall establish the frequency and intensity of such review and evaluation referred to in sub-article (1) above having regard to the size, systemic importance, nature, scale and complexity of the activities of the credit institution concerned and taking into account the principle of proportionality. Such review and evaluation shall be updated at least on an annual basis.

(5) Such review and evaluation performed by the competent authority shall include the exposure of credit institutions to the interest rate risk arising from non-trading activities.”.

Amendment of article 18 of the principal Act.

102. In article 18 of the principal Act, for the words “The competent authority shall issue a banking directive”, there shall be substituted the words “The competent authority may issue a Banking Rule”.

Amendment of article 19 of the principal Act.

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

(a) in paragraph (c) of sub-article (1) thereof, for the words “complying with the provisions of this Act;”, there shall be substituted the words “complying with the provisions of this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder;”;

(b) in sub-article (3) thereof, for the words “which is not incorporated in Malta.”, there shall be substituted the words “which is not licensed in Malta.”;

(c) in sub-article (4) thereof, for the words “under sub-article (1) shall be submitted in such form and at such periods as shall be prescribed by banking directive.”, there shall be substituted the words “under sub-article (1) of this article shall be submitted in such form and at such periods as may be prescribed by a Banking Rule.”;

(d) in sub-article (5) thereof, for the words “under sub-articles (1) and (2) shall be regarded”, there shall be substituted the words “under sub-articles (1) and (2) of this article shall be regarded”.

104. Immediately after article 19 of the principal Act there shall be inserted the following new article:

Adds new article 19A to the principal Act.

“Outsourcing
service
providers.

19A. (1) No credit institution shall outsource its material services or activities unless the outsourcing service provider is granted recognition by the competent authority under this article.

(2) The competent authority may issue a Banking and, or Electronic Money Rule as the case may be, laying down the requirements for the recognition of the outsourcing service provider and the provision of such outsourced services.”.

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

Amendment of article 20 of the principal Act.

(a) in sub-article (1) thereof, for the words “its duties under this Act, and the competent authority”, there shall be substituted the words “its duties under this Act and any regulations or Banking Rules made thereunder, and the competent authority”;

(b) in sub-article (2) thereof, for the words “shall be by notice in writing”, there shall be substituted the words “shall be made by notice in writing”;

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

(i) in paragraph (a) thereof, for the words “under sub-article (1);”, there shall be substituted the words “under sub-article (1) of this article;”;

(ii) in paragraph (c) thereof, for the words “its functions under this Act.”, there shall be substituted the words “its functions under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder.”;

(d) in sub-article (4) thereof, for the words “required under sub-article (3) (a) shall be a person”, there shall be substituted the words “required under sub-article (3) (a) of this article shall be a person”;

(e) in sub-article (5) thereof, for the words “by virtue of sub-article (3), any person”, there shall be substituted the words “by virtue of sub-article (3) of this article, any person”;

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

(i) for the words “depositors of a credit institution to do so, it may” there shall be substituted the words “depositors of a credit institution to do so, or if otherwise required to fulfil its supervisory responsibilities, it may”;

(ii) in paragraph (d) thereof, for the words “of that credit institution.”, there shall be substituted the words “of that credit institution; or”;

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

“(e) an outsourcing service provider of that credit institution.”;

(g) in sub-article (9) thereof, for the words “powers conferred by sub-articles (1) and (3) in relation to”, there shall be substituted the words “powers conferred by sub-articles (1) and (3) of this article in relation to”; and

(h) in sub-article (11) thereof, for the words “reported on under sub-article (3) the costs”, there shall be substituted the words “reported under sub-article (3) of this article the costs”.

Amendment of
article 22 of the
principal Act.

106. Article 22 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words “potential depositors of a credit institution, it may appoint” there shall be substituted the words “potential depositors of a credit institution, or if otherwise required to fulfil its supervisory responsibilities, it may appoint”;

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

(i) in paragraph (d) thereof, for the words “of that credit institution.”, there shall be substituted the words “of that credit institution; or”;

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

“(e) an outsourcing service provider of that credit institution.”;

(c) in sub-article (3) thereof, for the words “conferred by sub-article (1) in relation to”, there shall be substituted the words “conferred by sub-article (1) of this article in relation to”;

(d) in sub-article (4) thereof, for the words “appointed under sub-article (1) decides to investigate the business of any person by virtue of sub-article (2) or sub-article (3) he shall”, there shall be substituted the words “appointed under sub-article (1) of this article decides to investigate the business of any person by virtue of sub-article (2) or sub-article (3) of this article he shall”;

(e) in sub-article (5) thereof:

(i) for the words “under this Act, or any person appointed to make a report in respect of that body under this Act and anyone”, there shall be substituted the words “under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder, or any person appointed to make a report in respect of that body under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder and anyone”;

(ii) in paragraph (a) thereof, for the words “appointed under sub-article (1),”, there shall be substituted the words “appointed under sub-article (1) of this article,”;

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

(i) in paragraph (b) thereof, for the words “appointed under sub-article (1)”, there shall be substituted the words “appointed under sub-article (1) of this article”;

(ii) in paragraph (c) thereof, for the words “by virtue of sub-article (2) or (3).”, there shall be substituted the words “by virtue of sub-articles (2) or (3) of this article.”.

107. In sub-article (1) of article 23 of the principal Act, for the words “under this Act,”, there shall be substituted the words “under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder,”. Amendment of article 23 of the principal Act.

108. In paragraph (a) of article 24 of the principal Act, for the words “under article 20, article 22 or article 23; or”, there shall be Amendment of article 24 of the principal Act.

substituted the words “under article 20, article 22 or article 23 of this Act; or”.

Amendment of
article 25 of the
principal Act.

109. Article 25 of the principal Act shall be amended as follows:

(a) sub-articles (3), (4) and (5) thereof shall be re-numbered as sub-articles (4), (5) and (6);

(b) immediately after sub-article (2) thereof, there shall be inserted the following new sub-article (3):

“(3) The competent authority may also conclude co-operation agreements, providing for exchange of information, with third countries or with authorities or bodies of third countries as defined in Articles 47 and 48 (1) of the Directive, if such information disclosed is subject to guarantees of professional secrecy as provided for under this Act and any regulations or Banking Rules made thereunder:

Provided that such exchange of information shall be for the purpose of performing the supervisory tasks of the authorities or bodies mentioned in this sub-article:

Provided further that where the information originates in another Member State, it may not be disclosed without the express agreement of the overseas regulatory authority which has disclosed it, and where appropriate, solely for the purposes for which such overseas regulatory authority gave its agreement.”;

(c) in sub-article (4) thereof, as re-numbered, for the words “provisions of sub-article (2) only to the extent that the foreign authorities receiving the information”, there shall be substituted the words “provisions of sub-article (2) of this article only to the extent that the overseas regulatory authorities receiving the information”;

(d) in sub-article (5) thereof, as re-numbered, for the words “authorise other foreign competent authorities to carry out”, there shall be substituted the words “authorise overseas regulatory authorities to carry out”, and for the words “country of the competent authority making the inspection.”, there shall be substituted the words “country of the overseas regulatory authority making the inspection.”;

(e) for sub-article (6) thereof, as re-numbered, there shall be substituted the following new sub-article (6):

“(6) The competent authority shall further, upon a request in writing, disclose to the Central Bank, other bodies with a similar function in their capacity as monetary authorities and, where appropriate, to other authorities responsible for overseeing payment systems, any information in the possession of or accessible to the competent authority, which is required for the discharge of the duties of the Central Bank and the other authorities mentioned above, under the law:

Provided that in an emergency situation the competent authority shall alert as soon as possible the Central Bank of Malta with such information required for the discharge of the duties of the Central Bank under the Central Bank of Malta Act.”;

(f) sub-article (7) thereof, shall be re-numbered as sub-article (8); and

(g) immediately after sub-article (6) thereof, there shall be inserted the following new sub-article (7):

“(7) The competent authority may further communicate information, received *inter alia* under the provisions of this Act, to a clearing house or other similar body recognised under national law for the provision of clearing or settlement services of the relevant national market, if it considers that it is necessary to communicate such information in order to ensure the proper functioning of these bodies in relation to defaults or potential defaults by market participants:

Provided that the information received under this article shall be subject to the conditions of professional secrecy:

Provided further that the information received under this sub-article may not be disclosed by the competent authority without the express consent of the overseas regulatory authority which had disclosed it.”.

110. Immediately after article 25 of the principal Act there shall be inserted the following new articles:

Adds new articles 25A and 25B to the principal Act.

“Co-operation and sharing of information with respect to supervision on a consolidated basis.

25A. (1) The competent authority shall cooperate closely with overseas regulatory authorities in all matters with respect to supervision on a consolidated basis. In particular such co-operation shall include the provision to the overseas regulatory authority of any information which is essential or relevant for the exercise of the overseas regulatory authorities’ functions under the Directive. In this regard the competent authority shall communicate upon request all relevant information and it shall communicate on its own initiative all essential information.

(2) For the purposes of this article, information shall be regarded as essential if it could materially influence the assessment of the financial soundness of a credit institution in another Member State or EEA State and shall include, in particular, the following items:

(i) identification of the group structure of all major credit institutions in a group;

(ii) identifying the supervisory authority or the overseas regulatory authority of the credit institutions in the group, as the case may be;

(iii) procedures for the collection of information from the credit institutions in a group and the verification of that information;

(iv) adverse developments in credit institutions or in other entities of a group, which could seriously affect the credit institutions; and

(v) major sanctions and exceptional measures taken by the competent authority in accordance with this Act and any regulations or Banking Rules made thereunder including the imposition of an additional capital charge in terms of Article 136 (1) of the Directive and the imposition of any limitation on the use of the Advanced Measurement Approach for the calculation of the credit institution’s own funds requirements as provided for in a Banking Rule issued by the competent authority.

(3) The competent authority may, on the basis of written coordination and cooperation arrangements, entrust

additional functions to an overseas regulatory authority responsible for supervision on a consolidated basis and may specify procedures for the decision making process and for its cooperation with overseas regulatory authorities.

(4) The competent authority shall consult overseas regulatory authorities with regard to the following items, in so far as the decisions referred to in the preceding sub-article are of importance for such overseas regulatory authorities' supervisory functions:

(a) changes in the shareholding, organisational or management structure of the credit institutions in a group, which require the approval or authorisation of the overseas regulatory authorities; and

(b) major sanctions or exceptional measures taken by the competent authority, including the imposition of an additional capital charge in terms of Article 136 (1) of the Directive and the imposition of any limitation on the use of the Advanced Measurement Approach for the calculation of the credit institution's own funds requirements for operational risk under a Banking Rule.

(5) The competent authority shall, in all cases, consult with the overseas regulatory authorities responsible for supervision on a consolidated basis with respect to the items described in sub-article (4) (b) of this article, provided that the competent authority may decide not to consult in cases of urgency or where such consultation might jeopardise the effectiveness of its decisions. In this case, the competent authority shall, without delay, inform the overseas regulatory authorities.

(6) The competent authority may, by bilateral agreement, delegate its responsibility for supervision of the subsidiary of a parent undertaking which is a credit institution, to the overseas regulatory authority which authorised and supervised the parent undertaking so that such overseas regulatory authority assumes responsibility for supervising the subsidiary in accordance with the Directive.

(7) In addition to the obligations imposed by the provisions of this Act, where the competent authority is responsible for the exercise of supervision on a consolidated basis of parent credit institutions and credit institutions

controlled by parent financial holding companies, it shall carry out the following functions:

(a) coordination of the gathering and dissemination of relevant or essential information in emergency situations as well as in going concern situations; and

(b) planning and coordination of supervisory activities in emergency situations as well as in going concern situations, including in relation to the activities in article 17D of this Act, in cooperation with the overseas regulatory authorities involved.

(8) Where a parent undertaking is situated in Malta and the competent authority does not itself exercise supervision on a consolidated basis pursuant to Articles 125 and 126 of the Directive, the competent authority shall, upon request by the overseas regulatory authority responsible for exercising such supervision, require the parent undertaking to provide any information relevant for the purposes of supervision on a consolidated basis and the competent authority shall transmit such information to the overseas regulatory authority making the request.

(9) Where an emergency situation arises within a banking group which potentially jeopardises the stability of the financial system in any of the Member States or EEA States where entities of a group have been licensed and where the competent authority is responsible for the exercise of supervision on a consolidated basis, it shall alert as soon as possible, in addition to the provisions of article 25 of this Act, the Central Bank of Malta, other overseas central banks as well as the overseas regulatory authorities identified under the relevant provisions of the Banking Rule relating to supervision on a consolidated basis. Where possible, the competent authority shall use existing defined channels of communication.

(10) Where the competent authority is responsible for supervision on a consolidated basis, it shall, when it needs information which has already been given to an overseas regulatory authority, contact such authority, whenever possible, in order to avoid duplication of reporting to the various overseas regulatory authorities involved in supervision.

Verification
of
information
in specific
cases.

25B. (1) In specific cases the competent authority may request an overseas regulatory authority to verify information concerning a credit institution, a financial holding company, a financial institution, an ancillary services undertaking, a mixed-activity holding company or its subsidiary situated in another Member State or EEA State and, a subsidiary which is not included within the scope of supervision on a consolidated basis exercised by the competent authority.

(2) In the cases referred to in the preceding sub-article the competent authority may:

(i) request the overseas regulatory authority to enable the competent authority to carry out the verification itself;

(ii) request the overseas regulatory authority to carry out the verification on its behalf;

(iii) in cases where it does not carry out the verification itself, request to participate in the carrying out of such verification; or

(iv) request the overseas regulatory authority to appoint an auditor or expert to carry out such verification.

(3) Where the competent authority receives a request to verify information from an overseas regulatory authority:

(i) where an overseas regulatory authority makes a request to the competent authority to carry out the verification of the information, the competent authority shall allow the overseas regulatory authority making the request to carry out such verification;

(ii) where the overseas regulatory authority makes a request to the competent authority to carry out the verification, the competent authority shall carry out the verification itself on behalf of the overseas regulatory authority;

(iii) where the overseas regulatory authority requests the competent authority to participate in the verification of the information in those cases where the overseas regulatory authority does not

carry out the verification itself, the competent authority shall allow the overseas regulatory authority to participate in such verification; or

(iv) where the overseas regulatory authority so requests, the competent authority shall appoint an auditor or expert to carry out such verification.

(4) In this article, a financial holding company, a financial institution, an ancillary services undertaking and a mixed-activity holding company shall have the same meaning as that assigned to them by Article 4 of the Directive.”.

Amendment of
article 26 of the
principal Act.

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

(a) in paragraph (b) of sub-article (1) thereof, for the words “under article 20(3) (a) or article 22(1),” there shall be substituted the words “under article 20(3) (a) or article 22(1) of this Act,” and thereafter, for the words “competent authority under this Act,” there shall be substituted the words “competent authority under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder.”;

(b) in sub-article (2) thereof, for the words “within article 31(9).”, there shall be substituted the words “within article 31(9) of this Act.”;

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

(i) for the words “under article 20(3) (a),” there shall be substituted the words “under article 20(3) (a) of this Act.”;

(ii) in the English text of paragraph (b) thereof, for the words “by virtue of article 20(7),” there shall be substituted the words “by virtue of article 20(7) of this Act.”;

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

(i) for the words “report under article 22(1),” there shall be substituted the words “report under article 22(1) of this Act.”;

(ii) in paragraph (b) thereof, for the words “by virtue of article 22(2),” there shall be substituted the words “by virtue of article 22(2) of this Act.”;

(e) in sub-article (5) thereof, for the words “mentioned in article 20(7) or mentioned in article 22(2).”, there shall be substituted the words “mentioned in article 20(7) or in article 22(2) of this Act.”;

(f) sub-article (6) thereof shall be deleted.

112. In article 28 of the principal Act, for the words “provided for in this Act -”, there shall be substituted the words “provided for in this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder -”. Amendment of article 28 of the principal Act.

113. Article 28A of the principal Act shall be amended as follows: Amendment of article 28A of the principal Act.

(a) for the words “arising under article 3, the Minister,”, there shall be substituted the words “arising under article 3 of this Act, the Minister,”;

(b) in the English text, for the words “schemes shall be exempt form the payment”, there shall be substituted the words “schemes shall be exempt from the payment”.

114. Article 29 of the principal Act shall be amended as follows: Amendment of article 29 of the principal Act.

(a) in sub-article (1) thereof, for the words “in article 9(2) apply,”, there shall be substituted the words “in article 9(2) of this Act apply,”, and for the words “provisions of article 9(2) -”, there shall be substituted the words “ provisions of article 9(2) of this Act -”;

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

(i) in paragraph (a) thereof, for the words “under sub-article (1) (b),”, there shall be substituted the words “under sub-article (1) (b) of this article,”;

(ii) in paragraph (b) thereof, for the words “under sub-article (1) (c),”, there shall be substituted the words “under sub-article (1) (c) of this article,”;

(iii) in paragraph (c) thereof, for the words “under sub-article (1) (d),”, there shall be substituted the words “under sub-article (1) (d) of this article,”;

(c) in sub-article (3) thereof, for the words “under sub-article (1) (c) or (d) -”, there shall be substituted the words “under sub-article (1) (c) and (d) of this article -”;

(d) in sub-article (4) thereof, for the words “under sub-article (1) (f),”, there shall be substituted the words “under sub-article (1) (f) of this article,”;

(e) in sub-article (7) thereof, for the words “under sub-article (1)”, there shall be substituted the words “under sub-article (1) of this article”;

(f) in sub-article (9) thereof, for the words “mentioned in sub-article (1),”, there shall be substituted the words “mentioned in sub-article (1) of this article,”.

Amendment of
article 29A of the
principal Act.

115. For article 29A of the principal Act, there shall be substituted the following new article 29A:

“29A. The Minister shall, after consulting the competent authority, make regulations for the transposition of Directive 2001/24/EC of the European Parliament and of the Council of the European Union of 4 April 2001 on re-organisation and winding-up of credit institutions with respect to credit institutions established in Malta and of branches of credit institutions established outside Malta, and different provisions may be made for different cases or classes of cases, and account shall be taken of Malta’s international commitments in this regard. Such regulations may provide for the implementation of detailed re-organisation measures and procedures, including the following matters: the publication and submission of information in such language or languages and in such newspapers or other publications as may be prescribed; the submission of information to creditors, and the manner and procedure thereof; the notification to creditors and the procedure for the submission of claims or representations; measures for the protection of the rights of creditors and other third parties, including netting arrangements; consultation between the competent authority and any other regulatory, administrative or judicial authorities in Malta and outside Malta with competence over the winding-up or re-organisation of credit institutions or of branches thereof; the publication of decisions relating to such winding-up or re-organisation procedures; the establishment of Banking Rules governing the applicability of the proper or applicable law and other issues of conflict of laws.”.

116. Article 29B of the principal Act shall be repealed.

Repeals article 29B of the principal Act.

117. Article 29C of the principal Act shall be amended as follows:

Amendment of article 29C of the principal Act

(a) the whole article shall be renumbered as article 29B; and

(b) for the words “regulations made under this Act”, there shall be substituted the words “regulations and Banking Rules made under this Act”.

118. In article 30 of the principal Act, for the words “as may be exceptionally authorised by the competent authority -”, there shall be substituted the words “as may be exceptionally licensed by the competent authority -”.

Amendment of article 30 of the principal Act.

119. Article 31 of the principal Act shall be amended as follows:

Amendment of article 31 of the principal Act.

(a) in sub-article (2) thereof, for the words “auditor under sub-article (1) or,”, there shall be substituted the words “auditor under sub-article (1) of this article or,”;

(b) in sub-article (9) thereof, for the words “authority under article 20 or article 22,”, there shall be substituted the words “authority under article 20 or article 22 of this Act,”, and for the words “which is not incorporated in Malta,”, there shall be substituted the words “which is not licensed in Malta,”; and

(c) in sub-article (10) thereof, for the words “not incorporated in Malta”, there shall be substituted the words “not licensed in Malta”.

120. In article 32 of the principal Act, for the words “revoked under article 9(2);”, there shall be replaced the words “revoked under article 9 (2) of this Act;”.

Amendment of article 32 of the principal Act.

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

Amendment of article 34 of the principal Act.

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

“(1) Nothing in this Act shall authorise the Central Bank or the competent authority to enquire or cause an enquiry to be made in a credit institution into the affairs of any individual customer of a credit institution except –

(a) for the purpose of ensuring compliance with any of the provisions of this or any other Act, or

(b) to facilitate monitoring on a consolidated or non-consolidated basis, of the conduct of business of the credit institution, especially with regard to the monitoring of liquidity, solvency, deposit guarantees, large exposures, administrative and accounting procedures and internal control mechanisms, or

(c) for the purpose of enabling the Central Bank to satisfy its responsibilities under the Central Bank of Malta Act, or

Cap. 376.

(d) for the purpose of enabling the Central Bank or the competent authority, as the case may be, to satisfy their respective obligations arising under Malta's international commitments.”;

(b) for sub-article (2) thereof, there shall be substituted the following new sub-article (2):

“(2) No person, including past and present officers or agents of a bank, shall disclose any information relating to the affairs of a bank or of a customer of a bank which he has acquired in the performance of his duties or the exercise of his functions under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder except -

(a) when authorised to do so under any of the provisions of this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder ; or

(b) for the purpose of the performance of his duties or the exercise of his functions;

(c) when lawfully required to do so by any court or under a provision of any law;

(d) for the purpose of enabling the Central Bank or the competent authority, as the case may be, to satisfy their respective obligations arising under Malta's international commitments; or

(e) when the customer expressly consents, in writing, to the disclosure of information relating to his affairs, to the extent authorised by the customer.”;

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

“(4) Officers of the competent authority and of the Central Bank, including past and present officers, as well as auditors or experts acting on behalf of the competent authority or the Central Bank, shall not disclose information obtained from credit institutions in the course of carrying out supervisory and other duties and which is governed by the obligation of professional secrecy, unless such disclosure of information be done in summary or collective form, so as not to enable the identity of the credit institution, to whom such information relates, to be ascertained:

Provided that the said officers, auditors or experts may divulge such information for the purpose of the performance of their duties or the exercise of their functions, or when lawfully required to do so by any court or under a provision of any law.”;

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

“(5) Notwithstanding the provisions of any other law and where necessary for the proper carrying out of its activities, a credit institution may communicate any information which is in its possession and which is related to the affairs of a customer to other members of the group of companies of which that institution forms part, which either carry out the issuing of electronic money or any of the activities referred to in the Schedule to the Financial institutions Act, or banking or other equivalent activities which they are duly licensed to carry out, or complementary and, or supplementary functions thereto:

Provided that any such communication of information shall be made subject to proper controls and safeguards, so that it shall be the responsibility of the credit institution to ensure that the said group company member is subject to equivalent obligations of data protection, confidentiality and care as required under Maltese law:

Provided further that for the purpose of this article, advertising, marketing or promotion, shall not, under any circumstances, be considered as necessary for the proper carrying out of the activities of a credit institution.”; and

(e) sub-article (6) shall be repealed.

Amendment of article 35 of the principal Act.

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

(a) in sub-article (2) thereof, for the words “Sub-article (1) does not apply”, there shall be substituted the words “Sub-article (1) of this article does not apply”;

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

(i) in paragraph (e) thereof, for the words “made under this Act;”, there shall be substituted the words “made under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder;”;

(ii) in paragraph (f) thereof, for the words “under this Act;”, there shall be substituted the words “under this Act and any regulations or Banking Rules and Electronic Money Rules made thereunder;”;

(c) in sub-article (4) thereof, for the words “offence under sub-articles (1) and (3);”, there shall be substituted the words “offence under sub-articles (1) and (3) of this article;”;

(d) in paragraph (b) of sub-article (5) thereof, for the words “provisions of this Act;”, there shall be substituted the words “provisions of this Act and any regulations made thereunder;”;

(e) in paragraph (b) of sub-article (6) thereof, for the words “shall not provide for a fine of less than one hundred liri or greater than five hundred thousand liri.”, there shall be substituted the words “shall not provide for a fine of less than one hundred Malta liri or its equivalent in Euro or greater than five hundred thousand Malta liri or its equivalent in Euro.”;

(f) in the proviso of sub-article (7) thereof, for the words “may not impose a financial penalty greater than fifty thousand liri.”, there shall be substituted the words “may not impose a financial penalty greater than fifty thousand Maltese liri or its equivalent in Euro.”; and

(g) in sub-article (8) thereof, for the words “against this Act or any regulations made thereunder,”, there shall be substituted the words “under this Act and any regulations made thereunder,”.

123. Article 35A of the principal Act shall be amended as follows: Amendment of article 35A of the principal Act.

(a) in sub-article (2) thereof, for the words “provisions of sub-article (3) shall apply.”, there shall be substituted the words “provisions of sub-article (3) of this article shall apply.”; and

(b) in sub-article (3) thereof, for the words “referred to in sub-article (1),”, there shall be substituted the words “referred to in sub-article (1) of this article,”.

124. Article 37 shall be repealed. Repeal of article 37 of the principal Act.

PART V

125. (1) 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.

(2) The provisions of this Part shall come into force on the date of publication of this Act.

126. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act

(a) for the definition “insurance agent” there shall be substituted the following:

“ “insurance agent” means a person enrolled as such under the Insurance Intermediaries Act;”;

.Cap. 487.

(b) for the definition “insurance manager” there shall be substituted the following:

“ “insurance manager” means a person enrolled as such under the Insurance Intermediaries Act;”;

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(c) in the definition “Lloyd’s”, for the words “in the First Schedule” there shall be substituted the words “in article 48A”;

(d) for the definition “margin of solvency” and “Malta margin of solvency” there shall be substituted the following:

“ “ margin of solvency”, “Malta margin of solvency” and “EEA margin of solvency” shall be construed in accordance with article 14 of this Act;”.

Amendment of article 11 of the principal Act.

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

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

(i) in sub-paragraph (iii) of paragraph (d) therein, for the words “an authorised insurance agent”, there shall be substituted the words “an insurance agent”;

(ii) in sub-paragraph (iv) of paragraph (d) therein, for the words “an authorised insurance agent”, there shall be substituted the words “an insurance agent”;

(b) in paragraph (a) of sub-article (2) thereof, for the words “an authorised insurance manager”, there shall be substituted the words “an insurance manager”.

Amendment of article 14 of the principal Act.

128. Article 14 of the principal Act shall be amended as follows:

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

(i) in paragraph (b) therein, for the words “a Malta margin of solvency,” there shall be substituted the words “a Malta margin of solvency, or”;

(ii) immediately after paragraph (b) therein , there shall be added the following new paragraph (c):

“(c) an EEA margin of solvency;”;

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

(i) in paragraph (b) therein, for the words “carried on by that company in Malta.” there shall be substituted the words “carried on by that company in Malta;”;

(ii) immediately after paragraph (b) therein, there shall be added the following new paragraph (c):

“(c) the EEA margin of solvency is the margin of solvency of an authorised company computed by reference to the assets and liabilities of the business

carried on by that company in all Member States and EEA States.”.

129. Paragraph (b) of sub-article (1) of article 20 of the principal Act shall be amended as follows:

Amendment of article 20 of the principal Act.

(a) for the words “in the English language;” there shall be substituted the words “in the English language.”;

(b) immediately after the words “in the English language.”, there shall be added the words “This requirement shall not apply in the case of a company which carries on business restricted to risks situated outside Malta or commitments where Malta is not the country of commitment;”.

130. Article 33 of the principal Act shall be amended as follows:

Amendment of article 33 of the principal Act.

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

“(4) The competent authority shall not approve a transfer on an application made under sub-article (1) unless it is satisfied that -

(a) (i) the transferee is, or immediately after the approval will be, authorised under article 7 to carry on general business of the class or classes or part classes to be transferred under the scheme;

(ii) the transferee is, or immediately after the approval will be, authorised under article 6 or article 23 of First Council Directive of 24 July 1973 on the co-ordination of laws, Regulations, and administrative provisions relating to the taking up and pursuit of direct insurance other than life assurance (73/239/EEC) to carry on general business of the class or classes or part classes to be transferred under the scheme in a Member State or EEA State; or

(iii) if the transferee does not fall within sub-paragraphs (i) and (ii) of this paragraph, the transferee has the authorisation required to enable the business, or part which is to be transferred, to be carried on in the place to which it is to be transferred, or will have it before the scheme takes effect; and

(b) (i) the transferee possesses, after taking the proposed transfer into account, the margin or margins of solvency required to be maintained under this Act;

(ii) the transferee possesses, after taking the proposed transfer into account, the margin or margins of solvency required to be maintained under Articles 16a, 25 or 26 of the First Council Directive of 24 July 1973 on the co-ordination of laws, Regulations, and administrative provisions relating to the taking up and pursuit of direct insurance other than life assurance (73/239/EEC); or

(iii) if the transferee does not fall within sub-paragraphs (i) and (ii) of this paragraph, the transferee possesses, or will possess before the scheme takes effect, the margin or margins of solvency required under the law applicable in the place to which the business is being transferred; and

(c) (i) if the transferee is a company authorised under this Act, the transferee's financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it by, or under, this Act; or

(ii) if the transferee is a company whose head office is in a country outside Malta, the transferee's financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it by, or under, the law applicable in the place to which the business is being transferred; and

(d) if the transferor is a company whose head office is in Malta, and the establishment from which the policies are to be transferred is situated in a Member State or EEA State –

(i) the overseas regulatory authority in that Member State or EEA State has been consulted about the proposed transfer; and

(ii) the overseas regulatory authority has either responded or the period of three months beginning with the consultation has elapsed;

(e) if the transferor is a company which carries on business from Malta or in or from a country outside Malta and, as regards any policy included in the proposed transfer which evidences a contract of insurance, the risk is a risk situated outside Malta -

(i) the overseas regulatory authority in the country where the risk is situated has been notified of the proposed transfer; and

(ii) either the overseas regulatory authority has consented to the transfer or the overseas regulatory authority has not refused its consent to the transfer within the period of three months beginning with the date of the notification.”; and

(b) sub-article (6) thereof shall be deleted.

131. For sub-article (5) of article 35 of the principal Act, there shall be substituted the following:

Amendment of article 35 of the principal Act.

“(5) Subject to sub-article (6), the Tribunal shall not approve a transfer on an application filed before it under sub-article (1) unless it is satisfied that -

(a) (i) the transferee company is, or immediately after the approval will be, authorised under article 7 to carry on long term business of the class or classes to be transferred under the scheme;

(ii) the transferee company is, or immediately after the approval will be, authorised under article 4 or article 51 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance, to carry on long term business of the class or classes to be transferred under the scheme in a Member State or an EEA State; or

(iii) if the transferee does not fall within indents (i) and (ii) of this paragraph, the transferee has the authorisation required to enable the business, or part which is to be transferred, to be carried on in the place to which it is to be transferred or will have it before the scheme takes effect; and

(b) the transferee company produces evidence that -

(i) (aa) after taking the transfer into account, it possesses the margin or margins of solvency required to be maintained under this Act;

(bb) after taking the transfer into account, it possesses the margin or margins of solvency required to be maintained under

article 28, 55 or 56 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance; or

(cc) if the transferee does not fall within sub-indent (aa) and (bb) of this paragraph, the transferee possesses, or will possess before the scheme takes effect, the margin or margins of solvency required under the law applicable in the place to which the business is being transferred;

(ii) (aa) if the transferee company is authorised under this Act, its financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it by, or under, this Act; or

(bb) if the transferee is a company whose head office is in a country outside Malta, the transferee's financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it by, or under, the law applicable in the place to which the business is being transferred;

(c) if the transferor is a company whose head office is in Malta, and the establishment from which the policies are to be transferred is situated in a Member State or EEA State –

(i) the overseas regulatory authority in that Member State or EEA State has been consulted about the proposed transfer; and

(ii) the overseas regulatory authority has either responded or the period of three months beginning with the consultation has elapsed.”.

Addition of new article 37 to the principal Act.

132. Immediately after article 36 of the principal Act there shall be added the following new article:

“Exemption under this Part.

37. (1) Subject to sub-article (2), this Part of the Act shall not apply to business of reinsurance.

(2) Where a company authorised under this Act carrying on business restricted to reinsurance (“the transferor”)

proposes to transfer all or part of its business, the competent authority shall not approve a transfer unless it is satisfied that:

(a) (i) the transferee is, or immediately after the approval will be, authorised under article 7 to carry on business of reinsurance;

(ii) the transferee is, or immediately after the approval will be, authorised under article 4 of Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC and Directives 98/78/EEC and 2002/83/EC, to carry on in a Member State or an EEA State, business of reinsurance to be transferred under the scheme; or

(iii) if the transferee does not fall within subparagraphs (i) and (ii) of this paragraph, the transferee has the authorisation required (if any) to enable the business, or part which is to be transferred, to be carried on in the place to which it is to be transferred or will have it before the scheme takes effect; and

(b) (i) the transferee possesses, after taking the proposed transfer into account, the margin or margins of solvency required to be maintained under this Act;

(ii) the transferee possesses, after taking the proposed transfer into account, the margin or margins of solvency required to be maintained under articles 37 to 39 of Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC and Directives 98/78/EC and 2002/83/EC; or

(iii) if the transferee does not fall within subparagraphs (i) and (ii) of this paragraph, the transferee satisfies the solvency requirements required of it by, or under, the law applicable in the place to which the business is being transferred.

(c) (i) if the transferee is a company authorised under this Act, the transferee's financial resources are,

consequential to the transfer, adequate to fulfil the other obligations required of it by or under this Act;

(ii) if the transferee is a company whose head office is in a country outside Malta, the transferee's financial resources are, consequential to the transfer, adequate to fulfil (if any) the other obligations required of it by, or under, the law applicable in the place to which the business is being transferred.”.

Amendment of article 38 of the principal Act.

133. Sub-article (12) of article 38 of the principal Act shall be deleted.

Amendment of article 41 of the principal Act.

134. Article 41 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof, for the words “attributable to its business of insurance in Malta” there shall be substituted the words “attributable to its business of insurance”;

(b) in the proviso to sub-article (3) thereof, for the words “attributable to its business of insurance in Malta” there shall be substituted the words “attributable to its business of insurance”.

Amendment of article 59 of the principal Act

135. In sub-article (2) of article 59 of the principal Act, for the words “employees or agents” there shall be substituted the words “employees or agents, as well as by inspectors, auditors and experts engaged by the competent authority”.

Amendment of article 60 of the principal Act.

136. In sub-article (2) of article 60 of the principal Act, the word “authorised” shall be deleted.

Amendment of article 61 of the principal Act.

137. In article 61 of the principal Act, for the words “shall include an authorised insurance agent, an authorised insurance manager”, there shall be substituted the words “shall include an insurance agent, an insurance manager”.

Amendment of article 64 of the principal Act.

138. In paragraph (i) of sub-article (1) of article 64 of the principal Act, for the words “being penalties not exceeding five thousand liri” there shall be substituted the words “being penalties not exceeding forty thousand liri”.

Amendment of article 65 of the principal Act.

139. Article 65 of the principal Act shall be amended as follows:

(a) for the marginal note and chapter references thereto, there shall be substituted the words “Exemption under Duty on Documents and Transfers Act. Cap. 364.”;

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

(c) sub-article (2) thereof shall be renumbered as the whole article.

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

(a) in sub-article (3) thereof, for the words “shall include an authorised insurance agent, an authorised insurance manager”, there shall be substituted the words “shall include an insurance agent, an insurance manager”.

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

(i) in the proviso to sub-article (6) thereof, for the words “during which the infringement continues;” there shall be substituted the words “during which the infringement continues.”;

(ii) immediately after the proviso to sub-article (6) thereof, there shall be added the following new proviso:

“Provided further that a penalty imposed under this article, whether in the form of a fixed amount, a daily penalty, or both, may, in no case, exceed forty thousand liri.”.

PART VI

141. (1) 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 the Insurance Intermediaries Act, Cap. 487.

(2) The provisions of this Part shall come into force on the date of publication of this Act.

142. Paragraph (h) of sub-article (2) of article 3 of the principal Act shall be amended as follows: Amendment of article 3 of the principal Act

(a) in the proviso to paragraph (h) thereof, for the words “during which the infringement continues;” there shall be substituted the words “during which the infringement continues.”;

(b) immediately after the proviso to paragraph (h) thereof, there shall be added the following new proviso:

“Provided further that a penalty imposed under this article, whether in the form of a fixed amount, a daily penalty, or both, may, in no case, exceed forty thousand liri;”.

Amendment of article 10 of the principal Act.

143. In indent (iii) of paragraph (a) of sub-article (1) of article 10, for the words “all qualifying shareholders, controllers and all persons who will effectively manage the affairs”, there shall be substituted the words “all qualifying shareholders, controllers, directors and all persons who will effectively manage the affairs”.

Amendment of article 11 of the principal Act.

144. In sub-article (4) of article 11 of the principal Act, for the words “may carry out insurance intermediaries activities or set up or acquire a subsidiary” there shall be substituted the words “may carry out insurance intermediaries activities, open a branch, office or other place of business, or set up or acquire a subsidiary”.

Amendment of article 12 of the principal Act.

145. In the proviso to paragraph (b) of sub-article (1) of article 12 of the principal Act, for the words “restricted to contracts of insurance relating to risks situated outside of Malta” there shall be substituted the words “restricted to contracts of insurance relating to risks situated outside of Malta or commitments where Malta is not the country of commitment”.

Amendment of article 15 of the principal Act.

146. For paragraph (a) of sub-article (1) of article 15 of the principal Act, there shall be substituted the following:

“(a) the intermediary does not commence to carry on the insurance intermediaries activities pursuant to the enrolment within twelve months of it being granted, or within such other period as may be specified in the enrolment; or”.

Amendment of article 16 of the principal Act.

147. For paragraph (h) of article 16 of the principal Act there shall be substituted the following:

“(h) the registered person does not hold a directorship in, or is no longer employed with, the enrolled company; or”.

Amendment of article 26 of the principal Act.

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

(a) the present provision shall be renumbered as sub-article (1) thereof; and

(b) immediately after sub-article (1) thereof, as renumbered, there shall be added the following new sub-article (2):

“(2) The application for ceasing shall be submitted to the competent authority not later than three months before the date on which the enrolled person intends to cease to carry on such activities.”.

149. In article 30 of the principal Act, for the words “restricted to contracts of insurance relating to risks situated outside of Malta” there shall be substituted the words “restricted to contracts of insurance relating to risks situated outside of Malta or commitments where Malta is not the country of commitment”.

Amendment of article 30 of the principal Act.

150. In the English text of sub-article (6) of article 37 of the principal Act, for the words “in the Tied Insurance Company Register” there shall be substituted the words “in the Tied Insurance Intermediaries Company Register”.

Amendment of article 37 of the principal Act.

151. For paragraph (b) of sub-article (2) of article 45 of the principal Act there shall be substituted the following:

Amendment of article 45 of the principal Act.

“(b) where so required within the terms of Malta’s international commitments or the obligations arising out of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, as amended from time to time, and includes any implementing measures that have been or may be used thereunder; or”.

152. For sub-articles (2) and (3) of article 46 of the principal Act there shall be substituted the following:

Amendment of article 46 of the principal Act.

“(2) Information obtained by the competent authority or by its officers, employees or agents, as well as by inspectors, auditors and experts engaged by the competent authority for the purposes of, or pursuant to, any of the provisions of this Act, or of any regulations made thereunder, or of any insurance intermediaries rule, or in the discharge of any functions under any of the said provisions, shall be treated as confidential and protected by the duty of professional secrecy, and shall not be disclosed to any other person, except in the following cases –

(a) where the information is disclosed with a view to the institution of, or otherwise for the purposes of, criminal proceedings or of any proceedings by the competent authority before any court under this Act;

(b) where the information is disclosed with a view to enabling or assisting the competent authority in the

performance or discharge of any of its functions under this Act;

(c) where the information has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by this article;

(d) where a summary or collection of information is prepared or supplied in such a way as not to enable the identity of any person to whom the information relates to be ascertained;

(e) where the information is disclosed to an auditor where such disclosure would assist the auditor in the exercise of his functions under article 28;

(f) where the information is provided to the Central Bank of Malta or to the Listing Authority under the Financial Markets Act in exercise of their respective functions in terms of law;

Cap. 345.

(g) where the information is provided to such other local or overseas regulatory, judicial or enforcement authorities where such disclosure is required or requested for the pursuance of serious regulatory concerns or the detection, prevention or prosecution of criminal offences;

(h) where the information is disclosed in civil or commercial proceedings in relation to the bankruptcy or compulsory winding up of an insurance intermediary provided such information does not concern third parties involved in attempts to rescue such insurance intermediary, and to such overseas bodies responsible for the liquidation and bankruptcy of a person holding an authorisation or an equivalent licence from an overseas regulatory authority.

(3) Subject to the provisions of article 45, information obtained from an overseas regulatory authority may only be disclosed to another person, to another overseas regulatory authority or to any other third party with the prior approval of the authority which had provided the information.”.

Amendment of article 48 of the principal Act.

153. In paragraph (c) of sub-article (1) of article 48 of the principal Act, for the words “under article 36” there shall be substituted the words “under article 37”.

154. The Third Column in the Schedule to the principal Act, shall be amended as follows: Amendment to the Schedule to the principal Act.

(a) in paragraph 2, in the definition “Insurance Agent”, for the words “appointed by an authorised company”, there shall be substituted the words, “appointed by a company authorised under the Insurance Business Act and, or by a European insurance undertaking”;

(b) in sub-paragraph (b) of paragraph 3, in the definition “Insurance Manager”, for the words “restricted to contracts of insurance relating to risks situated outside of Malta” there shall be substituted the words “restricted to contracts of insurance relating to risks situated outside of Malta or commitments where Malta is not the country of commitment”.

PART VII

MISCELLANEOUS PROVISIONS

155. (1) With effect from such date as the Minister may by order establish, hereinafter “the operative date”, the Malta Stock Exchange plc shall continue in the personality of the Malta Stock Exchange established under Part IV of the Financial Markets Act prior to the repeal of such Part by this Act; and subject to the exclusion of the property described in sub-article (3) hereof, the Malta Stock Exchange plc shall accordingly succeed to all its assets, rights, liabilities and obligations, including the recognition order issued to the Malta Stock Exchange in terms of Part II of the Financial Markets Act, which, unless specifically cancelled or repealed, shall remain in force until the operative date. Transitory provisions.

(2) With effect from the operative date:

(a) the competent authority shall issue in favour of the Malta Stock Exchange plc an authorisation in terms of Part II of the Financial Markets Act. Upon the issue of such authorisation, the recognition order referred to in sub-article (1) shall automatically lapse;

(b) the Malta Stock Exchange plc shall be deemed to have satisfied the requirements of Part IV of the Financial Markets Act and the competent authority shall issue an authorisation in its favour with effect from such date.

(3) All authorisations, decisions, licenses, warrants, approvals, notices and other acts or commitments made or taken by the Malta Stock Exchange, including any membership or admission to the official list and any other recognised list and any Council Notice or bye-laws, as well as agreements, contracts of employment and relative staff appointments and conditions, shall as from the operative date be deemed to have been made or taken and assumed by the Malta Stock Exchange plc, and shall, unless specifically cancelled or repealed, remain in force accordingly, with such modifications and adaptations as are strictly necessary to implement fully and correctly the succession and devolution of the business and the rights and obligations as aforesaid of the Malta Stock Exchange to and in favour of the Malta Stock Exchange plc in terms of this Part.

(4) The immovable property and rights relating thereto as described in the Schedule to this Part shall devolve to the Land Department or another entity whose shares are wholly owned by Government which shall within one month from the operative date cause a declaratory public deed to be published containing a detailed description of the allocation and the devolution in its favour of and of its succession to the immovable property and rights relating thereto which prior to the operative date were vested in the Malta Stock Exchange, subject to the provisions of this Part, and a note thereon shall be duly enrolled at the Public Registry and the Land Registry, as the case may be.

(5) The succession, as from the operative date, of the assets, rights, liabilities and obligations in favour of Malta Stock Exchange plc and the Land Department or another entity whose shares are wholly owned by Government, as the case may be, described in this Part, shall be valid and effective even as regards third parties by operation of law without the need for any other formality, other than the public deed and notes required under this article, and shall be exempt from the payment of income tax, duty on documents and other fiscal charges, notwithstanding any other provision of law.

(6) Unless the context otherwise requires, any reference in any law to the Malta Stock Exchange shall after the operative date be deemed to be a reference to the Malta Stock Exchange plc; and any reference to the Council, a member of the Council or any officer or employee of the Malta Stock Exchange shall after the operative date be deemed to be a reference to the Board of Directors, a director of the company and to officers or employees of the company, respectively.

SCHEDULE

(Article 155)

The immovable property devolving in favour of the MSE (Holdings) Limited consisting of offices and premises known as the “*Malta Stock Exchange*” or “*Borzata’ Malta*”, with all the buildings and improvements thereon, including all rights and appurtenances relating thereto, formerly known as the “*Post Office Central Mailing Room*”, formerly also known as the “*Barrakka Garrison Church*”, situated at Castille Place, Valletta, without an official number, together with its surrounding garden, measuring approximately one thousand one hundred and thirty square metres (1130 m²) and is bounded altogether on the North-East and the North-West by Castille Place and the South-East by the Upper Barrakka Gardens, as better described in the emphyteutical lease between the Malta Stock Exchange and the Commissioner of Lands acting on behalf of the Government of Malta, signed on the 11 December 2007 in the acts of Vincent Miceli, Notary Public in Malta at the Lands Department.

Passed by the House of Representatives at Sitting No.553 of 18th July, 2007.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives