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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli John Dalli, M.P., Ministru tal-Finanzi, u moqri ghall-Ewwel darba fis-Seduta tal-21 ta' Ottubru, 2002.

A BILL introduced by the Honourable John Dalli, M.P., Minister of Finance, and read the First time at the Sitting of the 21st October, 2002.

ATT biex jipprovi li jkunu nfurzati dispożizzjonijiet ta' tpaċija u netting f'każ ta' falliment jew insolvenza u biex jemenda diversi ligijiet finanzjarji u kummerċjali oħra.

AN ACT to make provision for the enforceability of set-off and netting on bankruptcy or insolvency and to amend various other financial and commercial laws.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

RICHARD J. CAUCHI
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT biex jipprovi li jkunu nfurzati dispożizzjonijiet ta' tpaċija u netting f'każ ta' falliment jew insolvenza u biex jemenda diversi liġijiet finanzjarji u kummerċjali oħra.

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

TAQSIMA I

1. (1) It-titolu ta' dan l-Att huwa l-Att ta' l-2002 dwar Tpaċija u *Netting* f'każ ta' Insolvenza. Titolu fil-qosor u bidu fis-sehh.

(2) Din it-Taqsima għandha tibda ssehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'oħra - Tifsir.

“dispożizzjoni ta' *close-out netting*” tfisser dispożizzjoni f'kuntratt li bis-sahha tagħha malli tigrigi xi grajja speċifikata, sew bl-operat ta' *netting* jew tpaċija jew xort'oħra-

(a) il-benefiċċju taż-żmien biex ikunu sodisfatti obbligazzjonijiet rilevanti mid-debitur ma jkunx jista' iktar jiġi mitlub u, jew l-obbligazzjonijiet rilevanti jsiru dovuti immedjatament u espressi bhala obbligazzjoni li jithallas ammont li jirrappreżenta l-valur kurrenti stmat tagħhom, jew ikunu mitmuma u sostitwiti b'obbligazzjoni li jithallas dak l-ammont, u, jew,

(b) kull obbligazzjoni ta' parti biex tikkonsenja proprjeta' lill-parti l-oħra jkollha tiġi sodisfatta immedjatament minkejja kull benefiċċju ta' żmien mogħti lid-debitur u tiġi espressa bhala obbligazzjoni li jithallas ammont li jirrappreżenta l-valur kurrenti stmat tagħha jew il-valur tas-sostituzzjoni tagħha jew tkun mitmuma u sostitwita b'obbligazzjoni li jithallas dak l-ammont, u

(ċ) jiġi kalkolat dak li jkun dovut minn kull parti lill-parti l-oħra dwar dawk l-obbligazzjonijiet, u dawk l-obbligazzjonijiet jiġu li għandhom ikunu sodisfatti bil-hlas ta' somma netta aggregata li tkun daqs il-bilanċ tal-kont mill-parti li jkollha tagħti l-oghla ammont;

“*netting*” tfisser il-konverżjoni f'talba netta wahda jew f'obbligazzjoni netta wahda ta' talbiet u obbligazzjonijiet li jkunu johorġu minn xi kuntratt, bir-riżultat li talba netta wahda biss tkun tista' ssir jew li obbligazzjoni netta wahda biss tkun dovuta.

Tpaċija u *netting*.

3. (1) Minkejja d-dispożizzjonijiet ta' kull liġi oħra, kull dispożizzjoni ta' *close-out netting* jew kull dispożizzjoni oħra f'xi kuntratt li ttiprovdi għal jew dwar it-tpaċija jew *netting* ta' somom dovuti minn parti wahda lill-oħra dwar krediti reċiproċi, djun reċiproċi jew transazzjonijiet reċiproċi oħra għandha tiġi nfurzata skond it-termini tagħha, sew qabel jew wara l-falliment jew l-insolvenza, relattivament għal debiti reċiproċi, krediti reċiproċi jew transazzjonijiet reċiproċi li jkunu nqalghu jew għaw qabel il-falliment jew insolvenza ta' wahda mill-partijiet, kontra:

(a) il-partijiet fil-kuntratt,

(b) kull garanti jew persuna oħra li tagħmel garanzija għal xi parti fil-kuntratt,

(ċ) l-istralċjarju, ir-riċevitur, il-kuratur, il-kontrollur, il-kontrollur speċjali jew ufficjal iehor simili ta' xi wahda mill-partijiet fil-kuntratt, u

(d) il-kredituri tal-partijiet fil-kuntratt.

(2) Meta dispożizzjoni ta' *close-out netting* tkun infurzata, obbligazzjonijiet espressi f' muniti differenti ghandhom ikunu konvertiti f' munita wahda u dawk l-obbligazzjonijiet ghandhom ikunu sodisfatti bil-hlas ta' somma netta aggregata li tkun daqs il-bilanċ tal-kont mill-parti li minnha jkun dovut l-oghla ammont.

(3) Kull awtorità jew mandat f'kuntratt biex tkun implimentata xi dispożizzjoni ta' *close-out netting* ma jkunx revokat bid-dikjarazzjoni tal-falliment jew l-insolvenza ta' xi parti ohra fil-kuntratt.

(4) Is-subartikolu (1) ta' dan l-artikolu ma ghandux japplika dwar xi ftehim ta' *close-out netting* li jkun sar fi żmien li fih il-parti l-ohra kienet taf jew kellha tkun taf li kien hemm pendenti rikors ghax-xoljiment u l-istralċ tal-kumpannija minhabba insolvenza, jew li l-kumpannija tkun hadet passi formali taht xi ligi applikabbli biex iwasslu ghax-xoljiment u stralċ taghha minhabba insolvenza.

(5) Is-subartikolu (1) ta' dan l-artikolu lanqas ma ghandu japplika meta l-parti insolventi tkun individwu jew soċjetà kummerċjali li ma tkunx kumpannija u l-parti l-ohra kienet taf jew kellha tkun taf bi grajjiet tax-xorta msemmija fis-subartikolu ta' qabel dan dwar il-parti insolventi.

(6) Minkejja d-dispożizzjonijiet ta' kull ligi oħra, ebda haġa ma ghandha tillimita jew iddewwem l-applikazzjoni ta' xi dispożizzjoni ta' xi kuntratt li tipprova jew tirrelata dwar tpaċija jew *netting* li xort'ohra setghat tiġi nfurzata u ebda ordni ta' xi qorti jew xi mandat jew ingunzjoni jew ordni simili iehor mahruġ minn qorti jew xort'ohra u ebda proċ edimenti hi x' inhi x-xorta taghhom ma ghandu jkollhom effett dwar dik id-dispożizzjoni.

(7) Ebda haġa fis-subartikolu (6) ta' dan l-artikolu ma ghandha -

(a) ittellef l-applikazzjoni ta' xi ligi li tirrendi li *netting* jew tpaċija mhux infurzabbli f' xi każ partikolari ghal raġunijiet ta' frodi jew xi raġuni ohra simili, jew

(b) tippermetti li jkun infurzabbli *netting* jew tpaċija taht dan l-artikolu jekk xi dispożizzjoni ta' kuntratt bejn il-partijiet konċernati ġġib null *netting* jew tpaċija minhabba frodi jew xi raġuni ohra simili.

(8) L-artikolu 303, 304 u 315 ta' l-Att dwar il-Kumpanniji u Kap. 386. l-artikolu 485 tal-Kodiċi tal-Kummerċ ghandhom japplikaw biss dwar Kap. 13.

dispożizzjoni ta' *close-out netting* fejn ikun hemm frodi min-naha tal-parti fil-ftehim li ma tkunx il-parti insolventi.

Ftehim dwar obligazzjonijiet u transazzjonijiet.

4. Partijiet f'kuntratt ikunu jistgħu, meta jagħmlu kuntratt -

(a) jiftiehm fuq xi sistema jew mekkanizmu li biha l-partijiet ikunu jistgħu jikkonvertu obligazzjoni mhux finanzjarja f'obligazzjoni monetarja ta' valur ekwivalenti u li jivvalutaw dik l-obbligazzjoni għall-finijiet ta' xi tpaċija jew *netting*;

(b) jiftiehm fuq ir-rata tal-kambju jew il-metodu li għandu jintuża biex tiġi stabbilita r-rata tal-kambju li għandha tintuża biex issir xi tpaċija jew *netting* meta s-somom li jkunu s-sugġett ta' tpaċija jew *netting* ikunu f'muniti differenti, u li jistabbilixxu il-munita li biha għandu jsir il-hlas tas-somma netta;

(c) jiftiehm li kull transazzjonijiet jew negozji ohra li jsiru skond xi kuntratt, sew jekk identifikati speċifikament jew b'riferenza għal xorta jew klassi ta' transazzjonijiet jew negozji, għandhom jitqiesu bhala transazzjoni waħda jew negozju wiehed għall-fini tad-dispożizzjonijiet tat-tpaċija jew *netting* fil-kuntratt u li dawk it-transazzjonijiet u negozji kollha jkunu meqjusa bhala transazzjoni waħda jew negozju wiehed mill-partijiet jew minn xi stralċjarju, riċevitur, kuratur, kontrollur jew kontrollur speċjali jew minn ufficjal iehor li jaġixxi għall-partijiet jew minn xi qorti.

Applikabbilta' għal fergħat f'Malta.

5. Dispożizzjoni ta' *close-out netting* li ssir minn parti li tkun fergħa f'Malta ta' kumpannija barranija tkun valida u infurzabbli skond id-dispożizzjonijiet ta' dan l-Att minkejja d-dispożizzjonijiet ta' kull liġi ohra li tista' tkun applikabbli għal dik il-parti, magħduda l-liġi li taħtha dik il-kumpannija tkun kostitwita.

TAQSIMA II

EMENDA TA' L-ATT DWAR IL-PROMOZZJONI TAN-NEGOZJU, KAP. 325

Emenda ta' l-Att dwar il-Promozzjoni tan-Negozju, Kap. 325.

6. Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar il-Promozzjoni tan-Negozju, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

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

7. Minnufih wara s-subartikolu (9) ta' l-artikolu 3 ta' l-Att prinċipali, għandu jżied is-subartikolu (10) ġdid li ġej:

“(10) Minkejja d-dispożizzjonijiet tas-subartikoli 4(6), 5(7), 5A(6) u 15 ta’ dan l-Att, b’senh mis-sena ta’ stima 2004 ebda kumpannija ma jkollha jedd għall-inċentivi provduti bl-artikoli 4, 5 u 5A ta’ dan l-Att:

Iżda kumpannija tista’ tikkwalifika għal dawk il-benefiċċji jew inċentivi li l-Ministru jista’ jippreskrivi.”.

TAQSIMA III

EMENDI TA’ L-ATT DWAR L-AWTORITÀ GĦAS-SERVIZZI FINANZJARJI TA’ MALTA, KAP.330

8. (1) Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa wahda ma’ l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta’ Malta, hawnhekk iżjed ‘il quddiem f’ din it-Taqsima msejjah “l-Att prinċipali”.

Emendi ta’ l-Att
dwar l-Awtorità
għas-Servizzi
Finanzjarji ta’
Malta, Kap. 330.

(2) Din it-Taqsima għandha tibda ssehh f’ dik id-data li l-Ministru responsabbli għall-finanzi jista’ jstabilixxi b’avviż fil-Gazzetta u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti u għanijiet differenti tagħha.

9. Fil-paragrafu (d) tas-subartikolu (6) ta’ l-artikolu 6 ta’ l-Att prinċipali, minflok il-kliem “jew fiżiku, jew għal xi raġuni oħra, jew għal imġieba hażina;” għandhom jidhlu l-kliem “jew fiżiku, jew għal imġieba hażina;”.

Emenda ta’ l-
artikolu 6 ta’ l-Att
prinċipali.

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

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

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “d-dritt li titlob aċċess raġonevoli”, għandhom jidhlu l-kliem “d-dritt li titlob aċċess u dhul raġonevoli”;

(b) fil-paragrafu (b) tas-subartikolu (2) tiegħu, minflok il-kliem “lill-Awtorà.” għandhom jidhlu l-kliem “lill-Awtorità; u”;

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

“(ċ) tehtieg lid-detentur tal-liċenza jew awtorizzazzjoni oħra, u, jew lil kull ufficjal tiegħu, biex iwettaq jew ma jwettaq xi għemil, maghduda dawk il-projbizzjonijiet, restrizzjonijiet u kondizzjonijiet li jistgħu jkunu speċifikati fl-avviż; u kull direttiva bħal dik tista’ tinhareg dwar każijiet speċifiċi jew

klassijiet ta' każijiet; kull detentur ta' liċenza jew awtorizzazzjoni oħra u, jew l-uffiċjal li lilu jkun indirizzat l-avviż għandu jobdi u jħares u jagħti effett lil kull direttiva bħal dik fiż-żmien u bil-mod li jingħad fid-direttiva.”; u

(d) minnufih wara s-subartikolu (2) tiegħu, għandu jidhol is-subartikolu (3) ġdid li ġej:-

“(3) Meta detentur ta' liċenza jew *manager*, segretarju, direttur jew persuna oħra responsabbli għal detentur ta' liċenza tikser jew tonqos li thares xi waħda mill-kondizzjonijiet imposti f'liċenzi mahruġa mill-Awtorità skond l-artikolu 4 ta' dan l-Att jew xi direttivi jew linji ta' gwida mahruġa skond dan l-artikolu, l-Awtorità tista' b'avviż bil-miktub timponi fuq persuni liċenzjati jew awtorizzati minnha, jew li jaqgħu taht il-funzjonijiet regolatorji jew superviżorji tagħha, magħduda *managers*, segretarji, diretturi, u, jew persuni oħra, skond il-każ, penali amministrattiva u d-dispożizzjonijiet tas-subartikoli (9) u (11) ta' l-artikolu 6 ta' l-Att dwar Servizzi ta' Investiment għandhom japplikaw *mutatis mutandis*.”.

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

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

(a) is-subartikolu (16) tiegħu għandu jiġi numerat mill-ġdid bħala subartikolu (17); u

(b) minnufih wara s-subartikolu (15) tiegħu, għandu jidhol is-subartikolu (16) ġdid li ġej:

“(16) Appell magħmul taht dan l-artikolu ma jissuspendix l-operat ta' xi deċiżjoni jew direttiva li minnha jsir l-appell:

Iżda deċiżjoni biex tkun kanċellata liċenza ma tibdix issehh sakemm jgħaddi ż-żmien li fih jista' jsir appell taht dan l-artikolu u, jekk isir appell f'dak iż-żmien, id-deċiżjoni għandha tibda ssehh fid-data tad-deċiżjoni tat-Tribunal biex jiċhad l-appell jew fid-data li fiha l-appell ikun abbandunat.”.

Emenda ta' diversi artikoli ta' l-Att prinċipali.

12. Minflok il-kliem “Kumitat Eżekuttiv ta' Kordinazzjoni” kull fejn jinsabu fid-diversi artikoli ta' l-Att prinċipali, għandhom jidhlu f'kull każ il-kliem “Kumitat ta' Kordinazzjoni”.

TAQSIMA IV

EMENDA TA' L-ATT DWAR IL-PORTIJET HIELSA TA'
MALTA, KAP. 334

- 13.** Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa waħda ma' l-Att dwar il-Portijiet Hielsa ta' Malta, hawnhekk iżjed 'il quddiem f'din it-Taqsima imsejjah "l-Att prinċipali".
- 14.** L-artikolu 20A ta' l-Att prinċipali ghandu jiġi emendat kif ġej:-
- (a) id-dispożizzjoni preżenti ghandha tiġi numerata mill-ġdid b'hal s-subartikolu (1) tiegħu; u
- (b) minnufih wara s-subartikolu (1) tiegħu kif numerat mill-ġdid, ghandu jidhol is-subartikolu (2) ġdid li ġej:-

“(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, b'seħħ mis-sena ta' stima 2004, ebda persuna ma jkollha jedd għall-benefiċċji provduti bl-artikoli 18 u 19 ta' dan l-Att, u b'seħħ mill-ewwel jum ta' Jannar 2003 ebda persuna ma jkollha jedd għall-benefiċċji provduti bl-artikolu 20 ta' dan l-Att:

Izda persuna tista' tikkwalifika għal dawk il-benefiċċji li jistgħu jkunu applikabbli għaliha taht l-Att dwar il-Promozzjoni tan- Negozju.”. Kap. 325.

TAQSIMA V

EMENDI TA' L-ATT DWAR SWIEQ FINANZJARJI, KAP. 345

- 15.** (1) Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa waħda ma' l-Att dwar Swieq Finanzjarji, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".
- (2) Din it-Taqsima ghandha tibda sseħħ f'dik id-data li l-Ministru responsabbli għall-finanzi jista' b'Ordni fil-Gazzetta jistabbilixxi u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti u għanijiet differenti tagħha.
- 16.** L-artikolu 37 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:
- (a) minflok is-subartikolu (2) tiegħu ghandu jidhol dan li ġej:-

“(2) Bis-sahha tas-setghat moghtija lill-Awtorità Kompetenti bis-sahha ta’ dan l-artikolu, id-dispożizzjonijiet tas-subartikolu (2) ta’ l-artikolu 17 ta’ l-Att dwar Servizzi ta’ Investiment ghandhom japplikaw *mutatis mutandis*.”; u

(b) is-subartikolu (3) tieghu ghandu jithassar.

Sostituzzjoni ta’ l-artikolu 49 ta’ l-Att principali.

17. Minflok l-artikolu 49 ta’ l-Att prinċipali ghandu jidhol dan li ġej:-

“49. Il-Ministru, li jaġixxi fuq il-parir ta’ l-Awtorità Kompetenti, jista’ jagħmel regolamenti:

(a) sabiex jagħtu effett lid-dispożizzjonijiet ta’ dan l-Att, inklużi regolamenti għar-regolamentazzjoni ahjar ta’ *exchanges* ta’ investiment rikonoxxuti u, jew l-ammissibbilta’ għall-elenku ta’ titoli fihom u sabiex jipprovdu għal shubija diretta jew indiretta ta’, jew aċċess għal, *exchanges* ta’ investiment rikonoxxuti fit-termini u skond obbligi internazzjonali ta’ Malta;

(b) sabiex jirregolaw it-trasferiment tal-proprjeta’ u, jew il-kunsinna ta’ titoli kwotati fuq *exchange* ta’ investiment rikonoxxut, *clearing* u konkluzjoni ta’ transazzjonijiet imwettqa fuq *exchange* ta’ investiment rikonoxxut, hlas għal trasferiment ta’ titoli kwotati fuq *exchange* ta’ investiment rikonoxxut, rahan ta’ titoli kwotati fuq *exchange* ta’ investiment rikonoxxut;

(ċ) sabiex jirregolaw l-applikazzjoni ta’ l-artikolu 50 għal *exchanges* ta’ investiment rikonoxxuti, barra mill-Borża, u għal soċjetajiet kummerċjali barra minn kumpanniji;

(d) sabiex jirregolaw it-traspożizzjoni, l-implimentazzjoni u jagħtu effett lid-dispożizzjonijiet, htigiet, obbligi u rabet dwar ir-regolamentazzjoni ta’ *exchanges* ta’ investiment rikonoxxuti u, jew l-ammissibbilta’ għall-elenku ta’ titoli fihom li jinjalghu minn shubija, affiljazzjoni jew relazzjoni ma’ organizzazzjonijiet internazzjonali jew reġjonali jew gruppi ta’ pajjiżi jew taħt xi trattat, konvenzjoni jew ftehim internazzjonali iehor sew jekk bilaterali, reġjonali jew multilaterali, li Malta tkun parti fih.”.

TAQSIMA VI

EMENDA TA' L-ATT DWAR IL-KOMPETIZZJONI, KAP. 379

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

Emenda ta' l-Att
dwar il-
Kompetizzjoni,
Kap. 379.

(2) Din it-Taqsima ghandha tibda ssehh f' dik id-data li l-Ministru responsabbli għall-kummerċ jista' jstabilixxi b'avviż fil-Gazzetta.

19. Minflok is-subartikolu (2) ta' l-artikolu 30 ta' l-Att prinċipali ghandu jidhol dan li ġej:

Emenda ta' l-
artikolu 30 ta' l-Att
prinċipali.

“(2) Intrapriżi illi ġew fdati bit-thaddim ta' servizzi li jkunu ta' nteress ekonomiku ġenerali jew li jkollhom ix-xejra ta' monopolju li jipproduċi dhul finanzjarju għandhom ikunu suġġetti għad-dispożizzjonijiet ta' dan l-Att sakemm l-applikazzjoni ta' dawn ir-regoli ma' tkun tohloq ebda ostaklu, ta' liġi jew ta' fatt, fit-twettiq tal-hidmiet partikolari fdati lilhom.

(3) Il-Ministru jista' b' ordni fil-Gazzetta jiddikjara xi servizz speċifiku fdat lil intrapriża partikolari bhala servizz fl-interess ekonomiku ġenerali.”.

TAQSIMA VII

EMENDI TA' L-ATT DWAR IL-KUMPANNIJI, KAP. 386

20. (1) Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa wahda ma' l-Att dwar il-Kumpanniji, hawnhekk iżjed 'il quddiem f' din it-Taqsima msejjah "l-Att prinċipali.”

Emendi ta' l-Att
dwar il-Kumpanniji,
Kap. 386.

(2) Din it-Taqsima ghandha tibda ssehh f' dik id-data li l-Ministru responsabbli għar-reġistrazzjoni ta' soċjetajiet kummerċjali jista' jstabilixxi b'avviż fil-Gazzetta, u dati differenti jistghu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għanijiet differenti tagħha.

21. 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) minflok it-tifsira ta' "ECU" ghandha tidhol din li ġejja:-

“euro” tirreferi għall-unità tal-munita ta' stati li jippartecipaw fl-Unjoni Monetarja Ewropeja;”;

(ii) fit-tifsira ta' “kumpanija minn grupp”, minflok il-kelma “*holding*” kull fejn tinsab għandha tidhol f'kull każ il-kelma “*parent*”;

(iii) fit-tifsira ta' “membru”, minflok il-kliem “membru” tfisser azzjonista ta' kumpanija” għandhom jidhlu l-kliem “membru hliet fejn speċifikament imfisser xort'ohra, tfisser azzjonista ta' kumpanija”;

(iv) fit-tifsira ta' “prospett”, minflok il-kliem “obbligazzjonijiet ta' kumpanija;” għandhom jidhlu l-kliem “obbligazzjonijiet ta' kumpanija jew soċjetà kummerċjali ohra;”;

(v) minnufih wara t-tifsira ta' “espert” għandha tidhol it-tifsira ġdida li ġejja:

“*Exchange* ta' Investiment Rikonoxxut” tfisser *exchange* ta' investiment rikonoxxut skond id-dispożizzjonijiet ta' l-Att dwar Swieq Finanzjarji;” u

Kap. 345.

(vi) fit-tifsira ta' “sigurtà” minflok il-kliem “strument simili mahruġ minn kumpanija;” għandhom jidhlu l-kliem “strument simili mahruġ minn kumpanija jew minn soċjetà kummerċjali ohra;”;

(b) is-subartikoli (3), (4) u (5) tiegħu għandhom jiġu numerati mill-ġdid bħala subartikoli (4), (5) u (7) rispettivament;

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

“(3)(a) Għall-finijiet ta' dan l-Att, dawn li ġejjin jikkostitwixxu offerti magħmula lill-pubbliku:

(i) offerta magħmula lill-pubbliku b'mod ġenerali;

(ii) offerta magħmula lil persuni li jirċievu l-offerta li l-għadd tagħhom ikun iktar minn hamsin, bla hsara għad-dispożizzjonijiet tal-paragrafu (b) ta' hawn taht.

(b) Dawn li ġejjin ma jikkostitwux offerta lill-pubbliku minkejja li l-ghadd tal-persuni li jirċievu l-offerta jista' jkun iktar minn hamsin:

(i) offerta fejn l-azzjonijiet ikunu offruti bhala azzjonijiet imhallsa kollha ghal ebda konsiderazzjoni, jew

(ii) offerta fejn il-konsiderazzjoni totali li jkollha tithallas ghall-azzjonijiet offruti ma tkunx iżjed minn LM10,000 u l-konsiderazzjoni massima li jkollha tithallas minn persuna individwali li tirċievi l-offerta ma tkunx iżjed minn LM100; jew

(iii) offerta fejn l-inqas konsiderazzjoni li tista' tithallas minn xi persuna ghal azzjonijiet akkwistati wara offerta tkun ghall-inqas LM50,000; jew

(iv) offerta maghmula esklużivament lil membri eżistenti jew detenturi ta' obbligazzjonijiet tal-kumpannija; jew

(v) offerta maghmula lil *underwriter*; jew

(vi) offerta maghmula dwar jew b'konsegwenza ta' *merger* proposta tal-kumpannija li taghmel l-offerta ma' kumpannija oħra; jew

(vii) offerta maghmula dwar *take-over bid*; jew

(viii) offerta maghmula esklużivament ghal ċirku ristrett ta' persuni, li n-numru tagħhom ikun inqas minn mitejn u hamsin, li jkunu qed jaġixxu ghalihom infushom fir-rigward tas-sengha jew professjoni tagħhom; jew

(ix) offerta maghmula esklużivament lil sezzjoni tal-komunità jew grupp ta' persuni magħzula u identifikabbli b'mod ċar li jkunu maghrufa minn min jagħmel l-offerta u li jaġixxu ghalihom infushom, li flimkien ma jkunux jgħoddu iktar minn mitejn u hamsin, li flimkien ma' min jagħmel l-offerta jkunu jaqsmu xi interess, mira jew oġġettiv ċar u komuni, maghduda membri ta' l-istess familja u membri ta' każin jew assoċjazzjoni:

Izda ghal offerti maghmula bis-sahha tas-sub-paragrafi (ii), (viii) u (ix) ta' dan il-paragrafu u meta n-numru tal-persuni li jirċievu l-offerta jkun iżjed minn hamsin, tkun mehtieġa l-approvazzjoni bil-

miktub tar-Registratur sabiex dawk l-offerti ma jkunux jikkostitwixxu offerta lill-pubbliku;

(c) Fil-każ ta' xi dubju raġonevoli li jinqala' dwar jekk offerta partikolari ta' azzjonijiet tkunx tammonta għall-offerta lill-pubbliku jew le, il-kwistjoni tkun deċiża mir-Registratur liema deċiżjoni tkun finali.

(d) F'dan l-artikolu, il frażi "azzjonijiet" tinkludi sigurtajiet ohra li jistgħu jinharġu minn kumpannija.

(e) Meta l-offerta tkun magħmula minn soċjetà kummerċjali, li ma tkunx kumpannija u sew jekk kostitwita taht dan l-Att jew xi Att iehor, id-dispożizzjonijiet ta' dan l-artikolu għandhom *mutatis mutandis* japplikaw għal dik l-offerta.

(f) Il-Ministru jista' b'Ordni pubblikat fil-Gazzetta jirrevedi jew jemenda kull figuri jew ammonti msemmija f'dan l-artikolu.”;

(d) minflok is-subartikolu (4) tiegħu kif numerat mill-ġdid, għandu jidhol dan li ġej:-

“(4) Għall-finijiet ta' dan l-Att, tharis ta' "prinċipji u l-prattika ta' kontijiet generalment aċċettati" jehtieg tharis ta' *l-International Accounting Standards* li jistgħu jinharġu minn żmien għal żmien mill-*International Accounting Standards Board*, jew xi korp iehor suċċessur tiegħu jkun li jkun l-isem kif ikun magħruf, u ta' kull standards ta' kontijiet li jistgħu jiġu applikati minn żmien għal żmien skond l-Att dwar il-Professjoni ta' *l-Accountancy*.

Kap. 281.

F'dan is-subartikolu, *l-International Accounting Standards Board* jirreferi għall-Bord, stabbilit bl-att tal-kostituzzjoni tat-28 ta' Ġunju 1973 li jiġbor fih il-korpi ta' professjonisti fl-*accountancy* li huma membri ta' *l-International Federation of Accountants*, stabbiliti fil-Kungress Internazzjonali ta' *l-Accountants* fi Munich, fl-1977.”; u

(e) minnufih wara s-subartikolu (5) tiegħu kif numerat mill-ġdid, għandu jżidied is-subartikolu (6) ġdid li ġej:-

“(6) Għall-finijiet ta' dan l-Att, meta xi dokument, li jkun mehtieg li jiġi konsenjat jew mogħti jew notifikat lir-Registratur, għandu jkun iffirmit minn xi espert u dak l-espert ikun kumpannija, soċjetà jew xi korp ġuridiku iehor, dak id-dokument għandu jġib il-firma ta' individwu li jkun direttur,

soċju jew uffiċjal ekwivalenti, skond il-każ, li jkun awtorizzat kif imiss biex jiffirma għan-nom tiegħu.”.

22. Fis-subartikolu (2) ta' l-artikolu 3 ta' l-Att prinċipali, minflok il-kliem “fil-Hdax-il Skeda” għandhom jidhlu l-kliem “fit-Tnax-il Skeda”.

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

23. Fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 4 ta' l-Att prinċipali, minflok il-kliem “soċjetà in akkomandita” għandhom jidhlu l-kliem “soċjetà in akkomandita jew soċjetà limitata.”

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

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

Emenda ta' l-artikolu 6 ta' l-Att prinċipali.

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

“(2) Fuq l-ittri kummerċjali u fil-formuli ta' l-ordnijiet tiegħu kollha, korp ġuridiku rġistrat taht it-Taqsima XI ta' dan l-Att għandu jsemmi b'ittri legibbli l-isem, il-pajjiż fejn ikun kostitwit jew inkorporat in-numru tar-registrazzjoni tiegħu u l-uffiċċju rġistrat fejn ikun kostitwit jew inkorporat, ix-xorta ta' soċjetà kummerċjali, l-indirizz tal-fergħa jew post tan-negozzju f'Malta, in-numru tar-registrazzjoni tiegħu taht it-Taqsima XI ta' dan l-Att u, meta applikabbli, il-fatt li l-kumpannija barranija tkun qed tiġi stralċjata.”;

(b) fis-subartikolu (4) tiegħu, minflok il-kliem “soċjetà in akkomandita” għandhom jidhlu l-kliem “soċjetà in akkomandita jew soċjetà limitata”; u

(c) fis-subartikolu (9) tiegħu, minflok il-kliem “kull stralċjarju li jkun naqas” għandhom jidhlu l-kliem “kull stralċjarju jew soċju, skond il-każ, li jkun naqas”.

25. Minflok it-tieni proviso għall-artikolu 7 ta' l-Att prinċipali, għandu jidhol dan li ġej:

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

“Iżda wkoll illi għall-anqas wiehed mis-soċji jkun jew individwu jew korp ġuridiku li jkollu l-obbligazzjonijiet tiegħu garantiti bir-responsabbiltà mhux limitata u *in solidum* ta' wiehed jew iktar mill-membri tiegħu.”.

26. Fis-subartikolu (1) ta' l-artikolu 21 ta' l-Att prinċipali, minflok il-kliem “kull xoljiment tas-soċjetà barra milli mat-tmiem taż-żmien, jekk il-każ, stabbilit għad-dewmien tagħha” għandhom jidhlu

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

l-kliem “kull xoljiment tas-soċjetà ghar-raġunijiet imsemmija fil-paragrafu (b) jew (f) ta’ l-artikolu 35 ta’ dan l-Att”.

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

27. L-artikolu 35 ta’ l-Att prinċipali, ghandu jiġi emendat kif ġej:-

(a) minflok il-paragrafu (d) tiegħu, ghandu jidhol dan li ġej:

“(d) jekk fil-fehma tal-Qorti jkun hemm raġunijiet gravi li jiġġustifikaw ix-xoljiment.”; u

(b) fil-paragrafu (f) tiegħu, minflok il-kliem “f’dawk il-kazijiet l-oħra” ghandhom jidhlu l-kliem “bla hsara għad-dispożizzjonijiet ta’ l-artikolu 21 ta’ dan l-Att, f’dawk il-kazijiet l-oħra”.

Emenda ta’ l-artikolu 38 ta’ l-Att prinċipali.

28. L-artikolu 38 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:-

(a) id-dispożizzjoni preżenti għandha tiġi numerata mill-ġdid bħala subartikolu (1); u

(b) minnufih wara s-subartikolu (1) kif numerat mill-ġdid għandu jidhol is-subartikolu (2) ġdid li ġej:

“(2) Meta l-kariga ta’ stralċjarju issir vakanti, id-dispożizzjonijiet tas-subartikolu (2) ta’ l-artikolu 37 ta’ dan l-Att għandhom japplikaw.”.

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

29. L-artikolu 49 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) id-dispożizzjoni preżenti għandha tiġi numerata mill-ġdid bħala subartikolu (1); u

(b) minnufih wara s-subartikolu (1) kif numerat mill-ġdid għandu jidhol is-subartikolu (2) ġdid li ġej:

“(2) Meta l-mod li bih is-soċjetà għandha tiġi stralċjata jkun provdut fl-att ta’ assoċjazzjoni jew ikun stabbilit bi ftehim bejn is-soċji, ikun id-dmir tas-soċji li jikkonsenjaw lir-Registratur għar-registrazzjoni nota, iffirmata minnhom kollha li l-istralċ ikun ġie finalizzat u r-Registratur għandu minnufih jirreġistraha, u jhassar l-isem tas-soċjetà minn fuq ir-registru. Ir-Registratur għandu minnufih jippubblika avviż ta’ l-istralċ u ta’ dak it-thassir.”.

30. Fit-Taqsima IV ta' l-Att prinċipali, maghdud it-titolu tiegħu, minflok il-kliem “soċjetà in akkomandita” kull fejn jinsabu għandhom jidhlu l-kliem “soċjetà in akkomandita jew soċjetà limitata”.

Emenda ta' l-Taqsima IV ta' l-Att prinċipali.

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

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

(a) minflok il-kliem “imsejha soċji akkomandanti.” għandhom jidhlu l-kliem “imsejha soċji akkomandanti.”; u

(b) minnufih warajh għandu jidhol il-proviso ġdid li ġej:

“Iżda għall-inqas wieħed mis-soċji solidali jkun jew individwu jew korp ġuridiku li jkollu l-obbligazzjonijiet tiegħu garantiti bir-responsabbilta' mhux limitata u *in solidum* ta' soċju jew soċji tiegħu.”.

32. L-artikolu 53 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

Emenda ta' l-artikolu 53 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Persuna li turi li tkun” għandhom jidhlu l-kliem “Persuna, maghdud soċju solidali, li turi li tkun”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kelma “soċju” kull fejn tinsab għandhom jidhlu f'kull każ il-kliem “soċju akkomandanti”.

33. L-artikolu 58 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

Emenda ta' l-artikolu 58 ta' l-Att prinċipali.

(a) minflok il-kliem “li jaħtru s-soċji li għandhom” għandhom jidhlu l-kliem “li jaħtru minn fosthom is-soċji li għandhom”; u

(b) fil-proviso li hemm ghalih, minflok il-kliem “fil-hatra jew tkeċċija ta' soċji” għandhom jidhlu l-kliem “fil-hatra ta' soċji solidali li, jew tkeċċija ta' soċji solidali”.

34. Minnufih wara s-subartikolu (11) ta' l-artikolu 66 ta' l-Att prinċipali għandu jidhol is-subartikolu (2) ġdid li ġej:-

Emenda ta' l-artikolu 66 ta' l-Att prinċipali.

“(12) (a) Meta soċjetà in akkomandita jew soċjetà limitata, li l-kapital tagħha jkun maqsum f'azzjonijiet, tkun xolta u jkun inħatar stralċjarju, malli jsir l-istralċ tan-negozju tas-soċjetà, l-istralċjarju għandu jagħmel rendikont ta' l-istralċ, fejn juri kif ikun sar l-istralċ u kif il-proprjeta' tas-soċjetà in akkomandita jew soċjetà limitata tkun disposta, u għandu jagħmel skema ta' tqassim, u jieħu hsieb li r-rendikont ikun verifikat minn awdituri mahtura b'deċiżjoni

tas-soċċji. L-istralċjarju għandu jagħti b'att ġudizzjarju lil kull wiehed mis-soċċji kopja tar-rendikont u ta' l-iskema ta' tqassim, jekk ikun hemm, flimkien mar-rapport ta' l-awdituri u jagħti spjegazzjoni tagħhom.

(b) Ir-rendikont u l-iskema ta' tqassim jitqiesu li jkunu approvati mis-soċċji kollha jekk ma tiġix prezentata oppożizzjoni għalihom b'ċitazzjoni minn xi wiehed mis-soċċji fi żmien tliet xhur min-notifika ta' l-att ġudizzjarju msemmi fil-paragrafu (a) ta' dan is-subartikolu.

(c) Id-dispożizzjonijiet ta' l-artikolu 153 ta' dan l-Att għandhom japplikaw għal awditur mahtur skond il-paragrafu (a) ta' dan is-subartikolu, u l-kliem "it-tliet snin ta' qabel" fl-imsemmi artikolu 153 għandhom jiftiehem b'hekk li jirreferu għall-aħħar tliet snin minnufih qabel id-data tax-xoljiment. Dak l-awditur m'għandux ikun persuna li kellha l-kariga ta' awditur tas-soċċjetà in akkomandita jew soċċjetà limitata f'xi żmien matul l-aħħar tliet snin minnufih qabel id-data tax-xoljiment."

Zieda ta' artikolu
ġdid 66A ma' l-Att
prinċipali.

35. Minnufih wara l-artikolu 66 ta' l-Att prinċipali għandu jidhol l-artikolu ġdid 66A li ġej:

"Soċċjeta' in
akkomandita
jew soċċjeta'
limitata."

66A (1) Dan l-artikolu japplika għal soċċjetà in akkomandita jew soċċjetà limitata li fil-ftehim ta' l-assoċjazzjoni tagħha espressament tillimita l-għanijiet tagħha għall-investment kollettiv tal-fondi tagħha f'sigurtajiet u f'beni obra mobbli u immobbli, jew f'xi whud minnhom, bil-għan li tifrex ir-riskju u li tagħti lis-soċċji l-benefiċċji tar-riżultati ta' l-immaniġġjar tal-fondi tagħha, u għal hwejjeġ anċillari jew inċidentali għal dan, u li tikkwalifika għal skema ta' investment kollettiv u li tkun liċenzjata kif imiss skond l-Att dwar Servizzi ta' Investment jew għal kull għan iehor kif il-Ministru jista' minn żmien għal żmien jippreskrivi b'regolamenti.

(2) Soċċjeta' in akkomandita jew soċċjetà limitata skond kif imfisser fis-subartikolu (1) ta' dan l-artikolu tkun regolata bid-dispożizzjonijiet li jinsabu fl-Għaxar Skeda li tinsab ma' dan l-Att u, kemm-il darba ma huwiex provdut xort'ohra fl-imsemmija Skeda, bid-dispożizzjonijiet tat-Taqsima IV ta' dan l-Att iżda biss sal-limitu li dawk id-dispożizzjonijiet ma jkunux inkonsistenti ma' l-imsemmija Skeda:

Iżda meta xi haġa partikolari tinqala' dwar soċċjetà in akkomandita jew soċċjetà limitata skond kif imfisser fis-

subartikolu (1) ta' dan l-artikolu li ma tkunx speċifikament regolata b'xi dispożizzjoni ta' l-Għaxar Skeda jew tat-Taqsima IV ta' dan l-Att, għandha ssir riferenza, safejn applikabbli u sal-limitu possibbli, għal xi dispożizzjoni rilevanti ta' dan l-Att, inklużi kull regolamenti magħmula bis-saħha tiegħu.

(3) Il-Ministru jista' jagħmel regolamenti għat-tweqqif aħjar tad-dispożizzjonijiet ta' l-Għaxar Skeda li tinsab ma' dan l-Att u tat-Taqsima IV ta' dan l-Att kif applikabbli għal soċjetajiet akkomanditi jew soċjetajiet limitati skond kif imfisser fis-subartikolu (1) ta' dan l-artikolu u jista' bla hsara għall-ġenerali ta' dak li jingħad qabel, b'dawk ir-regolamenti jipprovdi għal kull haġa minn dan li ġej -

(a) il-formuli li għandhom jintużaw għall-finijiet ta' dan l-Att dwar dawk is-soċjetajiet in akkomanditi jew soċjetajiet limitati;

(b) ir-registrazzjoni ta' dawk is-soċjetajiet in akkomanditi jew soċjetajiet limitati taħt dan l-Att u kull haġa li inċidentali għaliha;

(c) kull haġa li għandha tiġi preskritta taħt dan l-Att dwar dawk is-soċjetajiet in akkomanditi jew soċjetajiet limitati skond kif imfisser fis-subartikolu (1) ta' dan l-artikolu;

(d) l-emenda ta' kull dispożizzjoni -

(i) relatata ma' hwejjeġ li għandhom jiġu registrati mar-Registatur dwar ir-registrazzjoni ta' dawk is-soċjetajiet in akkomanditi jew soċjetajiet limitati;

(ii) relata mar-*records* li għandhom jinżammu minn dawk is-soċjetajiet in akkomanditi jew soċjetajiet limitati;

(e) li jiġu preskritti drittijiet li jithallsu taħt dan l-Att dwar dawk is-soċjetajiet in akkomanditi jew soċjetajiet limitati;

(f) l-eżenzjoni ta' soċjetajiet in akkomanditi jew soċjetajiet limitati skond kif imfisser fis-subartikolu (1) ta' dan l-artikolu jew xi kategorija minnhom minn xi dispożizzjonijiet ta' l-Għaxar Skeda jew ta' dan l-Att,

skond il-każ, bla ħsara għall-varjazzjonijiet u kondizzjonijiet li jistgħu jkunu speċifikati.

(5) Regolamenti magħmula taht dan l-artikolu jistgħu jagħmlu dispożizzjonijiet differenti għal każijiet differenti jew għal klassijiet ta' każijiet.”.

Emenda ta' l-artikolu 69 ta' l-Att prinċipali.

36. L-artikolu 69 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fil-paragrafu (f) tas-subartikolu (1) tiegħu, minflok il-kliem “dwar kull azzjoni;” għandhom jidhlu l-kliem “dwar kull azzjoni u, meta l-kapital azzjonarju jkun maqsum fi klassijiet differenti ta' azzjonijiet, id-drittijiet marbuta ma' l-azzjonijiet ta' kull klassi;”; u

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jidhol is-subartikolu (3), ġdid li ġej:-

“(3) Kumpanniji ffurmati u reġistrati qabel il-bidu fis-seħħ ta' dan is-subartikolu għandhom iħarsu d-dispożizzjonijiet tal-paragrafu (f) tas-subartikolu (1) ta' dan l-artikolu bil-kxif, fil-memorandum ta' assoċjazzjoni tal-kumpannija, tad-drittijiet marbuta ma' l-azzjonijiet ta' kull klassi, fi żmien tnax-il xahar mill-bidu fis-seħħ ta' dan is-subartikolu:

Iżda kumpanniji ffurmati u reġistrati qabel il-bidu fis-seħħ ta' dan is-subartikolu għandhom jitqiesu li jissodisfaw il-htigiet tal-paragrafu (f) tas-subartikolu (1) ta' dan l-artikolu mal-kxif, fil-memorandum ta' l-assoċjazzjoni tad-drittijiet marbuta ma' l-azzjonijiet ta' kull klassi differenti, jekk dik id-dispożizzjoni jew oħra ekwivalenti għaliha tkun diġa nkorporata fl-artikoli ta' l-assoċjazzjoni tal-kumpannija.”.

Emenda ta' l-artikolu 70 ta' l-Att prinċipali.

37. L-artikolu 70 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

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

“(5) Kumpannija m'għandix tiġi reġistrata b'isem li jinkludi l-kelma “*nominee*” kemm-il darba ma tkunx kumpannija kwalifikata li tkun reġistrata bħala kumpannija *nominee* taht l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta jew l-Att dwar it-Trusts.”;

(b) fil-paragrafu (a) tas-subartikolu (6) tiegħu, minflok il-kliem “jew “ltd.”, għandhom jidhlu l-kliem “jew “limited” jew “ltd.”; u

(ċ) fil-paragrafu (b) tas-subartikolu (6) tiegħu, il-kliem “jew l-Att dwar Servizzi ta’ Investiment” għandhom jithassru, u nnota marginali “Cap. 370” relattivament għalih għandha tithassar.

38. Fit-test Ingliż, minflok il-paragrafu (b) tas-subartikolu (3) ta’ l-artikolu 74 ta’ l-Att prinċipali, għandu jidhol dan li ġej:-

Emenda tat-test
Ingliż ta’ l-artikolu
74 ta’ l-Att
prinċipali.

“(b) there has been some other contravention of the article which that person knew or ought to have known amounted to a contravention;

the company shall be entitled to recover from that person any consideration given by it under the agreement, or an amount equal to the value of the consideration at the time of the agreement, so far as not carried out, shall be void.”.

39. L-artikolu 76 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:-

Emenda ta’ l-
artikolu 76 ta’ l-Att
prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “68 sa 75 u ta’ l-artikolu 139” għandhom jidhlu l-kliem “68 sa 73 u ta’ l-artikolu 139”; u

(b) minnufih wara s-subartikolu (3) tiegħu, għandu jidhol is-subartikolu (4) ġdid li ġej:

“(4) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta’ dan l-artikolu, u bla ħsara għad-dispożizzjonijiet tas-subartikolu (2) ta’ l-artikolu 77 ta’ dan l-Att, ir-responsabbiltà li jkun żgurat li l-istatut ta’ assoċjazzjoni, jekk ikun hemm, ta’ kumpannija, ikun korett, komplut u li jkun iħares għal kollox dan l-Att u kull liġi oħra applikabbli, tkun fuq il-persuni li jkunu daħlu u sstoskrivew għall-istatut ta’ assoċjazzjoni.”.

40. L-artikolu 79 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-
artikolu 79 ta’ l-Att
prinċipali.

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

“(2) Ikun dmir id-diretturi u s-segretarju tal-kumpannija li jikkonsenjaw lir-Registatur għar-registrazzjoni kopja miżbugħa ta’ kull riżoluzzjoni kif intqal qabel fi żmien erbatax-il jum wara d-data tar-riżoluzzjoni, flimkien ma’ kopja riveduta u aġġornata tal-memorandum, u ta’ l-istatut, jekk ikun hemm,

kif emendati bl-imsemmija riżoluzzjoni u li jkun fihom it-tibdiliet kollha li jkun saru sa dak inhar dwar id-diretturi, is-segretarju tal-kumpannija, ir-rappreżentazzjoni tal-kumpannija, tibdil fl-uffiċċju registrat tal-kumpannija jew kull trasferiment jew trasmissjoni ta' azzjonijiet jew xi għoti ta' azzjonijiet. Kull test preċedenti emendat tal-memorandum u ta' l-istatut, jekk ikun hemm, jista' jiġi mwarrab mir-Registatur meta test sussegwenti emendat ikun konsenjat lillu għar-registrazzjoni:

Iżda f'każ ta' diskrepanza bejn it-test ta' xi memorandum u statut emendati, jekk ikun hemm, u t-test tal-memorandum u statut originali, jekk ikun hemm, registrati skond id-dispożizzjonijiet ta' l-artikolu 76 ta' dan l-Att, it-test ta' l-aħħar flimkien mar-riżoluzzjonijiet registrati skond id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu jipprevalu.

Minkejja d-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, meta it-tibdil ikun il-bidla fl-uffiċċju registrat f'Malta tal-kumpannija, id-diretturi jew is-segretarju tal-kumpannija għandu jibgħat lir-Registatur għar-registrazzjoni prospett tal-bidla fl-uffiċċju registrat, li jispeċifika d-data tal-bidla, flimkien ma' l-uffiċċju registrat il-ġdid, fi żmien erbatax-il jum minn dik il-ġrajja.”;

(b) is-subartikolu (4) tiegħu għandu jiġi numerat mill-ġdid bħala subartikolu (5); u

(ċ) minnufih wara s-subartikolu (3) tiegħu, għandu jidhol is-subartikolu (4) ġdid li ġej:

“(4) Ir-responsabbilta' li jkun żgurat li kull emendi proposti għall-istatut ta' assoċjazzjoni, jekk ikun hemm, ta' kumpannija, ikunu korretti, kompleti u li jkunu jħarsu għal kollox dan l-Att u kull liġi oħra applikabbli, tkun fuq id-diretturi ta' l-imsemmija kumpannija.”.

Emenda ta' l-artikolu 83 ta' l-Att prinċipali.

41. L-artikolu 83 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) minflok it-tieni proviso għas-subartikolu (5) tiegħu, għandu jidhol dan li ġej:

“Iżda wkoll kull riżerva bħal dik għandha tintuża biss biex tpaċi telf li jkun sar jew biex jiżded il-kapital azzjonarju mahruġ bil-kapitalizzazzjoni ta' dik ir-riżerva.”;

(b) fis-subartikolu (6) tiegħu, minflok il-kliem “sejhiet fuq l-azzjonijiet tagħhom.” għandhom jidhlu l-kliem “sejhiet fuq l-azzjonijiet tagħhom:”; u

(c) minnufih wara s-subartikolu (6) tiegħu għandu jidhul il-proviso ġdid li ġej:

“Izda jekk id-dispożizzjonijiet tas-subartikoli (1) u (2) ta’ dan l-artikolu dwar id-drittijiet mogħtija lill-kredituri tal-kumpannija jkunu segwiti sabiex titnaqqas xi somma ta’ flus li tkun tinsab f’ xi riżerva bħal dik, kif imsemmi fis-subartikolu (5) ta’ dan l-artikolu, l-ammonti li jinkisbu minnhom jistgħu jintużaw sabiex isiru hlasijiet jew tqassim lill-azzjonisti.”.

42. L-artikolu 84 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:-

Emenda ta’ l-artikolu 84 ta’ l-Att prinċipali.

(a) minflok is-sub-paragrafu (ii) tal-paragrafu (c) tas-subartikolu (2) tiegħu, għandu jidhul dan li ġej:

“li l-azzjonijiet tal-kumpannija għandhom jinxtrow mill-kumpannija direttament jew indirettament mill-attiv tal-kumpannija, fuq it-talba ta’ xi wieħed mid-detenturi tagħhom jew kif xort’ohra provdut mill-memorandum jew l-istatut tal-kumpannija.”; u

(b) fis-subartikolu (7) tiegħu, minflok il-kliem “105 sa 112” għandhom jidhlu l-kliem “105 sa 113”.

43. L-artikolu 84A ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 84A ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “li tmexxi l-kummerċ ta’ assigurazzjoni affiljata,” għandhom jidhlu l-kliem “li tmexxi l-kummerċ ta’ assigurazzjoni,”;

(b) minflok il-paragrafu (a) tas-subartikolu (2) tiegħu, għandu jidhul dan li ġej:

“ “kummerċ ta’ assigurazzjoni” tinkludi *manager* ta’ kummerċ ta’ assigurazzjoni, kif ukoll il-kummerċ ta’ *broking* ta’ l-assigurazzjoni taħt l-Att dwar il-*Brokers* ta’ l-Assigurazzjoni u Intermedjarji Ohra, u riferenza għal “kumpannija” għandha tinkludi soċjetà in akkomandita jew korp ġuridiku simili jew ekwivalenti li l-kapital tagħha jkun maqsum f’ azzjonijiet;”; u

(c) fil-paragrafu (b) tas-subartikolu (2) tieghu, minflok il-kliem “kif jista’ jiġi preskritt;” għandhom jidhlu l-kliem “kif jista’ jiġi preskritt u tinkludji riferenza għal kontijiet segregati, kompartamenti jew unitajiet f’kumpannija li jkollha kontijiet multipli, kompartamenti jew unitajiet, ikunu kif ikunu msejha, u l-kelma “ċellulari” għandha tkun imfissra u applikata f’dan is-sens;”.

Zieda ta’ artikolu ġdid 84B ma’ l-Att prinċipali.

44. Minnufih wara l-artikolu 84A ta’ l-Att prinċipali, għandu jiżdied l-artikolu ġdid 84B li ġej:

“84B. Ebda haġa fl-artikolu 84 ta’ dan l-Att ma għandha tipprojbixxi kumpannija, li ma tkunx kumpannija b’kapital azzjonarju varjabbli iżda li tikkwalifika bhala skema għal investiment kollettiv u li tkun liċenzjata kif imiss taht l-Att dwar Servizzi ta’ Investiment, milli tkun kostitwita bhala kumpannija *umbrella* jew *multi-class* u d-dispożizzjonijiet tal-paragrafu (ċ) tas-subartikolu (10) ta’ l-artikolu 84 ta’ dan l-Att għandhom *mutatis mutandis* japplikaw għal dik il-kumpannija.”.

Emenda ta’ l-artikolu 85 ta’ l-Att prinċipali.

45. Fis-subartikolu (4) ta’ l-artikolu 85 ta’ l-Att prinċipali, minflok il-kliem “lir-Registatur ghar-registrazzjoni” għandhom jidhlu l-kliem “lir-Registatur ghar-registrazzjoni, fi żmien erbatax-il jum wara d-data tar-riżoluzzjoni relattiva,”.

Emenda ta’ l-artikolu 88 ta’ l-Att prinċipali.

46. Minnufih wara s-subartikolu (1) ta’ l-artikolu 88 ta’ l-Att prinċipali għandu jidhol il-proviso ġdid li ġej:

“Iżda azzjonijiet f’kumpannija, sew pubblika jew privata, ma għandhomx ikunu offerti fuq bażi ta’ prelazzjoni lill-kumpannija nnifisha, minkejja kull dispożizzjoni ohra ta’ dan l-Att li taghti s-setgħa lill-kumpannija li żżomm l-azzjonijiet tagħha stess.”.

Emenda ta’ l-artikolu 89 ta’ l-Att prinċipali.

47. Minflok il-paragrafu (ċ) tas-subartikolu (1) ta’ l-artikolu 89 ta’ l-Att prinċipali, għandu jidhol dan li ġej:

“(ċ) minn detentur ta’ liċenza ta’ skema ta’ investiment kollettiv kif imfisser fl-Att dwar is-Servizzi ta’ Investiment kemm-il darba dak il-hruġ isir skond regoli jew regolamenti magħmula taht dak l-Att.”.

Emenda ta’ test Inġliż ta’ l-artikolu 95 ta’ l-Att prinċipali.

48. Fit-test Inġliż tal-paragrafu (a) tas-subartikolu (2) ta’ l-artikolu 95 ta’ l-Att prinċipali, minflok il-kliem “the allotment; or agreement” għandhom jidhlu l-kliem “the allotment or agreement”.

49. Fis-subartikolu (1) ta' l-artikolu 101 ta' l-Att prinċipali, minflok il-kliem “fuq xi borża” għandhom jidhlu l-kliem “fuq *exchange* ta' investiment rikonoxxut”. Emenda ta' l-artikolu 101 ta' l-Att prinċipali.
50. Fil-paragrafu (b) ta' l-artikolu 109 ta' l-Att prinċipali, minflok il-kliem “mal-passiv” għandhom jidhlu l-kliem “mar-riżervi”. Emenda ta' l-artikolu 109 ta' l-Att prinċipali.
51. L-artikolu 110 ta' l-Att prinċipali għandu jġi emendat kif ġej:- Emenda ta' l-artikolu 110 ta' l-Att prinċipali.
- (a) fin-nota marginali tiegħu, minflok il-kelma “*holding*” għandha tidhol il-kelma “*parent*”;
- (b) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kelma “*holding*” għandha tidhol il-kelma “*parent*”; u
- (ċ) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem “bil-ghan li, jew konnessjoni ma’” għandhom jidhlu l-kliem “bil-ghan li”.
52. Is-subartikolu (1) ta' l-artikolu 113 ta' l-Att prinċipali għandu jġi emendat kif ġej: Emenda ta' l-artikolu 113 ta' l-Att prinċipali.
- (a) minflok il-kliem minn “Kumpannija ma tkunx tista’” sal-kliem “fil-kumpannija, kemm-il darba-” għandhom jidhlu l-kliem “Kumpannija tkun tista’ thallas kummissjoni jew tagħmel skont jew *allowance* lil xi persuna b’kumpens talli tissottoskrivi jew talli tiftiehem li tissottoskrivi, tant għal kollox kemm taht kondizzjoni, għal xi azzjonijiet fil-kumpannija, jew talli tipprokura jew tiftiehem li tipprokura sottoskrizzjonijiet, tant għal kollox kemm taht kondizzjoni, għal xi azzjonijiet fil-kumpannija, kemm-il darba -”; u
- (b) minflok il-paragrafu (d) tiegħu għandu jidhol dan li ġej:
- “(d) fl-ebda każ ma għandu l-valur ta’ dawk l-azzjonijiet jitnaqqas taht il-valur nominali tagħhom bħala riżultat ta’ dik il-kummissjoni, skont jew *allowance*.”.
53. L-artikolu 115 ta' l-Att prinċipali għandu jġi emendat kif ġej:- Emenda ta' l-artikolu 115 ta' l-Att prinċipali.
- (a) minflok il-paragrafu (b) tas-subartikolu (1) tiegħu, għandu jidhol dan li ġej:-

“(b) ebda azzjonijiet bhal dawn ma ghandhom jinharġu wara l-1 ta’ Jannar 2003 kemm-il darba ma jkunux sodisfatti il-pattijiet u l-kondizzjoniet li ġejjin dwar il-fidi -

(i) id-data li fiha, jew sa liema data, jew id-dati li bejniethom, l-azzjonijiet ghandhom jew jistghu jiġu mifdiya ghandhom ikunu speċifikati fil-memorandum jew fl-istatut jew, jekk il-memorandum jew l-istatut hekk jipprovdi, stabbilit mid-diretturi, u f’dan l-aħħar każ id-data jew id-dati ghandhom ikunu stabbiliti qabel ma jinharġu l-azzjonijiet;

(ii) f’kull ċirkostanzi ohra li fihom l-azzjonijiet ghandhom jew jistghu jiġu mifdiya ghandhom ikunu speċifikati fil-memorandum jew fl-istatut tal-kumpanija;

(iii) l-ammont li ghandu jithallas mal-fidi ghandu jkun speċifikat, jew deċiż, skond il-memorandum jew l-istatut tal-kumpanija, u f’dan l-aħħar każ il-memorandum jew l-istatut ma jistax jipprovdi li l-ammont ikun deċiż b’riferenza ghad-diskrezzjoni jew fehma ta’ xi persuna: u

(iv) kull pattijiet u kondizzjonijiet ta’ fidi ohra ghandhom ikunu speċifikati fil-memorandum jew l-istatut tal-kumpanija;”; u

(b) fis-subartikolu (5) tiegħu, minflok il-kliem “lir-Registratur ghar-registrazzjoni.”, ghandhom jidhlu l-kliem “lir-Registratur ghar-registrazzjoni, fi żmien erbatax-il jum wara d-data tal-fidi.”.

Emenda ta’ l-
artikolu 122 ta’ l-
Att prinċipali.

54. L-artikolu 122 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tas-subartikolu (12) tiegħu, minflok il-kliem “il-Borża ta’ Malta” kull fejn jinsabu, ghandhom jidhlu f’kull każ il-kliem “*exchange* ta’ investiment rikonoxxut”; u

(b) fis-subartikolu (15) tiegħu, minflok il-kliem “lir-Registratur fi żmien erbatax-il jum” ghandhom jidhlu l-kliem “lir-Registratur ghar-registrazzjoni fi żmien erbatax-il jum”.

Emenda ta’ l-
artikolu 135 ta’ l-
Att prinċipali.

55. Minflok is-subartikolu (2) ta’ l-artikolu 135 ta’ l-Att prinċipali, ghandu jidhol dan li ġej:-

“(2) Riżoluzzjoni ordinarja tghaddi minn membru jew membri li ghandhom id-dritt jattendu u jivvotaw li jzommu azzjonijiet li flimkien jaghtu jedd lid-detentur jew detenturi taghhom ghal iktar minn hamsin fil-mija tal-jeddijiet ghall-vot marbuta ma’ l-azzjonijiet rappreżentati u bil-jedd tal-vot fil-laqgħa, jew dak il-perċentaġġ akbar li l-memorandum jew l-istatut jista’ jippreskrivi.”.

56. Fl-artikolu 136 ta’ l-Att prinċipali, minflok il-kliem “bħala garanzija fuq l-obbligi tagħha” ghandhom jidhlu l-kliem “bħala garanzija fuq l-obbligi tagħha jew ta’ terzi”.

Emenda ta’ l-artikolu 136 ta’ l-Att prinċipali.

57. Minnufih wara l-artikolu 136 ta’ l-Att prinċipali ghandu jidhlo l-artikolu ġdid 136A li ġej:

Zieda ta’ artikolu ġdid 136A ma’ l-Att prinċipali.

136A (1) Direttur ta’ kumpannija jkun marbut li jaġixxi b’onestà u *bona fide* fl-aħjar interessi tal-kumpannija.

“Dmirijiet ġenerali tad-diretturi.

(2) Id-diretturi ta’ kumpannija ghandhom jippromwovu il-benessere tal-kumpannija u jkunu responsabbli għal:

(a) it-tmexxija ġenerali tal-kumpannija u l-amministrazzjoni u l-immaniġġjar tagħha; u

(b) is-sorveljanza ġenerali ta’ l-affarijiet tagħha.

(3) B’mod partikolari, iżda bla hsara għal kull dmir ieħor mogħti lid-diretturi ta’ kumpannija, jew lil xi wieħed minnhom, bil-memorandum u l-Istatut ta’ assoċjazzjoni jew b’dan l-Att jew b’xi liġi oħra, id-diretturi ta’ kumpannija:

(a) ikunu obbligati li jeżerċitaw kura, diligenza u hila li jkunu eżerċitati minn persuna raġonevolment diligenti li jkollha -

(i) kemm it-tagħrif, il-hila u l-esperjenza li jkunu raġonevolment mistennija minn persuna li tkun qed taqdi l-istess funzjonijiet li jkunu moqdija jew fdati lil dak id-direttur dwar il-kumpannija;

(ii) kif ukoll it-tagħrif, il-hila u l-esperjenza li jkollu d-direttur;

(b) ma ghandhomx jagħmlu profitti sigrieti jew personali mill-pożizzjoni tagħhom mingħajr il-

kunsens tal-kumpannija, lanqas ma jagħmlu gwadan personali minn informazzjoni konfidenzjali tal-kumpannija;

(ċ) għandhom jassiguraw li l-interessi personali tagħhom ma jkunux f'konflitt ma' l-interessi tal-kumpannija;

(d) ma għandhomx jużaw xi proprjeta', informazzjoni jew opportunità tal-kumpannija għall-benefiċċju tagħhom stess jew ta' xi hadd ieħor, jew jieħdu xi benefiċċju b'xi mod ieħor b'konnessjoni ma' l-eżerċizzju tas-setgħat tagħhom, hlief bil-kunsens tal-kumpannija f'laqgħa ġenerali jew hlief kif permess mill-memorandum u l-istatut ta' assoċjazzjoni tal-kumpannija;

(e) għandhom jeżerċitaw is-setgħat li għandhom għall-finijiet li jkunu ngħataw is-setgħat u m'għandhomx jużaw hażin dawk is-setgħat.”.

Emenda ta' l-
artikolu 137 ta' l-
Att prinċipali.

58. Minflok is-subartikolu (4) ta' l-artikolu 137 ta' l-Att prinċipali, għandu jidhol dan li ġej:-

“(4) Minkejja kull haġa li tinsab fil-memorandum jew fl-istatut ta' assoċjazzjoni dwar il-mod kif tiġi eżerċitata r-rappreżentanza tal-kumpannija, kull haġa li tkun saret mill-bord tad-diretturi ta' kumpannija li tiċċedi l-limiti tas-setgħat tagħhom jew minn xi direttur barra mis-setgħat tiegħu, tkun torbot lill-kumpannija kemm-il darba l-egħmil ma jeċċediex is-setgħat mogħtija lill-Bord tad-diretturi jew lil direttur, skond il-każ, bis-saħħa ta' dan l-Att.”.

Emenda ta' l-
artikolu 138 ta' l-
Att prinċipali.

59. Minnufih wara s-subartikolu (7) ta' l-artikolu 138 ta' l-Att prinċipali, għandu jidhol is-subartikolu ġdid (8) li ġej:-

“(8) Fin-nuqqas tat-tharis tad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu kull direttur tal-kumpannija li jkun naqas jista' jehel penali, u għal kull jum li matulu jkompli n-nuqqas, penali ohra.”.

Emenda ta' l-
artikolu 140 ta' l-
Att prinċipali.

60. Minflok is-subartikolu (1) ta' l-artikolu 140 ta' l-Att prinċipali, għandu jidhol dan li ġej:

“(1) Kumpannija tista' tneħhi direttur qabel ma jgħaddi ż-żmien tal-kariga tiegħu b'riżoluzzjoni li tittiehed f'laqgħa ġenerali

tal-kumpanija u mghoddija minn membru jew membri li jkollhom il-jedd li jattendu ghalha u jivvutaw, li flimkien ikollhom azzjonijiet li jaghtu l-jedd lid-detentur jew detenturi tagħhom għal iktar minn hamsin fil-mija tal-jeddijiet tal-vot marbuta ma' l-azzjonijiet rappreżentati u li jaghtu l-jedd għal vot fil-laqgħa.”.

61. Fil-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 142 ta' l-Att prinċipali, minflok il-kliem “tkun minuri; jew” għandhom jidhlu l-kliem “tkun minuri li ma tkunx giet emancipata għall-kummerċ; jew”.

Emenda ta' l-artikolu 142 ta' l-Att prinċipali.

62. Fis-subartikolu (1) ta' l-artikolu 143 ta' l-Att prinċipali, minflok il-kliem “għal haddiehor; jew” għandhom jidhlu l-kliem “għal haddiehor, jew”.

Emenda ta' l-artikolu 143 ta' l-Att prinċipali.

63. Fl-artikolu 150 ta' l-Att prinċipali, minflok il-kliem “għandha titqies li hi mehtieġa li ssir” għandhom jidhlu l-kliem “għandha titqies ukoll li hi mehtieġa li ssir”.

Emenda ta' l-artikolu 150 ta' l-Att prinċipali.

64. Fil-paragrafu (b) tas-subartikolu (3) ta' l-artikolu 165 ta' l-Att prinċipali, minflok il-kliem “taħt l-artikolu 180 ta' dan l-Att” għandhom jidhlu l-kliem “taħt l-artikolu 182 ta' dan l-Att”.

Emenda ta' l-artikolu 165 ta' l-Att prinċipali.

65. L-artikolu 167 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

Emenda ta' l-artikolu 167 ta' l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “generalment aċċettati.” għandhom jidhlu l-kliem “generalment aċċettati.”;

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jidhol il-proviso ġdid li ġej:

“Izda fil-każ li dispożizzjoni ta' dan l-Att tkun f'konflitt jew ma tkunx taqbel ma' prinċipji u Prattika ta' kontijiet generalment aċċettati, il-kontijiet għandhom isiru li juru qagħda sewwa u xierqa skond il-htigiet stabbiliti taħt is-subartikolu (3) ta' dan l-artikolu.”;

(ċ) minflok is-subartikolu (3) tiegħu, għandu jidhol dan li ġej:

“(3) Il-kontijiet individwali għandhom juru sewwa u xieraq l-attiv, il-passiv, il-qagħda finanzjarja u qliegh jew telf tal-kumpanija.”;

(d) is-subartikolu (4) u (5) tiegħu għandhom jiġu numerati mill-ġdid bħala (5) u (6) rispettivament;

(e) minnufih wara s-subartikolu (3) tiegħu, għandu jidhol is-subartikolu (4) ġdid li ġej:-

“(4) Il-kontijiet individwali għandhom iharsu l-htigiet tat-Tielet Skeda li tinsab ma’ dan l-Att dwar il-forma u l-kontenut tal-karta tal-bilanċ u l-kont ta’ qliegħ u telf u dwar tagħrif addizzjonali li għandu jkun provdut bħala nota mal-kontijiet.”; u

(f) fis-subartikolu (6) tiegħu kif numerat mill-ġdid, minflok il-kliem “ma’ l-obbligu stabbilit fis-subartikolu (3) ta’ dan l-artikolu, dik id-dispożizzjoni għandu jkun hemm deroga minnha sabiex jintwera stat sewwa u xieraq skond kif imfisser fl-imsemmi subartikolu (3).- Kull deroga bhal dik” għandhom jidhlu l-kliem “ma’ l-obbligu li l-kontijiet individwali juru l-qagħda sewwa u korretta, dik id-dispożizzjoni għandu jkun hemm deroga minnha sabiex tintwera l-qagħda sewwa u xierqa. Kull deroga bhal dik”.

Emenda ta’ l-artikolu 168 ta’ l-Att prinċipali.

66. Fis-subartikolu (1) ta’ l-artikolu 168 ta’ l-Att prinċipali, minflok il-kliem “tas-subartikolu (3) ta’ l-artikolu 167 u tas-subartikolu (6) ta’ l-artikolu 171 ta’ dan l-Att”, għandhom jidhlu l-kliem “tas-subartikolu (4) ta’ l-artikolu 167 u tas-subartikolu (4) ta’ l-artikolu 171 ta’ dan l-Att”.

Emenda ta’ l-artikolu 169 ta’ l-Att prinċipali.

67. Fis-subartikolu (1) ta’ l-artikolu 169 ta’ l-Att prinċipali, minflok il-kliem “Minkejja d-dispożizzjonijiet tas-subartikolu (3) ta’ l-artikolu 167” għandhom jidhlu l-kliem “Minkejja d-dispożizzjonijiet tas-subartikolu (4) ta’ l-artikolu 167”.

Emenda ta’ l-artikolu 171 ta’ l-Att prinċipali.

68. L-artikolu 171 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “kontijiet ġeneralment aċċettati.” għandhom jidhlu l-kliem “kontijiet ġeneralment aċċettati.”;

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jidhol il-proviso ġdid li ġej:

“Izda fil-każ li dispożizzjoni ta’ dan l-Att tkun f’konflitt jew ma tkunx taqbel ma’ prinċipji u Prattika ta’ kontijiet ġeneralment aċċettati, il-kontijiet għandhom isiru li juru l-

qagħda sewwa u xierqa skond il-htigiet stabbiliti taht is-subartikolu (3) ta' dan l-artikolu.”;

(ċ) is-subartikoli (4), (5) u (6) tieghu ghandhom jigu numerati mill-ġdid bhala (5), (6) u (4) rispettivament; u

(d) fis-subartikolu (6) tieghu kif numerat mill-ġdid, minflok il-kliem “ma' l-obbligu stabbilit fis-subartikolu (3) ta' dan l-artikolu, dik id-dispożizzjoni ghandu jkun hemm deroga minnha sabiex jintwera stat sewwa u xieraq skond kif imfisser fl-imsemmi subartikolu (3). Kull deroga bhal dik” ghandhom jidhlu l-kliem “ma' l-obbligu li kontijiet konsolidati juru l-qagħda sewwa u korretta, dik id-dispożizzjoni ghandu jkun hemm deroga minnha sabiex tintwera l-qagħda sewwa u xierqa. Kull deroga bhal dik”.

69. Fil-proviso ghas-subartikolu (1) ta' l-artikolu 173 ta' l-Att prinċipali, minflok il-kliem “tal-Borża ta' Malta” ghandhom jidhlu l-kliem “ta' *exchange* ta' investiment rikonoxxut”. Emenda ta' l-artikolu 173 ta' l-Att prinċipali.

70. L-artikolu 174 ta' l-Att prinċipali ghandu jigi emendat kif ġej: Emenda ta' l-artikolu 174 ta' l-Att prinċipali.

(a) minflok il-paragrafu (b) tas-subartikolu (1) tieghu, ghandu jidhol dan li ġej:

“(b) meta disghin fil-mija jew iktar tal-valur nominali ta' l-azzjonijiet fl-imsemmija kumpannija *parent* ikunu miżmuma minn kumpannija *parent* u avviz li jitlob it-thejjija ta' kontijiet konsolidati ma jkunx inghata mill-ewwel kumpannija msemmija mill-azzjonisti li flimkien ikollhom il-percentwali li jifdal fil-valur nominali ta' l-azzjonijiet kollha tagħha. Dak l-avviz ma jkunx validu kemm-il darba ma jinghatax mhux iktar tard minn sitt xhur wara l-bidu taż-żmien tal-kontijiet li ghalih jirreferi.”; u

(b) fis-subartikolu (3) tieghu, minflok il-kliem “tal-Borża ta' Malta” ghandhom jidhlu l-kliem “ta' *exchange* ta' investiment rikonoxxut”.

71. Fit-test Ingliż tas-subartikolu (13) ta' l-artikolu 179 ta' l-Att prinċipali, minflok il-kliem “Council of the International Federation of Accounts” ghandhom jidhlu l-kliem “Council of the International Federation of Accountants”. Emenda ta' l-artikolu 179 ta' l-Att prinċipali.

Emenda ta' l-
artikolu 180 ta' l-
Att prinċipali.

72. Minnufih wara s-subartikolu (6) ta' l-artikolu 180 ta' l-Att prinċipali, għandu jidhol is-subartikolu ġdid li ġej:

“(7) Għall-finijiet ta' dan l-artikolu, riferenza għal “kontijiet annwali” għandha tinkludi r-rapport tad-diretturi speċifikat fl-artikolu 177 ta' dan l-Att u r-rapport ta' l-awdituri speċifikat fl-artikolu 179 ta' dan l-Att.”.

Emenda ta' l-
artikolu 183 ta' l-
Att prinċipali.

73. L-artikolu 183 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fil-proviso għas-subartikolu (2) tiegħu, minflok il-kliem “r-rapport tad-diretturi.” għandhom jidhlu l-kliem “r-rapport tad-diretturi.”;

(b) minnufih wara l-proviso għas-subartikolu (2) tiegħu għandu jidhol il-proviso li ġej:

“Izda wkoll meta l-kumpannija eżentata li tikkwalifika li tagħmel kontijiet imqassra tkun kumpannija msemmija fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 185 ta' dan l-Att, din tista' tikkonsenja lir-Registatur karta tal-bilanċ imqassra biss, in-noti kollha rilevanti għall-finijiet tal-karta tal-bilanċ, iżda minghajr il-kont ta' qliegh u telf, ir-rapport tad-diretturi u r-rapport ta' l-awdituri.”;

(ċ) fil-proviso għas-subartikolu (4) tiegħu minflok il-kliem “kif saru.” għandhom jidhlu l-kliem “kif saru.”; u

(d) minnufih wara l-proviso għas-subartikolu (4) tiegħu għandu jidhol il-proviso ġdid li ġej:

“Izda wkoll, id-dispożizzjonijiet ta' dan is-subartikolu ma japplikawx għal kumpanniji msemmija fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 185 ta' dan l-Att.”.

Emenda ta' l-
artikolu 184 ta' l-
Att prinċipali.

74. Minflok l-artikolu 184 ta' l-Att prinċipali, għandu jidhol dan li ġej:

“184 (1) Kull kumpannija għandha, wara l-1 ta' Jannar 2004, ma' kull anniversarju tar-registrazzjoni tagħha, tagħmel prospett fil-forma murija fis-Seba' Skeda li tinsab ma' dan l-Att li juri l-hwejjeġ fiha indikati kif kienu fid-data ta' dak l-anniversarju:

Izda –

(a) meta kumpannija kienet, qabel l-1 ta' Jannar 2004, b'nuqqas dwar il-konsenja ta' prospett jew propspetti annwali, dan l-artikolu ma għandux jolqot l-obbligu tal-kumpannija li tagħmel dak il-prospett jew dawk il-prospetti jew għall-hlas ta' xi penali li jinqala' minn dan in-nuqqas;

(b) meta kumpannija tkun bidlet xi azzjonijiet tagħha fi *stock* u tkun irregistrat il-bdil kif provdut fl-artikolu 79 ta' dan l-Att, il-lista tal-membri ta' qabel u preżenti murija fit-Taqsima 3 tas-Seba' Skeda li tinsab ma' dan l-Att għandha tiddikjara l-ammont ta' *stock* miżmum minn kull wiehed mill-membri eżistenti minflok l-ammont ta' azzjonijiet u l-partikolaritajiet dwar azzjonijiet meħtieġa b'din il-parti.

(2) Il-prospett annwali, kompletat kif imiss, għandu jkun iffirmit minn għall-inqas direttur wiehed tal-kumpannija jew mis-segretarju tal-kumpannija u jintbagħat lir-Registratur għar-registrazzjoni fi żmien tnejn u erbgħin jum mid-data sa liema jkun magħmul.

(3) Fin-nuqqas ta' tharis tad-dispożizzjonijiet ta' dan l-artikolu, kull ufficjal tal-kumpannija li jkun naqas jista' jkun sugġett għal penali, u, għal kull jum li matulu jkompli n-nuqqas, penali ohra.”.

75. L-artikolu 185 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 185 ta' l-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi numerat mill-ġdid bhala paragrafu (a) tas-subartikolu (1);

(b) fil-paragrafu (a) tas-subartikolu (1) kif numerat mill-ġdid, minflok il-kliem “kif imsemmi fis-subartikolu (3) ta' dan l-artikolu.” għandhom jidhlu l-kliem “kif speċifikat fis-subartikolu (3) ta' dan l-artikolu;”;

(c) minnufih wara l-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 185 għandu jidhol il-paragrafu (b) ġdid li ġej:

“(b) Kumpanniji privati li fid-dati tal-karti tal-bilanċ tagħhom ma jkunux jiċċedu l-limitu ta' żewġ kriterji mit-tlieta li ġejjin:

- total tal-karta tal-bilanċ: ghoxrin elf lira;
- *turnover*: erbgħin elf lira;

– numru medja ta' impjegati matul iż-żmien tal-kontijiet: tnejn;

ikunu eżentati mid-dispożizzjonijiet tal-Kapitolu IX tat-Taqsima V ta' dan l-Att u mill-htieġa imposta bl-artikolu 179 ta' dan l-Att u daww il-kumpanniji li jistgħu, għall-finijiet ta' dan l-Att, jagħmlu karti tal-bilanċ imqassra u formati mqassra tal-kont ta' qliegħ u telf kif imsemmi fis-subartikolu (2) ta' dan l-artikolu u noti mqassra għall-kontijiet kif imsemmi fis-subartikolu (3) ta' dan l-artikolu.”;

(d) fis-subartikolu (3) tiegħu, minflok il-kliem “bl-indent (d) u minn (j) sa (o)” għandhom jidhlu l-kliem “bl-indent (d) u minn (g) sa (o)”;

(e) minnufih wara s-subartikolu (6) tiegħu għandu jidhol il-proviso ġdid li ġej:

“Iżda d-dispożizzjonijiet tas-subartikolu (6) ta' dan l-artikolu ma għandhomx japplikaw għal kumpannija *parent* li tkun eżentata mill-htieġa li ttejjji kontijiet konsolidati skond l-artikolu 174 ta' dan l-Att.”.

Emenda ta' l-artikolu 186 ta' l-Att prinċipali.

76. Fis-subartikolu (1) ta' l-artikolu 186 ta' l-Att prinċipali, minflok il-kliem “ECU huwa munita konvertibbli.” għandhom jidhlu l-kliem “l-euro huwa munita konvertibbli.”.

Emenda ta' l-artikolu 187 ta' l-Att prinċipali.

77. Minflok is-subartikolu (4) ta' l-artikolu 187 ta' l-Att prinċipali, għandu jidhol dan li ġej:

“(4) Il-kontijiet annwali għandhom ikunu pubblikati fil-munita li fihom ikunu saru. Dawn jistgħu wkoll ikunu pubblikati kemm fil-munita li fihom ikunu saru kif ukoll f'euro. Il-kambju f'euro għandu jsir billi tintuża r-rata tal-kambju bejn il-munita wżata u l-euro fid-data tal-karta tal-bilanċ, u dik ir-rata tkun il-*middle rate* uffiċjali ta' għeluq dak il-jum mahruġa mill-Bank Ċentrali ta' Malta. Din ir-rata għandha tintwera fin-noti tal-kontijiet.”.

Emenda ta' l-artikolu 188 ta' l-Att prinċipali.

78. L-artikolu 188 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fil-paragrafu (e) tiegħu, minflok il-kliem “kumpannija bħal dik; jew” għandhom jidhlu l-kliem “kumpannija bħal dik;”;

(b) fil-paragrafu (f) tiegħu, minflok il-kliem “azzjonarju varjabbli jkun espress.” għandhom jidhlu l-kliem “azzjonarju varjabbli jkun espress; jew”; u

(ċ) minnufih wara l-paragrafu (f) tiegħu għandu jidhol il-paragrafu (g) ġdid li ġej:

“(g) jemenda jew ivarja d-dispożizzjonijiet ta’ dan il-Kapitolu sabiex iġibhom jaqblu mal-htigijiet ta’ l-*International Accounting Standards* jew l-*International Standards on Auditing*.”.

79. L-artikolu 191 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 191 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “f’soċjetà in akkomandita li l-kapital tagħha ma jkunx maqsum f’azzjonijiet ikunu huma nfushom soċjetajiet in akkomanditi li l-kapital tagħhom ikun maqsum f’azzjonijiet” għandhom jidhlu l-kliem “f’soċjetà in akkomandita jew soċjetà limitata, li l-kapital tagħha ma jkunx maqsum f’azzjonijiet, ikunu huma nfushom soċjetajiet in akkomanditi jew soċjetajiet limitati, li l-kapital tagħhom ikun maqsum f’azzjonijiet”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “f’soċjetà in akkomandita” kull fejn jinsabu għandhom jidhlu f’kull każ il-kliem “f’soċjetà in akkomandita jew soċjetà limitata”;

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem “f’soċjetà in akkomandita li l-kapital tagħha ma jkunx maqsum f’azzjonijiet, ikunu huma nfushom kumpanniji jew soċjetajiet in akkomanditi” għandhom jidhlu l-kliem “f’soċjetà in akkomandita jew soċjetà limitata li l-kapital tagħha ma jkunx maqsum f’azzjonijiet, ikunu huma nfushom kumpanniji jew ikunu soċjetajiet in akkomanditi jew soċjetajiet limitati”.

80. Fil-paragrafu (a) tas-subartikolu (4) ta’ l-artikolu 194 ta’ l-Att prinċipali, minflok il-kliem “fil-Borża ta’ Malta” għandhom jidhlu l-kliem “f’exchange ta’ investment rikonoxxut”. Emenda ta’ l-artikolu 194 ta’ l-Att prinċipali.

81. Fis-subartikolu (5) ta’ l-artikolu 199 ta’ l-Att prinċipali, minflok il-kliem “lir-Registratur.” għandhom jidhlu l-kliem “lir-Registratur għar-registrazzjoni.”. Emenda ta’ l-artikolu 199 ta’ l-Att prinċipali.

Emenda ta' l-artikolu 209 ta' l-Att prinċipali.

82. Fil-paragrafu (b) tas-subartikolu (2) ta' l-artikolu 209 ta' l-Att prinċipali, minflok il-kliem "ikunu offerti għall-bejgħ lill-pubbliku, skond it-tifsira mehtieġa fl-artikolu 89 ta' dan l-Att.", għandhom jidhlu l-kliem "offerti lill-pubbliku, skond it-tifsir mogħti bil-kliem "offerti magħmula lill-pubbliku" fis-subartikolu (3) ta' l-artikolu 2 ta' dan l-Att."

Emenda ta' l-artikolu 210 ta' l-Att prinċipali.

83. Fl-artikolu 210 ta' l-Att prinċipali, minflok il-kliem "msejha u miżmuma b'mod xieraq" għandhom jidhlu l-kliem "msejha u miżmuma b'mod xieraq u d-dispożizzjonijiet ta' l-artikolu 155 ma japplikawx".

Emenda ta' l-artikolu 212 ta' l-Att prinċipali.

84. Fis-subartikolu (1) ta' l-artikolu 212 ta' l-Att prinċipali, minflok il-kliem "d-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 72 ta' dan l-Att" għandhom jidhlu l-kliem "id-dispożizzjonijiet ta' l-artikolu 68 u tas-subartikolu (1) ta' l-artikolu 72 ta' dan l-Att".

Emenda ta' l-artikolu 214 ta' l-Att prinċipali.

85. L-artikolu 214 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (2) tiegħu, minflok il-kliem "tax-il xahar," għandhom jidhlu l-kliem "erbgha u ghoxrin xahar,"; u

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

"(4) Meta kumpannija tkompli bin-negozju tagħha mingħajr ma jkollha għall-inqas żewġ membri għal iktar mis-sitt xhur imsemmija fis-sub-paragrafu (i) tal-paragrafu (b) tas-subartikolu (2) ta' dan l-artikolu, persuna li, għaż-żmien kollu jew għal parti miż-żmien li l-kumpannija tkompli bin-negozju tagħha wara l-imsemmija sitt xhur, tkun membru tal-kumpannija u tkun taf li l-kumpannija tkun qed tkompli bin-negozju tagħha b'membru wiehed biss, għandha tinzamm responsabbli bla limitu u *in solidum* mal-kumpannija għall-obbligazzjonijiet kollha li jkun kuntrattati mill-kumpannija għaż-żmien kollu jew, skond il-każ, dik il-parti minnu, meta jgħaddu s-sitt xhur sax-xoljiment tal-kumpannija jew sa dak iż-żmien meta jkun rimedjat in-nuqqas mill-kuimpannija skond il-*proviso* għas-subartikolu (3) ta' dan l-artikolu."

Emenda ta' l-artikolu 217 ta' l-Att prinċipali.

86. L-artikolu 217 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fis-subartikolu (1) tieghu, minflok il-kliem “Id-dispożizzjonijiet ta’ dan l-artikolu japplikaw meta wara li tkun xolta, kumpannija –” ghandu jidhol dan li ġej:

“Id-dispożizzjonijiet tas-subartikoli (2) u (3) ta’ dan l-artikolu għandhom japplikaw biss wara x-xoljiment ta’ kumpannija, meta kumpannija qabel ix-xoljiment tagħha –”; u

(b) fil-paragrafu (b) tas-subartikolu (1) tieghu, minflok il-kliem “imħallsa bhala kontribuzzjoni għall-attiv tagħha,” għandhom jidhlu l-kliem “imħallsa bhala kontribuzzjoni għall-attiv tagħha skond l-artikolu 216 ta’ dan l-Att.”.

87. L-artikolu 218 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:- Emenda ta’ l-artikolu 218 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tieghu, minflok il-kliem “kontributorju jew kontributorji.” għandhom jidhlu l-kliem “kontributorju jew kontributorji.”;

(b) minnufih wara s-subartikolu (1) ghandu jidhol il-proviso ġdid li ġej:

“Izda rikors skond il-paragrafu (a) ta’ dan is-subartikolu jista’ wkoll isir minn xi azzjonist jew direttur tal-kumpannija.”;

(ċ) fis-subartikolu (4) tieghu, minflok il-kliem “fis-subartikolu (2) ta’ l-artikolu 214 ta’ dan l-Att.” għandhom jidhlu l-kliem “fis-sub-paragrafu (ii) u (iii) tal-paragrafu (b) tas-subartikolu (2) ta’ l-artikolu 214 ta’ dan l-Att.”; u

(d) minflok is-subartikolu (5) tieghu, ghandu jidhol dan li ġej:

“(5) Bis-saħħa ta’ l-artikolu 294 ta’ dan l-Att, rikors għal stralc mill-Qorti jista’ jsir minkejja li kumpannija tkun qed tiġi stralcjata volontarjament. Rikors bhal dan jista’ jsir ukoll mir-Riċevitur Uffiċjali mahtur skond id-dispożizzjonijiet ta’ l-artikolu 225 ta’ dan l-Att.”.

88. L-artikolu 219 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:- Emenda ta’ l-artikolu 219 ta’ l-Att prinċipali.

(a) id-dispożizzjoni preżenti għandha tiġi numerata mill-
għdid bħala subartikolu (1); u

(b) minnufih wara s-subartikolu (1) tiegħu kif numerat mill-
għdid għandu jidhlo is-subartikolu (2) għdid li ġej:

“(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta’
dan l-artikolu, meta l-Qorti tkun sodisfatta li l-htigijiet tal-
paragrafu (a) tas-subartikolu (1) ta’ l-artikolu 218 ta’ dan l-
Att ikunu ġew imhassra, il-Qorti tista’ tilqa’ r-rikors.”.

Emenda ta’ l-
artikolu 222 ta’ l-
Att prinċipali.

89. Fl-artikolu 222 ta’ l-Att prinċipali, minflok il-kliem “Sew
kawzjonarju jew eżekuttiv, mahruġ jew miġjub” għandhom jidhlu l-
kliem “sew kawzjonarju jew eżekuttiv, barra minn mandat ta’ inibizzjoni,
mahruġ jew miġjub”.

Emenda ta’ l-
artikolu 223 ta’ l-
Att prinċipali.

90. Minnufih wara l-*proviso* għas-subartikolu (1) ta’ l-artikolu
223 ta’ l-Att prinċipali, għandu jidhlo il-*proviso* għdid li ġej:

“Izda wkoll meta ordni għal stralċ ikun sar bis-sahha tal-
paragrafu (a) tas-subartikolu (1) ta’ l-artikolu 218 ta’ dan l-Att, id-
data tax-xoljiment tkun id-data li fiha tkun għaddiet ir-rizoluzzjoni
ghax-xoljiment u l-istralċ konsegwenzjali mill-Qorti jew dik id-
data wara li tista’ tiġi speċifikata fl-imsemmija rizoluzzjoni.”.

Emenda ta’ l-
artikolu 224 ta’ l-
Att prinċipali.

91. L-artikolu 224 ta’ l-Att prinċipali għandu jiġi emendat kif
ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Meta l-
Qorti tagħmel ordni għal stralċ kopja ta’ l-ordni” għandhom jidhlu
l-kliem “Ma’ l-egħmil ta’ ordni għal stralċ, jew maċ-ċahda ta’ rikors
għal xoljiment, kopja ta’ l-ordni jew taċ-ċahda”; u

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

Emenda ta’ l-
artikolu 230 ta’ l-
Att prinċipali.

92. Fis-subartikolu (2) ta’ l-artikolu 230 ta’ l-Att prinċipali,
minflok il-kliem “mill-kumpannija għandha ssir b’rizoluzzjoni
straordinarja tal-kumpannija” għandhom jidhlu l-kliem “mill-
kontributorji għandha ssir b’rizoluzzjoni tal-kontributorji”.

Emenda ta’ l-
artikolu 238 ta’ l-
Att prinċipali.

93. L-artikolu 238 ta’ l-Att prinċipali għandu jiġi emendat kif
ġej:

(a) fil-paragrafu (f) tas-subartikolu (1) tiegħu, minflok il-
kliem “jitqassam l-attiv tagħha.” għandhom jidhlu l-kliem
“jitqassam l-attiv tagħha.”;

(b) minnufih wara l-paragrafu (f) tas-subartikolu (1) tieghu ghandu jidhol il-*proviso* ġdid li ġej:

“Izda l-Qorti tista’ tagħti ordni illi l-istralċjarju jkun jista’, meta ma jkunx hemm kumitat ta’ stralċ, jeżerċita kull waħda mis-setgħat imsemmija fil-paragrafu (a) jew (b) ta’ dan is-subartikolu minghajr il-permess tal-Qorti.”;

(ċ) fis-subartikolu (3) tieghu, minflok il-kliem “xi waħda minn dawk is-setgħat.” ghandhom jidhlu l-kliem “xi waħda minn dawk is-setgħat.”; u

(d) il-*proviso* għas-subartikolu (3) tieghu ghandu jithassar.

94. Fit-test Inġliż tal-*proviso* għas-subartikolu (10) ta’ l-artikolu 246 ta’ l-Att prinċipali, minflok il-kliem “the state of in the winding up,” ghandhom jidhlu l-kliem “the state of the winding up.”

Emenda tat-test Inġliż ta’ l-artikolu 246 ta’ l-Att prinċipali.

95. Fit-test Inġliż ta’ l-artikolu 255 ta’ l-Att prinċipali, minflok il-kliem “claims or to be excluded” ghandhom jidhlu l-kliem “claims or are to be excluded”.

Emenda tat-test Inġliż ta’ l-artikolu 255 ta’ l-Att prinċipali.

96. Fit-test Inġliż tas-subartikolu (1) ta’ l-artikolu 257 ta’ l-Att prinċipali, minflok il-kliem “inspection of accounts, according records” ghandhom jidhlu l-kliem “inspection of accounts, accounting records”.

Emenda tat-test Inġliż ta’ l-artikolu 257 ta’ l-Att prinċipali.

97. Fis-subartikolu (1) ta’ l-artikolu 265 ta’ l-Att prinċipali, minflok il-kliem “wara li tkun għaddiet ir-riżoluzzjoni,” ghandhom jidhlu l-kliem “wara d-data tax-xoljiment tal-kumpannija.”

Emenda ta’ l-artikolu 265 ta’ l-Att prinċipali.

98. Minflok il-*proviso* għall-artikolu 266 ta’ l-Att prinċipali ghandu jidhol dan li ġej:

Emenda ta’ l-artikolu 266 ta’ l-Att prinċipali.

“Izda meta l-Qorti tkun ordnat li l-kumpannija tkun stralċjata volontarjament bis-saħħa tad-dispożizzjonijiet tas-subartikolu (3) ta’ l-artikolu 214 ta’ dan l-Att, il-kumpannija għandha titqies li tkun xoljiet mid-data li fiha jkun preżentat ir-rikors għall-istralċ.”.

99. L-artikolu 268 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 268 ta’ l-Att prinċipali.

(a) fit-test Inġliż tas-subartikolu (2) tieghu, minflok il-kliem “A declaration made as in accordance with” ghandhom jidhlu l-kliem “A declaration made in accordance with”;

(b) fit-test Inġliż tas-subartikolu (3) tiegħu.”

(i) minflok il-kliem “wound up voluntarily by nature of the provisions” għandhom jidhlu l-kliem “wound up voluntarily by virtue of the provisions”; u

(ii) minflok il-kliem “to make the declarations referred to” għandhom jidhlu l-kliem “to make the declaration referred to”.

Emenda ta' l-artikolu 270 ta' l-Att prinċipali.

100. Is-subartikolu (3) ta' l-artikolu 270 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “id-diretturi għandhom jagħmlu rikors lill-qorti” għandhom jidhlu l-kliem “kull direttur għandu jagħmel rikors lill-Qorti”; u

(b) minflok il-kliem “għandu jsir mid-diretturi tal-kumpannija sa erbatax-il jum” għandhom jidhlu l-kliem “għandu jsir sa erbatax-il jum”.

Emenda ta' l-artikolu 271 ta' l-Att prinċipali.

101. L-artikolu 271 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “avviż ta' dan” għandhom jidhlu l-kliem “avviż tal-laqgħa”; u

(b) fis-subartikolu (4) tiegħu, minflok il-kliem “fis-subartikolu (1) ta' dan l-artikolu” għandhom jidhlu l-kliem “fis-subartikolu (1) ta' dan l-artikolu, jew jekk il-vakanza tigrigi fil-kariga ta' stralċjarju mahtur mill-Qorti”.

Emenda ta' l-artikolu 274 ta' l-Att prinċipali.

102. L-artikolu 274 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) fit-test Inġliż tas-subartikolu (1) tiegħu, minflok il-kliem “shall therefore call” għandhom jidhlu l-kliem “shall thereupon call”; u

(b) fis-subartikolu (4) tiegħu minflok il-kliem “fl-aħħar tliet snin” u “għall-aħħar tliet snin” għandhom jidhlu rispettivament il-kliem “fit-tliet snin ta' qabel” u “għat-tliet snin ta' qabel”.

103. Fis-subartikolu (2) ta' l-artikolu 279 ta' l-Att prinċipali, minflok il-kliem "id-diretturi tal-kumpannija" għandhom jidhlu l-kliem "kull direttur tal-kumpannija".

Emenda ta' l-artikolu 279 ta' l-Att prinċipali.

104. Minflok is-subartikolu (1) ta' l-artikolu 280 ta' l-Att prinċipali għandu jidhol dan li ġej:

Emenda ta' l-artikolu 280 ta' l-Att prinċipali.

“(1) Il-kredituri fil-laqgħa miżmuma skond l-artikolu 278 ta' dan l-Att, jew f'xi laqgħa wara jistgħu, jekk jidrilhom xieraq, b'riżoluzzjoni jaħtru mhux iktar minn hames rappreżentanti tal-kredituri f'kumitat ta' stralċ, u jekk dak il-kumitat ikun mahtur, il-kontributuri jistgħu b'riżoluzzjoni jaħtru sa hames persuni biex jaġixxu bħala r-rappreżentanti tagħhom fuq il-kumitat.”.

105. Fl-artikolu 282 ta' l-Att prinċipali, minflok il-kliem "riżenja jew xort'ohra" għandhom jidhlu l-kliem "riżenja jew tneħħija liema stralċjarju ma jkunx mahtur mill-Qorti,”.

Emenda ta' l-artikolu 282 ta' l-Att prinċipali.

106. Minflok is-subartikolu (3) ta' l-artikolu 283 ta' l-Att prinċipali, għandu jidhol dan li ġej:-

Emenda ta' l-artikolu 283 ta' l-Att prinċipali.

“(3) Membru jew membri li jkollhom mhux inqas minn proporzjon ta' minn għaxra wiehed tal-kapital azzjonarju mħallas bil-jedd tal-vot f'laqgħat ġenerali tal-kumpannija jew kreditur jew kredituri li jirappreżentaw mhux inqas minn għaxra wiehed fil-valur tal-kredituri tal-kumpannija jistgħu, f'kull żmien, b'talba bil-miktub jehtiegu lill-istralċjarju biex isejjah laqgħa ġenerali tal-kumpannija, jew laqgħa tal-kredituri, skond il-każ. Dik it-talba għandha tkun iffirmata minn dak il-membru jew dawk il-membri, jew minn dak il-kreditur jew dawk il-kredituri, skond il-każ, u għandhom jagħtu l-għanijiet tal-laqgħa.”.

107. L-artikolu 289 ta' l-Att prinċipali għandu jġi emendat kif ġej:-

Emenda ta' l-artikolu 289 ta' l-Att prinċipali.

(a) id-dispożizzjoni preżenti għandha tiġi numerata mill-gdid bħala subartikolu (1); u

(b) minnufih wara s-subartikolu (1) kif numerat mill-gdid għandhom jidhlu s-subartikoli (2) u (3) godda li ġejjin:-

“(2) Vakanza li tirriżulta mill-mewt jew riżenja ta' stralċjarju mahtur mill-Qorti tista', fuq rikors ta' xi membru, kreditur jew kontributorju, timtela mill-Qorti.

(3) Il-persuna li tkun għamlet ir-rikors lill-Qorti skond is-subartikolu (2) ta' dan l-artikolu għandha, fil-każ ta' vakanza li tirrizulta mill-mewt ta' stralċjarju, tgharraf lir-Registratur bil-mewt ta' l-istralċjarju.”.

Emenda ta' l-artikolu 290 ta' l-Att prinċipali.

108. Fis-subartikolu (1) ta' l-artikolu 290 ta' l-Att prinċipali, minflok il-kliem “fi żmien erbatax-il jum wara li jkun aċċetta l-hatra tiegħu” għandhom jidbly l-kliem “fi żmien erbatax-il jum mill-hatra tiegħu”.

Emenda ta' l-artikolu 292 ta' l-Att prinċipali.

109. L-artikolu 292 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) is-subartikoli (2) u (3) tiegħu għandhom ikunu numerati mill-ġdid bħala (4) u (5) rispettivament;

(b) minnufih wara s-subartikolu (1) tiegħu għandu jidhol is-subartikolu (2) ġdid li ġej:

“(2) L-istralċjarju jista' jagħmel rikors lill-Qorti sabiex tistabbilixxi ż-żmien jew ż-żminijiet li fihom il-kredituri għandhom jippruvaw id-djun jew il-pretensjonijiet tagħhom jew li jkunu esklużi mill-benefiċċju ta' kull tqassim li jsir qabel ma jkunu ppruvati dawk id-djun.”; u

(c) fis-subartikolu (3) tiegħu kif numerat mill-ġdid, minflok il-kliem “fis-subartikolu (1) ta' dan l-artikolu” għandhom jidhlu l-kliem “fis-subartikoli (1) u (2) ta' dan l-artikolu.”.

Emenda ta' l-artikolu 298 ta' l-Att prinċipali.

110. Minflok il-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 298 ta' l-Att prinċipali, għandu jidhol dan li ġej:

“(b) F'laqgħa tal-kontributorji rizzoluzzjoni titqies li tkun għaddiet meta tlett kwarti fil-valur tal-kontributorji preżenti personalment jew bi prokura, u li jivvotaw fuq ir-rizzoluzzjoni, jew b'maġġoranza fil-valur tal-kontributorji kollha, ikunu vvotaw favur ir-rizzoluzzjoni. Il-valur tal-kontributorji għandu jkun stabbilit skond in-numru ta' voti mogħtija lil kull kontributor bil-memorandum jew bl-istatut tal-kumpannija jew, jekk il-memorandum u l-istatut ma jgħidu xejn dwar dan, skond il-valur tar-responsabbilta' rispettiva tagħhom biex jikkontribwixxu.”.

Żieda ta' artikoli godda 300A u 300B ma' l-Att prinċipali.

111. Minnufih wara l-artikolu 300 ta' l-Att prinċipali għandhom jiziedu l-artikoli godda 300A u 300B li ġejjin:

“Rettifikazzjoni ta’ Skema ta’ Distribuzzjoni.

300A. (1) Meta fil-kors ta’ l-istralċ ta’ kumpannija l-istralċjarju ma jkunx ikkalkula xi assi tal-kumpannija, u l-isem tal-kumpannija jkun tħassar minn fuq ir-registru, kull persuna nteressata tista’ b’rikors, titlob lill-Qorti biex tordna r-rettifika ta’ l-iskema ta’ distribuzzjoni, u l-Qorti tista’, meta jidhrilha xieraq, tordna dik ir-rettifika taħt dawk il-pattijiet u l-kondizzjonijiet li jidhrilha xieraq.

(2) Meta kumpannija tkun għamlet distribuzzjoni lill-azzjonisti tagħha skond skema ta’ distribuzzjoni u l-isem ta’ dik il-kumpannija jkun tħassar minn fuq ir-registru, kull kreditur li l-pretensjoni tiegħu kontra l-kumpannija ma tkunx għiet sodisfatta jista’, b’rikors, jagħmel talba għal dak li hu dovut lil minghand l-azzjonisti tal-kumpannija *pro rata* għall-ammont li jkun riċevut mill-azzjonisti mad-distribuzzjoni, u l-Qorti tista’, meta tikkunsidra hekk xieraq, tordna li jsiru hlasijiet mill-azzjonisti lil dak il-kreditur taħt dawk il-pattijiet u l-kondizzjonijiet li jidhrilha xieraq:

Iżda f’ebda każ ma għandu azzjonist ikun meħtieġ li jikkontribwixxi għal ammont li jkun iżjed minn dak riċevut minnu mad-distribuzzjoni.

(3) Ma jista’ jsir ebda rikors taħt dan l-artikolu wara li jgħaddu hames snin mid-data li fiha l-isem tal-kumpannija jkun tħassar mir-registru.

Restituzzjoni ta’ isem ta’ kumpannija fuq ir-registru.

300B. (1) Meta kumpannija tkun tħassret minn fuq ir-registru, kull persuna interessata tista’ b’rikors, titlob lill-Qorti biex tordna hi li l-isem tal-kumpannija jkun restitwit fuq ir-registru u li l-istralċ jerga’ jinfetaħ.

(2) Meta, fuq rikors magħmul taħt is-subartikolu (1) ta’ dan l-artikolu, il-Qorti tkun sodisfatta li l-istralċ u t-tħassir tal-kumpannija jkun vizzjat bi frodi jew b’illegalita’ ta’ natura materjali, il-Qorti tista’ tordna li l-isem tal-kumpannija jkun restitwit fuq ir-registru u li l-istralċ jerga’ jinfetaħ għal dawk ir-raġunijiet u għal dak iż-żmien li l-Qorti tispeċifika fid-deċiżjoni tagħha, u l-Qorti għandha tagħti dawk id-direttivi u timponi dawk il-kondizzjonijiet li jidhrilha xieraq.

(3) Il-Qorti għandha tilqa’ t-talba biss jekk tkun sodisfatta li dak ikun l-uniku rimedju li jkun hemm.

(4) Fid-deċiżjoni tagħha l-Qorti għandha wkoll tiddeċiedi jekk l-ordnijiet u d-direttivi tagħha jkunux effettivi

favur il-persuni kollha jew jekk ghandhomx japplikaw limitament ghal persuni speċifiki ndikati fid-deċiżjoni.

(5) Ma jista' jsir ebda rikors taht dan l-artikolu wara li jghaddu hames snin mid-data li fiha l-isem tal-kumpannija jkun thassar mir-registru.”.

Emenda ta' l-
artikolu 303 ta' l-
Att prinċipali.

112. Minflok l-artikolu 303 ta' l-Att prinċipali ghandu jidhol dan li ġej:-

“303 (1) Kull privileġġ, ipoteka jew piż iehor, jew trasferiment jew disponiment ta' proprjeta' jew jeddijiet, u kull hlas, eżekuzzjoni jew att iehor dwar proprjeta' jew jeddijiet maghmula mill-kumpannija jew kontriha, u kull obligazzjoni li tidhol fiha l-kumpannija, fi żmien sitt xhur qabel ix-xoljiment tal-kumpannija ghandhom jitqiesu li huma preferenza bi frodi kontra l-kredituri taghha, kemm jekk ikunu ta' xorta gratuwita jew jekk ikunu ta' xorta oneruża jekk jikkostitwixxu transazzjoni taht il-valur jew jekk tinghata preferenza, kemm-il darba l-persuna li favur taghha jkunu saru ma ttiprovax li ma kenitx taf u ma kellhiex raġuni taħseb li l-kumpannija kienet x'aktarx se tkun xolta minhabba insolvenza, u fil-każ li l-kumpannija tkun hekk xolta kull preferenza bi frodi tkun nulla.

(2) Għall-finijiet ta' dan l-artikolu –

(a) kumpannija taghmel transazzjoni taht il-valur jekk:

(i) il-kumpannija taghti rigal jew xort'ohra taghmel transazzjoni b'kondizzjonijiet li jipprovdu li l-kumpannija ma tircievi ebda konsiderazzjoni; jew

(ii) il-kumpannija taghmel transazzjoni għal konsiderazzjoni li l-valur taghha, fi flus jew valur ta' flus, ikunu b'mod sinifikanti inqas mill-valur fi flus jew mill-valur ta' flus tal-konsiderazzjoni provduta mill-kumpannija;

(b) kumpannija taghti preferenza lil persuna jekk:

(i) dik il-persuna tkun wahda mill-kredituri jew garanti ta' xi dejn jew passiv iehor tal-kumpannija; u

(ii) il-kumpannija tagħmel xi haġa jew thalli li ssir xi haġa li, f'kull każ, ikollha l-effett li tqiegħed lil dik il-persuna f'qagħda li, fil-każ li l-kumpannija tmur għal stralċ ta' insolvenza, tkun f'qagħda aħjar milli kienet tkun kieku dak l-egħmil jew nuqqas ma jkunx sar.”.

113. Fis-subartikolu (2) ta' l-artikolu 305 ta' l-Att prinċipali, minflok il-kliem “li fiha il-kumpannija tkun xolta” għandhom jidhlu l-kliem “tax-xoljiment tal-kumpannija kif stabbilit skond id-dispożizzjonijiet ta' dan l-Att.”.

Emenda ta' l-artikolu 305 ta' l-Att prinċipali.

114. Fis-subartikolu (1) ta' l-artikolu 322 ta' l-Att prinċipali, minflok il-kliem “jibgħat lir-registratur dikjarazzjoni” għandhom jidhlu l-kliem “jibgħat lir-Registratur għar-registrazzjoni dikjarazzjoni”.

Emenda ta' l-artikolu 322 ta' l-Att prinċipali.

115. Minflok l-artikolu 325 ta' l-Att prinċipali għandu jidhol dan li ġej:-

Emenda ta' l-artikolu 325 ta' l-Att prinċipali.

“325. (1) Meta r-Registratur ikollu raġuni biżżejjed biex jahseb li kumpannija ma tkunx qed tmexxi negozju jew ma tkunx qed topera, dan jista' jibgħat lill-kumpannija ittra bil-posta fejn jistaqsi jekk il-kumpannija tkunx qed tmexxi negozju jew tkunx qed topera.

(2) Jekk ir-Registratur jirċievi twegħiba fis-sens li l-kumpannija ma tkunx qed tmexxi negozju jew ma tkunx qed topera, jew jekk ma jirċevix twegħiba fi żmien xahar minn meta jkun bagħat l-ittra, dan jista' jibgħat lill-kumpannija bil-posta u jipubblika avviż fil-Gazzetta u f'gazzetta li tohrog kuljum li ċ-ċirkolazzjoni tagħha tkun għal kollox jew prinċipalment f'Malta li, f'egħluq tliet xhur mid-data ta' l-aħħar publikazzjoni ta' l-imsemmi avviż, l-isem tal-kumpannija għandu, kemm-il darba qabel ma tintwerix raġuni biex isir kuntrarju jew jekk ir-Registratur ikun sodisfatt li hemm raġunijiet biżżejjed biex ma jipproċedix bit-thassir, jithassar minn fuq ir-registru, u l-attiv tal-kumpannija jgħaddi f'idejn il-Gvern ta' Malta.

(3) Jekk, f'xi każ fejn kumpannija tkun qed tiġi stralċjata volontarjament, ir-Registratur ikollu raġuni biżżejjed biex jahseb jew li ebda stralċjarju ma jkun qed jaġixxi jew li l-affarijiet tal-kumpannija jkunu stralċjati għal kollox, u li l-prospetti li huma meħtieġa li jsiru mill-istralċjarju skond l-artikolu 322 ta' dan l-Att ikunu tard b'sitt xhur jew iktar, ir-Registratur jista' jipubblika fil-Gazzetta u f'gazzetta li tohrog

kuljum li ċ-ċirkolazzjoni tagħha tkun għal kollox jew prinċipalment f'Malta, avviż li f'egħluq tliet xhur mill-aħħar pubblikazzjoni ta' l-imsemmi avviż, l-istralċ tal-kumpannija għandu, kemm-il darba qabel ma tintweriex raġuni biex isir kuntrarju, jitqies li jkun ġie mitmum u konsegwentament li l-isem tal-kumpannija jithassar minn fuq ir-registru. Ir-Registatur għandu jiehu hsieb jibghat bil-posta kopja ta' l-imsemmi avviż lill-kumpannija u lill-istralċjarju, jekk ikun hemm. Malli jagħlaq l-imsemmi żmien ta' tliet xhur l-istralċ tal-kumpannija għandu, kemm-il darba qabel ma tintweriex raġuni biex isir kuntrarju, jitqies li jkun ġie mitmum u r-Registatur għandu jhassar l-isem tal-kumpannija minn fuq ir-registru u l-attiv tal-kumpannija jgħaddi f'idejn il-Gvern ta' Malta.

(4) Jekk membru jew kreditur tal-kumpannija, jew xi persuna oħra li fil-fehma tal-Qorti jkollha interess li thossha aggravata bil-fatt li l-isem tal-kumpannija jkun thassar minn fuq ir-Registru bis-saħħa ta' dan l-artikolu, il-Qorti, fuq rikors magħmul mill-membri jew kreditur jew minn dik il-persuna l-oħra, qabel ma jgħaddu hames snin mill-pubblikazzjoni ta' l-avviż tat-thassir provdut fis-subartikoli (2) u (3) ta' dan l-artikolu, tista', jekk tkun sodisfatta li jkun xieraq li l-isem tal-kumpannija jerga' jidhol fir-registru, tordna li dak l-isem jerga' jidhol fir-registru, u mal-konsenja ta' kopja uffċjali ta' l-ordni mir-Registatur tal-Qorti Superjuri lir-Registatur għar-registrazzjoni, il-kumpannija għandha titqies li kompliet bl-eżistenza tagħha daqslikieku isimha ma kienx thassar; u l-Qorti tista' bl-ordni tagħha tagħti dawk id-direzzjonijiet u tagħmel dawk il-provvedimenti li jidhrilha xierqa biex il-kumpannija u l-persuni l-oħra kollha jitqieghdu fl-istess pożizzjoni kemm jista' jkun viċin dik li kieku l-isem tal-kumpannija ma jkunx thassar. Ir-Registatur għandu minnufih jgħaddi biex jippublika avviż fil-Gazzetta u f'gazzetta li tohroġ kuljum li ċ-ċirkolazzjoni tagħha tkun għal kollox jew prinċipalment f'Malta u l-isem tal-kumpannija jerga' jidhol fir-registru.

(5) Avviż mibghut taht dan l-artikolu jista' jiġi ndirizzat lill-istralċjarju fil-post tan-negożju jew fl-indirizz tiegħu l-aħħar magħruf, u ittra jew avviż li għandu jintbagħat lil kumpannija għandu jiġi ndirizzat lill-kumpannija fl-uffċċju registrat tagħha.

(6) Minkejja li l-isem tal-kumpannija jkun thassar minn fuq ir-registru skond id-dispożizzjonijiet ta' qabel dan l-

artikolu, ir-responsabbilita', jekk il-każ, ta' kull direttur jew uffiċjal ieħor tal-kumpannija u ta' kull membru tal-kumpannija ghandha tkompli u tista' tiġi nfurzata daqsliekeku l-isem tal-kumpannija ma jkunx thassar mir-registru.

(7) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 429 ta' dan l-Att, id-dispożizzjonijiet ta' dan l-artikolu japplikaw ghal kumpannija li x-xoljiment u l-istralċ konsegwenzjali tagħha jkunu regolati bl-Ordinanza.”.

116. Il-paragrafu (a) tas-subartikolu (5) ta' l-artikolu 327 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:-

Emenda ta' l-artikolu 327 ta' l-Att prinċipali.

(a) minflok il-kliem “is-subartikolu (4)” ghandhom jidhlu l-kliem “is-subartikolu (5)”;

(b) minflok il-kliem “is-sub-paragrafu (iv)” ghandhom jidhlu l-kliem “is-sub-paragrafu (iii)”.

117. Minnufih wara l-artikolu 329 ta' l-Att prinċipali ghandhom jidhlu l-artikoli godda 329A u 329B:

Żieda ta' artikoli godda 329A u 329B ma' l-Att prinċipali.

“Dmirijiet ta' diretturi meta l-kumpannija ma tkunx tista' thallas id-djun.

329A. Meta d-diretturi ta' kumpannija jsiru jafu li l-kumpannija ma tkunx tista' thallas id-djun tagħha, jew aktarx ikun imminenti li ma tkunx tista' thallas id-djun tagħha, dawn ghandhom minnufih, mhux iktar tard minn tletin jum minn meta jkunu saru jafu bil-fatt, isejjhu kif imiss laqgħa ġenerali tal-kumpannija bil-mezz ta' avviż f'dak is-sens ghal data li ma tkunx iktar tard minn erbgħin jum mid-data ta' l-avviż sabjex tkun riveduta l-qagħda tal-kumpannija u sabjex jiġi deċiż x'passi ghandhom jittieħdu biex tkun trattata s-sitwazzjoni, magħduda konsiderazzjoni dwar jekk il-kumpannija ghandhiex tiġi xolta jew, jekk applikabbli, jekk il-kumpannija ghandhiex tagħmel Rikors biex Kumpannija tirkupra skond l-artikolu 329B ta' dan l-Att.

Proċedura biex kumpannija tirkupra.

329B. (1) (a) Meta kumpannija ma tkunx tista' thallas id-djun tagħha, jew x'aktarx ikun imminenti li ma tkunx tista' thallas id-djun tagħha, jista' jsir Rikors biex Kumpannija Tirkupra lill-Qorti fejn issir talba lill-Qorti biex il-kumpannija titqiegħed taħt Proċedura biex Kumpannija Tirkupra u biex taħtar Kontrollur Speċjali biex jieħu kontroll hu, biex jimmaniġġa u jamministra n-negozju tal-kumpannija ghal żmien speċifikat mill-Qorti sugġett ghal-limitazzjoni mposta bil-paragrafu (2) ta' dan is-subartikolu.

(b) Rikors biex Kumpannija Tirkupra, hawnhekk iżjed 'il quddiem f' dan l-artikolu msejjaħ "Rikors" għandu jsir b' rikors magħmul minn:

(i) jew mill-kumpannija wara riżoluzzjoni straordinarja; jew

(ii) mid-diretturi wara deċiżjoni tal-bord tad-diretturi; jew

(iii) mill-kredituri tal-kumpannija li jirrapreżentaw iktar minn nofs il-valur tal-kredituri tal-kumpannija.

(c) Il-hatra ta' Kontrollur Speċjali għandha ssir għal żmien ta' mhux iktar minn tnax-il xahar; iżda, jekk f' xi żmien li matulu jkun hemm fis-seħħ Proċedura biex Kumpannija Tirkupra, il-Qorti tista', jekk tintwera raġuni xierqa testendi ż-żmien b'dak iż-żmien jew żminijiet addizzjonali li b'kollox ma jeiċċedux tnax-il xahar iehor.

(d) Id-dispożizzjonijiet ta' dan l-artikolu japplikaw għal:

(i) il-kumpanniji kollha li ma jikkwalifikawx bħala "kumpanniji żgħar" skond l-artikolu 185 ta' dan l-Att; u

(ii) "kumpanniji żgħar" li jkollhom iktar minn valur ta' LM200,000 dovut lill-kredituri.

(e) Il-Ministru jista' b'regolamenti, jemenda jew jissostitwixxi l-kriterji murija fil-paragrafu (d) tas-subartikolu (1) ta' dan l-artikolu sabiex jistabbilixxi l-applikabbilita' tad-dispożizzjonijiet ta' dan l-artikolu.

(f) Ebda Rikors ma jista' jsir minn kumpannija wara li tkun giet xolta volontarjament jew jekk, dwar l-istess kumpannija, ikun digà sar ordni għal stralċ.

(2)(a) Rikors għandu, kemm hu possibli, jagħti l-fatti, iċ-ċirkostanzi u r-raġunijiet kollha li wasslu biex il-kumpannija ma tkunx tista' jew ikunu imminenti li ma tkunx tista', thallas id-djun tagħha, flimkien ma' dikjarazzjoni mir-rikorrenti ta' kif il-qagħda finanzjarja u ekonomika tal-kumpannija tkun tista' tittejjeb fl-interessi tal-kredituri u ta'

l-impjegati tagħha u tal-kumpannija nnifisha bhala azjenda vijabbli.

(b) Meta Rikors ikun magħmul mill-kumpannija, għandhom ikunu annessi miegħu d-dokumenti li ġejjin:

(i) dikjarazzjoni ta' l-attiv u l-passiv tal-kumpannija magħmula sa data li ma tkunx qabel id-data tar-Rikors b'iktar minn xahrejn; u

(ii) lista li jkun fiha l-ismijiet u l-indirizzi tal-kredituri flimkien ma' indikazzjoni ta' l-ammont dovut lil kull wiehed minn dawk il-kredituri u s-sigurta', jekk ikun hemm, tal-kredituri rispettivi.

(c) Meta Rikors isir mill-kredituri, għandu jkollu miegħu d-dokumentazzjoni u d-dikjarazzjonijiet xierqa b'sustenn.

Setgħa tal-Qorti.

(3)(a) Meta tisma' Rikors, il-Qorti tista', wara li teżamina ċ-ċirkostanzi kollha u l-azzjonijiet li jkun hemm, jew tiċhad ir-Rikors jew tohrog Ordni biex Kumpannija Tirkupra, hawnhekk iżjed 'il quddiem f'dan l-artikolu wkoll imsemmi "Ordni", fejn tilqa' t-talba u tqiegħed lill-kumpannija taht Proċedura biex Kumpannija Tirkupra.

(b) Il-Qorti għandha tilqa' r-Rikors, u skond dan tqiegħed lill-kumpannija taht Proċedura biex Kumpannija Tirkupra, biss jekk -

(i) tkun sodisfatta li l-kumpannija ma tkunx tista', jew x'aktarx ikun imminenti, li ma tkunx tista', thallas id-djun tagħha skond kif imfisser fis-subartikolu (5) ta' l-artikolu 214 ta' dan l-Att; u

(ii) jekk tikkunsidra li l-Ordni x-aktarx jilhaq xi wiehed mill-ghanijiet li ġejjin:

- li l-kumpannija tibqa' azjenda vijabbli għal kollox jew f'parti; jew

- is-sanzjonament taht l-artikolu 327 ta' dan l-Att ta' kompromess jew arrangament bejn il-kumpannija u kull kredituri jew membri tagħha.

(c) Fl-egħmil ta' Ordni, il-Qorti għandha tikkunsidra:

(i) l-ahjar interessi tal-kredituri, ta' l-azzjonisti u tal-kumpanija nnifisha, u l-possibbiltà li thares l-impjiegi kif ikun jidher raġonevoli u finanzjarjament possibli fiċ-ċirkostanzi; u

(ii) il-kost li jkollu jsir biex tkun adottata Proċedura biex Kumpanija Tirkupra, partikolarment id-drittijiet u l-ispejjeż li jkollhom jithallsu.

(d) Meta kumpanija jkollha fil-pussess tagħha liċenza jew awtorizzazzjoni oħra taht il-liġijiet li jirregolaw il-kummerċ bankarju, l-assigurazzjoni, is-servizzi ta' investiment, istituzzjonijiet finanzjarji jew elenku ta' sigurtajiet *f'exchange* ta' investiment rikonoxxut, il-Qorti m'għandiex tghaddi biex tagħmel Ordni mingħajr ma qabel tkun ikkonsultat ma' l-awtorità kompetenti rilevanti responsabbli mill-issolveljar ta' dik il-kumpanija jew ta' xi attivitajiet tagħha.

(e) Il-Qorti għandha tiddeċiedi jekk tichhadx ir-rikors jew tagħmilx Ordni biex Kumpanija Tirkupra fi żmien ta' mhux iktar minn għoxrin jum tax-xogħol minn meta jkun preżentat ir-rikors.

Effett ta'
Ordni biex
Kumpanija
Tirkupra.

(4) Meta jkun sar Rikors u sakemm ma jigix miċhud, jew matul iż-żmien li fih tkun issehh Proċedura biex Kumpanija Tirkupra:

(a) kull rikors għall-stralċ jew pendent għandu jiegaf;

(b) ebda riżoluzzjoni għax-xoljiment u stralċ konsegwenzjali ma tkun tista' tghaddi jew tinghata effett;

(ċ) l-eżekuzzjoni ta' talbiet ta' xorta monetarja kontra l-kumpanija u kull imghax li xort' oħra jista' jakkumula fuqu għandhom jiegaf;

(d) matul it-titolu ta' kirja, ebda sid il-kera jew persuna oħra li lilha jkollha tithallas il-kera ma tista' tezerċita xi jedd għat-terminazzjoni ta' kirja dwar post li jkun mikri lill-kumpanija minhabba n-nuqqas ta' tharis ta' xi patt jew kondizzjoni tal-kirja tagħha dwar dak il-post, hliet bil-permess tal-Qorti u b'dawk il-kondizzjonijiet li-l-Qorti jidhrilha xierqa li timponi;

(e) ebda passi ohra ma jistgħu jittieħdu biex tiġi nfużzata xi sigurta' fuq il-proprjeta' tal-kumpannija, jew biex jittieħed pussess lura ta' xi oġġetti li jkunu fil-pussess tal-kumpannija taħt xi ftehim ta' *hire-purchase*, ħlief bil-permess tal-Qorti u taħt dawk il-kondizzjonijiet li l-Qorti jidhrilha xierqa li timponi;

(f) ebda att jew mandat kawzjonarju jew eżekuttiv imsemmi fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ma jista' jsir kontra l-kumpannija jew xi proprjeta' tal-kumpannija mingħajr il-permess tal-Qorti u taħt dawk il-kondizzjonijiet li l-Qorti jidhrilha xierqa li timponi; u

(g) ebda proċedimenti ġudizzjarji ma għandhom jinbdew jew jitkomplew kontra l-kumpannija jew il-proprjeta' tagħha ħlief bil-permess tal-Qorti u suġġetti għal dawk il-kondizzjonijiet li l-Qorti jidhrilha xierqa li timponi.

Hatra ta'
Kontrollur
Speċjali.

(5)(a) Fl-Ordni, il-Qorti għandha:

(i) tahtar individwu biex jaġixxi ta' Kontrollur Speċjali u biex jaqdi dawk il-funzjonijiet u setgħat li l-Qorti tista' tafdal u fl-amministrazzjoni u fl-immanzjoni u fl-immanjeta' u n-negozju tal-kumpannija;

(ii) tistabbilixxi dik ir-rimunerazzjoni tal-Kontrollur Speċjali, li l-Qorti jidhrilha xierqa wara li tikkunsidra l-qagħda finanzjarja, in-negozju u l-attiv tal-kumpannija;

(iii) tistabbilixxi ż-żmien, li ma jkunx iktar minn għaxart ijiem tax-xogħol mill-egħmil ta' l-Ordni biex Kumpannija Tirkupra, li fih il-kumpannija għandha tiddepozita somma ta' flus fil-Qorti jew toffri garanzija ohra xierqa jew arrangament ieħor addattat, li, fil-fehma tal-Qorti, ikun biżżejjed biex ikopri r-rimunerazzjoni, u l-ispejjeż tal-Kontrollur Speċjali konnessi mal-hatra tiegħu.

(b) Il-Qorti għandha tahtar bhala Kontrollur Speċjali individwu li l-Qorti tkun aċċertat għas-sodisfazzjon tagħha li jkollu l-kompetenza u l-esperjenza ppruvata fl-immaniġġjar ta' mpreżi kummerċjali, ikun kwalifikat u jkun irid jaċċetta l-hatra, u ma jkollu ebda konflitt ta' nteress dwar il-hatra tiegħu.

(c) Sakemm il-Kontrollur Speċjali jkollu l-kariga, il-fatt tal-hatra tiegħu f'dik il-kariga u ismu shih flimkien ma' l-indirizz tiegħu residenzjali u tan-negozju għandhom jintwerew b'mod ċar fuq kull ittri tan-negozju, formuli ta' ordnijiet, fatturi u kull dokumenti oħra tal-kumpannija.

Setgħat u
dmirijiet tal-
Kontrollur
Speċjali.

(6)(a) Matul iż-żmien li l-Ordni jkun fis-seħh, il-kumpannija għandha tkompli tmexxi l-attivitajiet normali tagħha taht it-tmexxija tal-Kontrollur Speċjali.

(b) Il-Kontrollur Speċjali għandu, kemm jista' jkun malajr mal-hatra tiegħu, jiehu taht il-kustodja jew il-kontroll tiegħu il-proprjeta' kollha tal-kumpannija u minn dak il-hin ikun responsabbli biex jimmanigga u jissorvelja l-attivitajiet, in-negozju u l-proprjeta' tagħha.

(c) Il-Kontrollur Speċjali għandu jeżamina l-attiv, l-affarijiet u l-andament tan-negozju tal-kumpannija u għandu jaċċerta u jivverifika jekk ikunx hemm aspettativa raġonevoli li l-kumpannija tirkupra u li tkompli bhala azjenda vijabbli, għal kollox jew f'parti, u għandu jissottometti rapport inizzjali dwar dan lill-Qorti mhux iktar tard minn xahrejn mid-data tal-hatra tiegħu.

(d) Mal-hatra ta' Kontrollur Speċjali, kull setgħa mogħtija lill-kumpannija, lid-diretturi jew uffiċjali tagħha, b'dan l-Att jew b'xi liġi oħra, jew bil-memorandum jew bl-istatut ta' assoċjazzjoni tal-kumpannija, għandha tiġi sospiża kemm-il darba ma jinkisibx il-kunsens tal-Kontrollur Speċjali biex tiġi eżerċita setgħa bhal dik, liema kunsens jista' jingħata jew b'mod generali jew dwar każ jew każijiet partikolari, u ma tista' tissejjah ebda laqgħa tal-kumpannija hlief bil-permess tal-Qorti u skond dawk il-kondizzjonijiet li l-Qorti jidhrilha xierqa li timponi.

(e) Matul iż-żmien li fih tkun isseħh Proċedura biex Kumpannija Tirkupra, kull dmir mogħti lill-kumpannija, lid-diretturi jew uffiċjali tagħha, b'dan l-Att jew xi liġi oħra, jew bil-memorandum jew statut ta' assoċjazzjoni tal-kumpannija, jgħaddi għand u jkun eżerċitat mill-Kontrollur Speċjali.

(f) B' zieda u mingħajr hsara għal dmir ieħor mogħti lill-Kontrollur Speċjali mill-Qorti jew b' dan l-Att jew b' xi liġi oħra, il-Kontrollur Speċjali jkun obligat li jaqdi l-

funzjonijiet tiegħu b'mod ġust u ekwu meta jqis l-aħjar interessi tal-kumpanija, ta' l-azzjonisti u tal-kredituri tagħha flimkien ma' l-interessi ta' kull parti oħra nteressata.

B'zieda mal-funzjonijiet u setgħat oħra mogħtija lilu mill-Qorti, il-Kontrollur Speċjali jkollu s-setgħa:

(i) wara li jgħarraf lill-Qorti, bil-mezz ta' nota, inehhi kull direttur tal-kumpanija u li jahtar kull individwu biex tkun *manager*;

(ii) iqabbad persuni biex jagħtu servizzi professjonali u amministrattivi, u li jikkommetti lill-kumpanija għall-hlas tad-drittijiet u spejjeż rispettivi tagħhom; jew

(iii) li jsejjah kull laqgħa tal-membri jew tal-kredituri tal-kumpanija.

Kontrollur Speċjali ma għandux, mingħajr l-awtorizzazzjoni espressa tal-Qorti:

(i) idahħal lill-kumpanija għal xi obbligu ta' iktar minn sitt xhur; jew

(ii) itemm l-impieg ta' impjegati tal-kumpanija li jidhirlu meħtieġa sabiex jiżgura l-kontinwazzjoni tal-kumpanija bħala azzjenda vijabbli għal kollox jew f'parti; jew

(iii) ibiegh jew xort'oħra jiddisponi minn proprjeta' tal-kumpanija lilu innifsu, jew lill-parti l-oħra fiż-żwieġ jew lil qraba u d-dispożizzjonijiet ta' l-artikolu 306 ta' dan l-Att għandhom japplikaw daqslikieku referenzi lill-istralċjarju kienu referenzi lill-Kontrollur Speċjali.

Il-Qorti tista', fuq it-talba tal-Kontrollur Speċjali, u jekk tintwera raġuni ġusta, testendi l-hatra u l-funzjonijiet u s-setgħat relattivi tiegħu għal kull kumpanija li tkun jew kumpanija grupp relattivament għall-kumpanija li tkun tqegħdet taħt Proċeduri biex Kumpanija Tirkupra, iżda, sakemm jista' jkun, il-Qorti għandha, qabel ma tagħmel hekk, tisma' x' għandhom x' jgħidu d-diretturi, jew uħud minnhom, ta' dik il-kumpanija grupp, kif jidhirlha xieraq.

Laqgħa ta' kredituri u membri.

(7)(a) Fi żmien xahar mill-hatra tiegħu, il-Kontrollur Speċjali għandu jsejjah laqgħa jew laqgħat tal-kredituri u membri, sew separatament kemm flimkien, kif jidhirlu xieraq, sabiex -

(i) iquieghed quddiemhom għall-informazzjoni u revizzjoni tagħhom dikjarazzjoni komprensiva ta' l-affarijiet tal-kumpannija flimkien ma' proposti preliminari fuq il-prospetti u t-tmexxija futura tal-kumpannija; u

(ii) jahtar kumitat kongunt ta' kredituri u membri, li jikkonsisti f'mhux iktar minn tliet kredituri u mhux iktar minn tliet membri, biex jagħti dawk il-pariri u ghajjnuna li l-Kontrollur Speċjali jista' jehtieg fit-tmexxija ta' l-affarijiet, negozju u proprjetà tal-kumpannija u biex tirkupra bhala azzjenda vijabbli.

(b) Mhux inqas minn erbatax-il jum jingħataw biex issir xi laqgħa bħal dik, u l-Kontrollur Speċjali għandu jibgħat kopja ta' l-avviż li jsejjah il-laqgħa lil kull diretturi u uffiċjali tal-kumpannija, inklużi persuni li kienu diretturi jew uffiċjali oħra fil-passat, li l-preżenza tagħhom fil-laqgħa, tkun mehtieġa fil-fehma tal-Kontrollur Speċjali.

(ċ) Il-Kontrollur Speċjali għandu jippubblika avviż tal-laqgħat f' gazzetta ta' kuljum b' ċirkolazzjoni għal kollox jew prinċipalment f'Malta, mhux iktar tard minn erbatax-il jum qabel ma tinzamm il-laqgħa.

(d) Meta għal xi raġuni il-kredituri jew il-membri jew it-tnejn ma jaħtrux rappreżentanti tagħhom fuq il-kumitat kongunt tal-kredituri u l-membri, il-Kontrollur Speċjali jista' jkompli fl-eżerċizzju tal-funzjonijiet tiegħu mingħajr dak il-kumitat jew biss b'kumitat tal-kredituri jew membri, skond il-każ.

Negozju frodulenti.

(8)(a) Jekk matul iż-żmien li Proċedura biex Kumpannija Tirkupra tkun fis-seħħ, ikun jidher li xi negozju tal-kumpannija jkun sar bi hsieb li jkun hemm frodi tal-kredituri tal-kumpannija jew għal xi għan frodulenti iehor, il-Qorti tista', fuq rikors tal-Kontrollur Speċjali, jekk hekk jidhirlha xieraq li tagħmel, tiddikjara li kull persuni li xjentement kienu parti fit-tmexxija tan-negozju bil-mod imsemmi jkunu personalment responsabbli, mingħajr limitazzjoni ta' responsabbilita' għad-djun u

responsabbilitajiet kollha jew uħud minnhom tal-kumpannija kif il-Qorti tista' tordna.

(b) Meta n-negozju ta' kumpannija jitmexxa bil-hsieb jew għall-ghanijiet imsemmija fil-paragrafu (a) ta' dan is-subartikolu, kull persuna li xjentement kienet parti fit-tmexxija tan-negozju bil-mod kif intqal qabel, tkun hatja ta' reat u tehel, meta tinsab hatja, multa ta' mhux iżjed minn mitt elf lira jew prigunerija ta' mhux iżjed minn hames snin, jew dik il-multa u prigunerija flimkien.

Negozju
hazin.

(9)(a) Id-dispożizzjonijiet ta' dan is-subartikolu għandhom japplikaw meta Proċedura biex Kumpannija Tirkupra tkun fis-seħh u jkun jidher li persuna li tkun direttur tal-kumpannija kienet taf, jew kellha tkun taf, li l-kumpannija ma setgħetx thallas id-djun tagħha jew kien x'aktarx imminenti li ma tkunx tista' thallas id-djun tagħha.

(b) Il-Qorti, fuq rikors tal-Kontrollur Speċjali ta' kumpannija li għaliha japplika dan is-subartikolu, tista' tiddikjara li persuna li tkun direttur kif imsemmi fil-paragrafu (a) ta' dan is-subartikolu, jkollha tagħmel hlas favur l-attiv tal-kumpannija kif il-Qorti jidhrilha xieraq.

(ċ) Il-Qorti m'għandiex tilqa' rikors taht dan is-subartikolu jekk tkun sodisfatta li l-persuna li tkun direttur hadet il-passi kollha li kellha tiehu bil-hsieb li tnaqqas it-telf potenzjali għall-kredituri tal-kumpannija.

(d) Għall-finijiet tal-paragrafu (b) u (ċ) ta' dan is-subartikolu, il-fatti li direttur tal-kumpannija għandu jkun jaf jew jaċċerta, il-konkluzjonijiet li għandu jilhaq u l-passi li għandu jiehu huma dawk li jkunu magħrufa jew aċċertati, jew milhuqa jew mehuda, minn persuna ragonevolment diligenti li jkollha -

(i) kemm it-tagħrif, il-hila u l-esperjenza li b'mod ragonevoli jkunu mistennija minn persuna li tmexxi l-istess fuinjzonijiet li jitmexxew jew li jigu fdati lil dak id-direttur dwar il-kumpannija; u

(ii) it-tagħrif, il-hila u l-esperjenza li jkollu d-direttur.

(e) Għall-finijiet ta' dan is-subartikolu, direttur jinkludi persuna li skond id-direzzjonijiet jew l-istruzzjonijiet tagħha d-diretturi tal-kumpannija soltu jaġixxu.

Tnehhija jew vakanza fil-kariga ta' Kontrollur Speċjali.

(10)(a) Jekk tinholoq vakanza fil-kariga ta' Kontrollur Speċjali minhabba mewt, rizenja jew xort'ohra, il-Qorti għandha tahtar individwu ieħor biex jimla l-vakanza fuq rikors magħmul mill-Kontrollur Speċjali li jkun qed jispicċa, minn kreditur, minn membru, minn direttur, jew mill-Qorti fuq mozzjoni tagħha stess, skond il-każ.

(b) Il-Qorti tista', fuq mozzjoni tagħha stess jew fuq ir-rikors ta' xi membru jew kreditur, tirrevedi, tikkonferma, timmodifika jew tregġa' lura kull għemil jew deċiżjoni tal-Kontrollur Speċjali u tagħtih dawk id-direzzjonijiet jew ordnijiet li jidbriha xierqa jew tneħhi Kontrollur Speċjali jekk tkun sodisfatta li jkunu jeżistu raġunijiet biżżejjed li jiġġustifikaw it-tneħhija tiegħu jew il-hatra ta' Kontrollur Speċjali ieħor.

Rapporti li għandhom jingħataw minn Kontrollur Speċjali.

(11)(a) Fit-tmiem ta' kull perijodu ta' erba' xhur li jibdwex ma' l-egħmil ta' l-Ordni sakemm jispicċa l-hatra tiegħu, il-Kontrollur Speċjali għandu jissottometti lill-Qorti rapport komprensiv bil-miktub tal-proċedimenti ta' l-amministrazzjoni tiegħu u tal-proposti tiegħu dwar il-prospetti biex il-kumpannija tirkupra bħala azjenda vijabbli għal kollox jew f'parti.

(b) Meta l-Kontrollur Speċjali jissottometti lill-Qorti r-rapport imsemmi fil-paragrafu (a) ta' dan is-subartikolu, ir-Registratur tal-Qrati Superjuri għandu minnufih jibgħat kopja tiegħu lir-Registratur għar-registrazzjoni.

Terminazzjoni ta' Ordni biex Kumpannija Tirkupra.

(12)(a) Jekk, matul xi żmien li Proċedura biex Kumpannija Tirkupra tkun fis-seħħ, jirriżulta lill-Kontrollur Speċjali, wara konsultazzjoni mal-kumitat kongunt tal-kredituri u l-membri, li ma jkun se jservi ta' xejn li l-kumpannija tkompli bl-imsemmija Proċedura, il-Kontrollur Speċjali għandu minnufih jaġmel rikors lill-Qorti għat-terminazzjoni tal-Proċedura biex Kumpannija Tirkupra, li jkun fih ir-raġunijiet tiegħu dettaljati u komprensivi għal hekk.

Wara li tirċievi r-rikors magħmul mill-Kontrollur Speċjali għat-terminazzjoni tal-Proċedura biex Kumpannija Tirkupra, il-Qorti tista' tordna li l-kumpannija tkun stralċjata mill-Qorti. Meta jsir l-ordni għal stralċ, kopja tiegħu għandha

tkun mibghuta minnufih mir-Registratur tal-Qorti Superjuri lir-Registratur ghar-registrazzjoni.

(b) Jekk, f'xi żmien li matulu Proċedura biex Kumpannija Tirkupra tkun fis-seħħ, jirriżulta lill-Kontrollur Speċjali, wara konsultazzjoni mal-kumitat kongunt tal-kredituri u l-membri, li l-affarijiet tal-kumpannija jkunu tjiebu b'mod li tkun tista' thallas id-djun tagħha, għandu jagħmel rikors lill-Qorti, li jkun fih ir-raġunijiet dettaljati u komprensivi f'dan is-sens, u jitlob lill-Qorti biex tobrog ordni għat-terminazzjoni tal-Proċedura biex Kumpannija Tirkupra. Fil-każ li l-Qorti tilqa' r-rikors, din għandha tagħmel dawk il-provvedimenti u kondizzjonijiet, li jidhrilha mehtieġa fiċ-ċirkostanzi tal-każ.

(ċ) Jekk, f'xi żmien li matulu Proċedura biex Kumpannija Tirkupra tkun fis-seħħ, id-diretturi tal-kumpannija jew il-membri f'laqgħa generali straordinarja jkunu sodisfatti li l-affarijiet tal-kumpannija jkunu tjiebu b'mod li tkun tista' thallas id-djun tagħha, dawn jistgħu jagħmlu rikors lill-Qorti, li jkollu miegħu d-dokumentazzjoni u l-informazzjoni xierqa b'sustenn, fejn jikkonfermaw li jkunu hekk sodisfatti, u fejn jitolbu lill-Qorti biex tobrog ordni għat-terminazzjoni tal-Proċedura biex Kumpannija Tirkupra, u l-Qorti ma għandiex tgħaddi biex tagħmel ordni fejn tilqa' jew tiċhad ir-rikors qabel ma tisma' lill-Kontrollur Speċjali.

Fil-każ li l-Qorti tilqa' r-rikors, din għandha tagħmel dawk il-provvedimenti u kondizzjonijiet li jidhrilha xierqa fiċ-ċirkostanzi tal-każ.

(d) Fit-tmiem tal-perjodu tal-hatra tiegħu, il-Kontrollur Speċjali għandu jissottometti Rapport Finali bil-miktub lill-Qorti li jkun fih il-fehmiet u r-raġunijiet dettaljati u komprensivi tiegħu jekk il-kumpannija jkollhiex jew le prospetti raġonevoli li tkompli bħala azjenda vijabbli għal kollox jew f'parti u li tkun f'pożizzjoni li thallas id-djun tagħha b'mod regolari fil-futur.

(e) Meta r-Rapport Finali sottomess mill-Kontrollur Speċjali jagħti l-fehma li l-kumpannija jkollha prospetti raġonevoli li tkompli bħala azjenda vijabbli, għal kollox jew f'parti, jew meta jsir rikors lill-Qorti mill-Kontrollur Speċjali taht il-paragrafu (b) ta' dan is-subartikolu, dan għandu wkoll ikollu anness miegħu Pjan ta' Rkuprar li jkun fih il-proposti kollha mehtieġa sabiex il-kumpannija tkun tista' tkompli bħala

azjenda vijabbli, b'dawk l-ispjegazzjonijiet li jkunu mehtieġa biex jingħata effett lil dak l-irkpru, magħduda proposti dwar riżorsi finanzjarji is-sitwazzjoni ta' mpjegati u t-tmexxija futura tal-kumpannija. L-imsemmi Pjan ta' Rkuprar għandu wkoll jispjega l-mod propost għall-hlas tal-kredituri tat-talbiet tagħhom kollha jew proporzjon tagħhom, jekk ikunx intlaħaq kompromess volontarju mal-kredituri kollha, jew jekk ikunx propost li l-Qorti tissanzjona kompromess li ma jkunx approvat mill-kredituri kollha.

(f) Wara li tirċievi r-rikors imsemmi fil-paragrafu (b) ta' dan is-subartikolu jew ir-Rapport Finali u l-Pjan ta' Rkuprar, il-Qorti tista' titlob kull spjegazzjonijiet u kjarifiki li jidhrilha xierqa li għandhom jiġu provduti jew verbalment jew bil-miktub kif il-Qorti tista' tordna.

(g) Il-Qorti tista' jew tiċhad il-Pjan ta' Rkuprar jew tista' taċċettah u tapprovah għal kollox jew f'parti u tista' tehtieġ li jsirulu emendi. Meta l-Qorti tapprova l-Pjan ta' Rkuprar sottomess mill-Kontrollur Speċjali, sew b'emendi jew mingħajrhom kif il-Qorti tista' tordna, il-Pjan ta' Rkuprar ikun effettiv u jorbot il-partijiet interessati kollha għall-finijiet kollha tal-liġi.

Għoti ta'
dokumenti
lir-
Registratur
ghar-
registrazzjoni.

(13)(a) Mas-sottomissjoni ta' Rikors biex Kumpannija Tirkupra, mal-hrug ta' Ordni biex Kumpannija Tirkupra, mal-hatra u mat-tmiem tal-hatra tal-Kontrollur Speċjali u mal-hatra ta' sostitwit tiegħu, is-sottomissjoni ta' rikors għat-terminazzjoni ta' Ordni biex Kumpannija Tirkupra u l-ordni tal-Qorti li tittermina l-Proċedura biex Kumpannija Tirkupra għal xi raġuni, ir-Registratur tal-Qrati Superjuri għandu minnufih jibgħat kopja ta' kull rikors, ordni tal-Qorti jew dokument rilevanti iehor kif issemma' qabel lir-Registratur għar-registrazzjoni.

(b) Ir-Registratur tal-Qorti Superjuri għandu minnufih jibgħat vera kopja tar-Rapport Finali, kif aċċettat mill-Qorti, lir-Registratur għar-registrazzjoni.

(ċ) Minkejja d-dispożizzjonijiet tal-paragrafu (a) u (b) ta' dan is-subartikolu, kopja tal-Pjan ta' Rkuprar, anness mar-Rapport Finali jew mehtieġ li jiġi anness ma' rikors għat-terminazzjoni ta' Ordni biex Kumpannija Tirkupra, ma għandhiex tiġi konsenjata lir-Registratur flimkien ma' dak ir-Rapport jew rikors.

Stralċ mill-Qorti.

(14) Meta, skond xi waħda mid-dispożizzjonijiet ta' dan l-artikolu, il-Qorti tohrog ordni għat-terminazzjoni tal-Proċedura biex Kumpannija Tirkupra fuq il-bażi li l-kumpannija ma għandhix prospetti raġonevoli biex tkompli bħala azjenda vijabbli u mhux se tkun f'qaghda li thallas id-djun tagħha b'mod regolari fil-futur, il-Qorti għandha tordna li l-kumpannija tiġi stralċjata bil-Qorti. Meta jingħata l-ordni għal stralċ, kopja tiegħu għandha tintbagħat mir-Registratur tal-Qorti Superjuri lir-Registratur għar-registrazzjoni.

Setgħa għall-egħmil ta' regolamenti.

(15) Il-Ministru jista' jagħmel regolamenti sabiex ikunu jistgħu jseħhu aħjar kull dispożizzjoni ta' dan l-artikolu.

118. Is-subartikolu (2) ta' l-artikolu 330 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 330 ta' l-Att prinċipali.

(a) minflok il-kliem “f'isem kollettiv jew in akkomandita” għandhom jidhlu l-kliem “f'isem kollettiv jew in akkomandita jew soċjetà limitata”; u

(b) fil-proviso li hemm għalih, minflok il-kliem “tas-soċji akkomanditi ta' soċjetà in akkomandita li l-kapital tagħha ma jkunx maqsum f'azzjonijiet, jew minn għaxra wiehed tal-kapital azzjonarju tas-soċjetà in akkomandita li l-kapital” għandhom jidhlu l-kliem “tas-soċji ta' soċjetà in akkomandita jew soċjetà limitata, li l-kapital tagħha ma jkunx maqsum f'azzjonijiet, jew minn għaxra wiehed tal-kapital azzjonarju tas-soċjetà in akkomandita jew soċjetà limitata, li l-kapital”.

119. Fis-subartikolu (2) ta' l-artikolu 335 ta' l-Att prinċipali, minflok il-kliem “jew soċjetà in akkomandita r-responsabbiltà mhux limitata tas-soċji kollha fis-soċjetà f'isem kollettiv u dik tas-soċji ġenerali fis-soċjetà in akkomandita” għandhom jidhlu l-kliem “jew soċjetà in akkomandita jew soċjetà limitata r-responsabbiltà mhux limitata tas-soċji kollha fis-soċjetà f'isem kollettiv u dik tas-soċji ġenerali fis-soċjetà in akkomandita jew fis-soċjetà limitata”.

Emenda ta' l-artikolu 335 ta' l-Att prinċipali.

120. L-artikolu 336 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 336 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “u in akkomandita” għandhom jidhlu l-kliem “u soċjetajiet in akkomandita jew soċjetajiet limitati”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “ikunu kollha in akkomanditi” għandhom jidhlu l-kliem “ikunu kollha in akkomanditi jew soċjetajiet limitati” u minflok il-kliem “jkunu in akkomanditi” għandhom jidhlu l-kliem “jkunu in akkomanditi jew soċjetajiet limitati”.

Emenda ta' l-
artikolu 342 ta' l-
Att prinċipali.

121. Fis-subartikolu (3) ta' l-artikolu 342 ta' l-Att prinċipali, minflok il-kliem “tkun soċjetà in akkomandita” għandhom jidhlu l-kliem “tkun soċjetà in akkomandita jew soċjetà limitata”.

Emenda ta' l-
artikolu 343 ta' l-
Att prinċipali.

122. Fis-subartikolu (2) ta' l-artikolu 343 ta' l-Att prinċipali, minflok il-kliem “takkwista l-attiv u l-passiv” għandhom jidhlu l-kliem “takkwista l-attiv u l-passiv kollu”.

Emenda ta' l-
artikolu 345 ta' l-
Att prinċipali.

123. Is-subartikolu (6) ta' l-artikolu 345 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem “jiddeċiedu fuq l-abbozz tal-kondizzjonijiet tal-qagħda;” għandhom jidhlu l-kliem “jiddeċiedu fuq l-abbozz tal-kondizzjonijiet tal-qagħda; u”;

(b) fil-paragrafu (b) tiegħu, minflok il-kliem “tal-kumpannija li tkun se takkwista; u” għandhom jidhlu l-kliem “tal-kumpannija li tkun se takkwista.”; u

(ċ) fil-paragrafu (ċ) tiegħu minflok l-ittra “(ċ)” għandhom jidhlu l-kliem “Izda, f'kull każ,”.

Emenda ta' l-
artikolu 354 ta' l-
Att prinċipali.

124. Minflok il-proviso għas-subartikolu (3) ta' l-artikolu 354 ta' l-Att prinċipali, għandu jidhol dan li ġej:

“Izda kull drittijiet li għandhom jithallsu maż-żieda fil-kapital azzjonarju awtorizzat tal-kumpannija li tkun se takkwista jibqgħu dovuti u jkollhom jithallsu.”.

Emenda ta' l-
artikolu 357 ta' l-
Att prinċipali.

125. Fit-tielet proviso għas-subartikolu (1) ta' l-artikolu 357 ta' l-Att prinċipali, minflok il-kliem “li jirreferi għal dik it-taxxa jew drittijiet oħra” għandhom jidhlu l-kliem “li jirreferi għal dawk id-drittijiet”.

Emenda ta' l-
artikolu 358 ta' l-
Att prinċipali.

126. L-artikolu 358 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok in-nota marginali li hemm għalih, minflok il-kliem “l-azzjonijiet kollha li jagħtu l-jedd għall-vot” għandhom jidhlu l-kliem “l-azzjonijiet kollha”;

(b) fis-subartikolu (1) tiegħu, minflok il-kliem “li tkun id-detentur ta' l-azzjonijiet kollha tagħhom li jagħtu l-jedd għall-vot f'laqgħat ġenerali u” għandhom jidhlu l-kliem “li tkun id-detentur ta' l-azzjonijiet kollha tagħhom u”;

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

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “ssehħ l-operazzjoni;” għandhom jidhlu l-kliem “ssehħ l-operazzjoni; u”;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “għandhom japplikaw;” għandhom jidhlu l-kliem “għandhom japplikaw.”; u

(iii) fil-paragrafu (ċ) tiegħu minflok l-ittra “(ċ)” għandhom jidhlu l-kliem “Izda, f’kull każ.”; u

(d) is-subartikolu (4) tiegħu għandu jithassar.

127. L-artikolu 359 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:-

Emenda ta’ l-artikolu 359 ta’ l-Att prinċipali.

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

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “għandhom ikunu pubblikati minnu għall-anqas tliet xhur qabel id-data stabbilita għal-laqgħa ġenerali tal-kumpanniji li jkunu qed jiġu akkwistati li għandha tiddeċiedi dwar l-abbozz tal-kondizzjonijiet ta’ l-akkwist.” għandhom jidhlu l-kliem “għandu jkunu pubblikati minnu.”;

(ii) il-paragrafi (b) u (ċ) tiegħu għandhom jiġu numerati mill-ġdid bħala paragrafi (ċ) u (d) rispettivament; u

(iii) minnufih wara il-paragrafu (a) tiegħu għandu jidhol il-paragrafu (b) ġdid li ġej:

“(b) il-laqgħat ġenerali tal-kumpanniji li jkunu se jiġu akkwistati biex jiddeċiedu l-abbozz tal-kondizzjonijiet ta’ l-akkwist għandhom isiru mhux iktar tard minn tliet xhur mill-pubblikazzjoni msemmija fil-paragrafu (a) tas-subartikolu (1) ta’ dan l-artikolu.”; u

(iv) fil-paragrafu (ċ) tiegħu kif numerat mill-ġdid, minflok il-kliem “fiż-żmien imsemmi fil-paragrafu (a) ta’ dan is-subartikolu” għandhom jidhlu l-kliem “fiż-żmien imsemmi fil-paragrafu ta’ qabel ta’ dan is-subartikolu”;

(b) fil-proviso għas-subartikolu (2) tiegħu, minflok il-kliem “li jispezzjonaw id-dokumenti” għandhom jidhlu l-kliem “li jispezzjonaw u jiksbu kopji tad-dokumenti”; u

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

Emenda ta' l-
artikolu 360 ta' l-
Att prinċipali.

128. L-artikolu 360 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem “kumpanniji godda.” għandhom jidhlu l-kliem “kumpanniji godda; jew”;

(b) minnufih wara l-paragrafu (b) tas-subartikolu (1) tiegħu, għandu jidhol il-paragrafu ġdid li ġej:

“(ċ) qsim b'kombinazzjoni ta' qsim b'akkwist, ma' qsim b'formazzjoni ta' kumpannija waħda jew iktar godda;”;

(ċ) is-subartikoli (4), (5), (6) u (7) tiegħu għandhom jiġu numerati mill-ġdid bħala (5), (6), (7) u (8) rispettivament; u

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

“(4) Qsim b'kombinazzjoni ta' qsim b'akkwist ma' qsim b'formazzjoni ta' kumpannija waħda jew iktar godda hija l-istess bhal operazzjoni deskritta fis-subartikolu (2) ta' dan l-artikolu kombinata ma' l-operazzjoni deskritta fis-subartikolu (3) ta' dan l-artikolu.”.

Emenda ta' l-
artikolu 361 ta' l-
Att prinċipali.

129. Fil-paragrafu (h) tas-subartikolu (2) ta' l-artikolu 361 ta' l-Att prinċipali, minflok il-kliem “id-deskrizzjoni preċiża” għandhom jidhlu l-kliem “id-deskrizzjoni preċiża u dettaljata”.

Emenda tat-test
Ingliz ta' l-artikolu
362 ta' l-Att
prinċipali.

130. Fit-test Ingliz tas-subartikolu (2) ta' l-artikolu 362 ta' l-Att prinċipali, minflok il-kliem “agreed of as the court,” għandhom jidhlu l-kliem “agreed or as the court,”.

Emenda ta' l-
artikolu 363 ta' l-
Att prinċipali.

131. L-artikolu 363 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “l-allokazzjoni ta' l-azzjonijiet.” għandhom jidhlu l-kliem “l-allokazzjoni ta' l-azzjonijiet. Ir-rapport għandu wkoll jiddeskrivi kull diffikultajiet ta' valutazzjoni li jkunu nqalgħu.”;

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

(ċ) is-subartikoli (3) u (4) għandhom jiġu numerati mill-
għdid bhala subartikoli (2) u (3) rispettivament; u

(d) fis-subartikolu (3) kif numerat mill-għdid, minflok il-kliem
“fis-subartikolu (3)” għandhom jidhlu l-kliem “fis-subartikolu (2)”.

132. Fit-tieni proviso għas-subartikolu (3) ta' l-artikolu 368 ta' l-Att prinċipali, minflok il-kliem “il-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 375” għandhom jidhlu l-kliem “il-paragrafu (ċ) tas-subartikolu (2) ta' l-artikolu 375”. Emenda ta' l-artikolu 368 ta' l-Att prinċipali.

133. L-artikolu 370 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 370 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “mibdul skond iċ-ċirkostanzi” għandhom jidhlu l-kliem “mibdul biex jirriflettu ċ-ċirkostanzi”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “l-artikolu 344” għandhom jidhlu l-kliem “l-artikolu 368”.

134. L-artikolu 371 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 371 ta' l-Att prinċipali.

(a) fit-test Inġliż tal-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem “assets, liabilities and obligations” għandhom jidhlu l-kliem “assets, rights, liabilities and obligations”;

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

“Izda kull drittijiet li jista' jkollhom jithallsu maż-żieda tal-kapital azzjonarju awtorizzat tal-kumpanniji riċevituri jibqgħu dovuti u jkollhom jithallsu.”; u

(ċ) minnufih wara s-subartikolu (4) tiegħu għandu jidhol is-subartikolu (5) għdid li ġej:

“(5) Meta l-attiv tal-kumpannija li tkun se tiġi diviża jinkludi proprjeta' immobbli jew jeddijiet dwarhom, id-diretturi tal-kumpanniji riċevituri għandhom jieħdu hsieb li fi żmien xahar mill-bidu fis-sehħ tad-diviżjoni, jkun pubblikat att pubbliku dikjaratorju, li jkun fih deskrizzjoni dettaljata u l-allokkazzjoni tal-proprjeta' immobbli jew jeddijiet dwarhom konsenjati lil kull waħda mill-kumpanniji riċevituri, u vera kopja ta' l-imsemmi att għandha tkun sottomessa lir-Registatur fi żmien erbatax-il jum mill-iskriżzjoni tiegħu fir-Registru Pubbliku.”.

Emenda ta' l-
artikolu 372 ta' l-
Att prinċipali.

135. Minflok il-paragrafu (b) u l-kliem li jġu minnufih warajh ta' l-artikolu 372 ta' l-Att prinċipali, għandu jidhol dan li ġej:

“(b) tkun espert li hu responsabbli biex jagħmel f’isem dik il-kumpannija r-rapport fuq l-abbozz tal-kundizzjonijiet tal-qsim,

u li, minhabba mgieba hazina bir-rieda jew b’negligenza fil-qadi ta’ dmirijietha tohloq danni lil xi azzjonist tal-kumpannija li tkun se tinqasam, tkun responsabbli għal dawk id-danni.”.

Emenda ta' l-
artikolu 373 ta' l-
Att prinċipali.

136. L-artikolu 373 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

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

(i) minflok il-kliem “ta’ l-artikolu 361 ta’ dan l-Att; jew fi żmien tliet xhur” għandhom jidhlu l-kliem “ta’ l-artikolu 361 ta’ dan l-Att, jew fi żmien tliet xhur”;

(ii) minflok il-kliem “r-risoluzzjoni tal-laqgħa generali straordinarja” għandhom jidhlu l-kliem “xi waħda mir-risoluzzjonijiet tal-laqgħat generali straordinarja msemmija fihom”; u

(iii) minflok il-kliem “mir-Registratur fil-Gazzetta;” għandhom jidhlu l-kliem “mir-Registratur;”;

(b) fil-paragrafu (ċ) tiegħu, minflok il-kliem “Registratur permezz ta’ avviż fil-Gazzetta li jgħid,” għandhom jidhlu l-kliem “Registratur li jgħid;” u

(ċ) fil-paragrafu (g) tiegħu, minflok il-kliem “il-qsim ma għandux jibda jsehħ” għandhom jidhlu l-kliem “il-qsim ma jkunx operattiv”.

Emenda ta' l-
artikolu 374 ta' l-
Att prinċipali.

137. L-artikolu 374 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “Id-dispożizzjonijiet ta’ l-artikoli 361, 362, 363,” għandhom jidhlu l-kliem “Id-dispożizzjonijiet ta’ l-artikolu 361, tas-subartikoli (1) sa (5) ta’ l-artikolu 362, ta’ l-artikolu 363;” u

(b) minflok il-proviso għas-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“Iżda l-proviso għas-subartikolu (3) ta’ l-artikolu 371 ta’ dan l-Att għandu jitqies li jirreferi għal dawk id-drittijiet li jista’ jkollhom jithallsu mar-reġistrazzjoni tal-kumpanniji l-godda.”.

138. Il-Kapitolu III tat-Taqsima IX ta’ l-Att prinċipali għandu jiġi numerat mill-ġdid bħala Kapitolu IV.

Numerazzjoni mill-
ġdid tal-Kapitolu III
tat-Taqsima IX ta’ l-
Att prinċipali.

139. Minnufih qabel il-Kapitolu IV tat-Taqsima IX ta’ dan l-Att prinċipali kif numerat mill-ġdid għandu jidhol il-Kapitolu III ġdid li ġej:-

Dhul ta’ Kapitolu
III ġdid tat-Taqsima
IX ta’ l-Att prinċi-
ipali.

“Kapitolu III – Qsim b’kombinazzjoni ta’ qsim b’akkwist ma’ qsim bil-formazzjoni ta’ kumpannija jew kumpanniji oħra godda

Qsim
b’kombinazzjoni
ta’ qsim
b’akkwist
ma’ qsim
bil-
formazzjoni
ta’
kumpanniji
godda.

374 (A) (1) Id-dispożizzjonijiet ta’ l-artikoli 361, 362, 363 tas-subartikoli (1) u (2) ta’ l-artikolu 364 u ta’ l-artikoli minn 365 sa 373 ta’ dan l-Att għandhom japplikaw għal qsim b’kombinazzjoni ta’ qsim b’akkwist ma’ qsim bil-formazzjoni ta’ kumpannija jew kumpanniji oħra godda:

Iżda l-proviso għas-subartikolu (3) ta’ l-artikolu 371 ta’ dan l-Att għandu jitqies li jirreferi wkoll għal dawk id-drittijiet li jista’ jkollhom jithallsu mar-reġistrazzjoni tal-kumpanniji l-godda, meta huwa l-każ.

(2) B’zieda mat-tagħrif speċifikat fis-subartikolu (2) ta’ l-artikolu 361 ta’ dan l-Att, l-abbozz tal-kondizzjonijiet tal-qsim, għandu wkoll jindika l-*istatus*, l-isem u l-uffiċċju registrat tal-kumpannija jew kumpanniji godda.

(3) L-abbozz tal-kondizzjonijiet tal-qsim u, jekk ikunu jinsabu f’dokument separat, l-abbozz tal-memorandum u l-abbozz ta’ l-istatut tal-kumpannija jew kumpanniji godda għandhom ikunu approvati b’rizoluzzjoni straordinarja meħuda f’laqgħa ġenerali tal-kumpannija li tkun se tinqasam u ta’ kull wahda mill-kumpanniji riċevituri.

(4) La l-artikolu 364 u lanqas l-artikolu 365 ta’ dan l-Att, safejn jirreferu għal rapport bil-miktub li jkun sar minn espert wieħed jew iktar, ma għandhom japplikaw dwar kumpanniji godda meta l-azzjonijiet f’dawk il-kumpanniji ikunu allokati lill-azzjonisti tal-kumpannija li tkun se tinqasam fil-proporzjon tas-sehem tagħhom fil-kapital azzjonarju maħrūg ta’ dik il-kumpannija.

(5) Ir-Registratur ghandu, wara li jhassar l-isem tal-kumpannija li tkun se tinqasam minn fuq ir-registru skond id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 370 ta' dan l-Att, jghaddi biex johroġ ċertifikat ta' registrazzjoni għal kull waħda mill-kumpanniji l-godda hekk furmati; li juri l-fatt li l-formazzjoni tagħha kien riżultat tad-diviżjoni.”.

Emenda ta' l-artikolu 375 ta' l-Att prinċipali.

140. L-artikolu 375 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:-

(a) fil-paragrafu (a) tas-subartikolu (3) tiegħu, minflok il-kliem “is-subartikolu (4) ta' l-artikolu 361” għandhom jidhlu l-kliem “is-subartikolu (5) ta' l-artikolu 361”;

(b) minnufih wara l-proviso għall-paragrafu (b) tas-subartikolu (2) tiegħu ghandu jidhol il-proviso ġdid li ġej:

“Izda wkoll, id-dispożizzjonijiet ta' dan il-paragrafu għandhom, dwar il-qsim bil-formazzjoni ta' kumpanniji godda, japplikaw biss għall-kumpannija li tkun se tinqasam;” u

(ċ) minnufih wara s-subartikolu (3) tiegħu ghandu jidhol is-subartikolu (4) ġdid li ġej:

“(4) Id-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 368 ta' dan l-Att ma għandhom japplikaw għal qsim taht dan il-Kapitolu meta magġoranza fin-numru li tirrappreżenta tliet kwarti fil-valur tal-kredituri tal-kumpannija li tkun se tinqasam tkun ftehmiet li turrinunzja għal dik ir-responsabbiltà in *solidum* kif imsemmi fis-subartikolu (3) ta' l-artikolu 368 ta' dan l-Att.”.

Emenda tat-Taqsima XI ta' l-Att prinċipali.

141. Fit-Taqsima XI ta' l-Att prinċipali, maghdud it-titolu tagħha, minflok il-kliem “post tan-negożju” kull fejn jinsabu, għandhom jidhlu f'kull każ il-kliem “fergħa jew post tan-negożju”.

Emenda ta' l-artikolu 385 ta' l-Att prinċipali.

142. L-artikolu 385 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:-

(a) minflok il-paragrafu (b) tas-subartikolu (1) tiegħu ghandu jidhol dan li ġej:

“(b) lista tad-diretturi u segretarji ta' kumpannija, jekk ikun hemm, jew tal-persuni li għandhom l-amministrazzjoni tal-kumpannija barranija, fejn dik il-kumpannija ma jkollhix diretturi jew segretarji ta' kumpannija, u, fil-każijiet kollha,

lista tal-persuni li għandhom ir-rappreżentanza tal-kumpannija barranija. Dawk il-listi għandhom jinkludu l-partikolaritajiet li ġejjin:

(i) fil-każ ta' ndividwu, ismu, l-indirizz tar-residenza normali tiegħu, in-nazzjonalita' tiegħu u l-okkupazzjoni tax-xogħol tiegħu; u

(ii) fil-każ ta' korp ġuridiku, l-isem registrat jew ġuridiku tiegħu u l-uffiċċju registrat jew prinċipali;”;

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

“(ċ) prospett li jkun fih il-partikolaritajiet li ġejjin:-

(i) l-isem li bih il-fergħa jew il-post tan-negozju jkun qed imexxi l-attivitajiet meta dan ikun differenti mill-isem tal-kumpannija barranija;

(ii) l-indirizz tal-fergħa jew post tan-negozju stabbilit f'Malta mill-kumpannija barranija, u meta jkunu ġew stabbiliti iktar minn fergħa waħda jew post tan-negozju wiehed, għandu jingħata l-indirizz tal-fergħa jew post tan-negozju prinċipali;

(iii) l-attivitajiet li se jkunu jitmexxew mill-fergħa jew post tan-negozju stabbilit f'Malta;

(iv) l-ismijiet u l-indirizzi ta' individwu wiehed jew iktar residenti f'Malta li jkunu awtorizzati biex jirrappreżentaw lill-kumpannija barranija fl-attivitajiet tal-fergħa jew post tan-negozju stabbilit f'Malta; u

(v) il-limitu ta' l-awtorita' ta' kull individwu li jaqa' taht is-sub-paragrafu (iv) ta' hawn fuq, magħdud jekk dak l-individwu jkunx awtorizzat li jaġixxi waħdu jew flimkien ma' ohrajn, u fil-każ ta' l-aħhar, l-isem ta' kull persuna li magħha jkun awtorizzat jaġixxi.”; u

(ċ) minnufih wara l-paragrafu (ċ) tas-subartikolu (1) tiegħu, għandu jidhol il-paragrafu (d) ġdid li ġej:

“(d) kemm-il darba ma jkunx ingħata t-tagħrif bid-dokument speċifikat fil-paragrafu (a) tas-subartikolu (1) ta'

dan l-artikolu, prospett li jkun fih il-partikolaritajiet li ġejjin dwar il-kumpannija barranija: -

(i) il-forma ġuridika tal-kumpannija barranija; u

(ii) l-identità tar-registru li fih il-kumpannija barranija tkun registrata u n-numru li bih tkun registrata.”.

Emenda ta' l-artikolu 386 ta' l-Att prinċipali.

143. L-artikolu 386 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

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

“(b) id-diretturi jew segretarju ta' kumpannija jew il-persuni li għandhom l-amministrazzjoni jew ir-rappreżentanza ta' kumpannija barranija, jew il-partikolaritajiet speċifikati taht il-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 385; jew”; u

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

“(c) l-ismijiet jew l-indirizzi ta' l-individwi awtorizzati li jirrappreżentaw kumpannija barranija għall-attivitajiet tal-fergħa jew post tan-negozju stabbilit f'Malta.”.

Emenda ta' l-artikolu 390 ta' l-Att prinċipali.

144. L-artikolu 390 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “barra minn Malta.”, għandhom jidhlu l-kliem “barra minn Malta.”; u

(b) minnufih wara s-subartikolu (1) tiegħu, għandu jidhol il-proviso ġdid li ġej:

“Izda l-imsemmija dispozizzjonijiet ma għandhomx japplikaw għal prospett mahruġ minn detentur ta' liċenzja ta' skema ta' investiment kollettiv skond l-Att dwar Servizzi ta' Investiment u izda wkoll jekk il-hruġ ta' dak il-prospett ihares regoli u regolamenti magħmula taht dak l-Att.”.

Emenda ta' l-artikolu 391 ta' l-Att prinċipali.

145. Fil-paragrafu (b) tas-subartikolu (6) ta' l-artikolu 391 ta' l-Att prinċipali, minflok il-kliem “fil-Borża ta' Malta” għandhom jidhlu l-kliem “*exchange* ta' investiment rikonoxxut”.

146. L-artikolu 395 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 395 ta' l-Att prinċipali.

(a) minflok il-paragrafu (b) tas-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“(b) issir applikazzjoni lill-Awtorita' dwar l-Elenku għall-permess sabiex daww l-azzjonijiet jew l-obbligazzjonijiet ikunu mniżżla f'*exchange* ta' investiment rikonoxxut.”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “mill-Borża ta' Malta” għandhom jidhlu l-kliem “mill-Awtorita' dwar l-Elenku”;
u

(c) fis-subartikolu (3) tiegħu, minflok il-kliem “għal permess lill-Borża ta' Malta” għandhom jidhlu l-kliem “għal permess għal tniżżil f'*exchange* ta' borża rikonoxxuta”.

147. Fis-subartikolu (4) ta' l-artikolu 396 ta' l-Att prinċipali, minflok il-kliem “lill-Borża ta' Malta” għandhom jidhlu l-kliem “*exchange* ta' investiment rikonoxxut”. Emenda ta' l-artikolu 396 ta' l-Att prinċipali.

148. Minnufih wara l-artikolu 399 ta' l-Att prinċipali, għandu jidhol l-artikolu 399A ġdid li ġej:- Zieda ta' artikolu ġdid 399A ma' l-Att prinċipali.

“Għeluq minn kumpannija barranija tal-fergħa jew post tan-negozju tagħha f'Malta.

399A.(1)(a) Kumpannija barranija għandha, fi żmien xahar mill-egħluq tal-fergħa jew tal-post tan-negozju tagħha f' Malta, tagħti lir-Registatur għar-Registrazzjoni avviz ta' dak l-egħluq.

(b) Meta kumpannija barranija, kostitwita jew inkorporata barra minn Malta, li tkun stabbilit fergħa jew post tan-negozju f' Malta, tkun giet xolta jew għal xi raġuni tkun giet stralċjata, din għandha, fi żmien xahar mid-data tax-xoljiment jew mid-data li fiha jibda l-istralċ, tagħti lir-Registatur għar-registrazzjoni prospett fil-forma preskritta li jkun fih il-partikolaritajiet li ġejjin -

(i) deskrizzjoni fil-qosor ta' l-istralċ jew proċedimenti oħra li għalihom tkun giet sugġetta l-kumpannija, li tispeċifika jekk daww il-proċedimenti jammontawx għal proċedimenti ta' insolvenza, jew għal arrangament jew kompożizzjoni, jew għal xi proċedimenti analogi;

(ii) jekk il-kumpanija tkunx giet xolta jew tkunx qed tiġi stralċjata b'ordni tal-qorti;

(iii) jekk il-kumpanija ma tkunx qed tiġi xolta jew stralċjata, bhala riżultat ta' liema azzjoni jkun beda x-xoljiment jew l-istralċ;

(iv) jekk ix-xoljiment jew l-istralċ ikun, instigat :

(a) mill-membri tal-kumpanija barranija;

(b) mill-kredituri tal-kumpanija barranija;
jew

(ċ) minn xi persuna jew persuni ohra, u

(v) id-data li fiha x-xoljiment jew stralċ ikun sar jew ikun se jiġi effettiv.

(ċ) Jekk kumpanija barranija tonqos li thares id-dispożizzjonijiet ta' dan is-subartikolu, l-istralċjarju jew kull ufficjal jew agent tal-kumpanija, skond il-każ, li jkun naqas jista' jehel penali u, fil-każ ta' nuqqas kontinwu, penali ohra ghal kull jum li matulu jkompli n-nuqqas.

(2)(a) Persuna mahtura biex tkun stralċjarju ta' kumpanija barranija għandha, fi żmien xahar mid-data tal-hatra taghha, taghti lir-Registratur għar-registrazzjoni prospett fil-forma preskritta li jkun fih il-partikolaritajiet li ġejjin -

(i) isimha, l-indirizz tar-residenza taghha u l-okkupazzjoni tan-negozju jew professjonali taghha;

(ii) id-data tal-hatra taghha; u

(iii) deskrizzjoni tas-setgħat taghha flimkien ma' spjegazzjoni safejn daww is-setgħat ikunu miksuba xort'ohra barra mil-liġi ġenerali jew mill-kostituzzjoni tal-kumpanija.

(b) L-istralċjarju ta' kumpanija barranija għandu, fi żmien xahar mit-tmiem ta' l-istralċ tal-kumpanija barranija, jaghti lir-Registratur għar-registrazzjoni, prospett fil-forma preskritta li tavzah b' dak it-tmiem.

(ċ) Jekk l-istralċjarju jonqos li jhars xi waħda mill-htigijiet tal-paragrafi (a) u (b) ta' dan is-subartikolu jista' jehel penali u, għal kull jum li matulu n-nuqqas ikompli, penali oħra."

149. L-artikolu 401 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 401 ta' l-Att prinċipali.

(a) fil-paragrafu (d) tas-subartikolu (1) tiegħu, minflok il-kliem "xi waħda mid-dispożizzjonijiet ta' dan l-Att;" għandhom jidhlu l-kliem "xi waħda mid-dispożizzjonijiet ta' dan l-Att u kull konsenja, għoti jew notifika bħal dawk lir-Registratur u t-tiżmim u r-registrazzjoni ta' kull dokument mir-Registratur, għandhom isiru b'dak il-mod u b'dawk il-mezzi u f'dak il-format, inkluża komunikazzjoni elettronika skond kif imfisser fl-Att dwar il-Kummerċ Elettroniku, li r-Registratur jidhirlu xieraq;"

(b) fil-paragrafu (g) tas-subartikolu (1) tiegħu, minflok in-numru "XI" fit-test Inġliż, għandu jidhol in-numru "IX", u minflok il-kliem "ta' dan l-Att; dak l-avviż" għandhom jidhlu l-kliem "ta' dan l-Att, jew it-tfassir ta' l-isem ta' kumpannija, taħt id-dispożizzjonijiet ta' l-artikolu 325 ta' dan l-Att. Dak l-avviż".

150. L-artikolu 402 ta' l-Att prinċipali għandu jiġi emendat kif ġej:-

Emenda ta' l-artikolu 402 ta' l-Att prinċipali.

(a) is-subartikoli (4) u (5) tiegħu, għandhom jiġu numerati mill-ġdid (5) u (6) rispettivament; u

(b) minnufih wara l-paragrafu (g) tas-subartikolu (3) tiegħu għandu jidhol is-subartikolu (4) ġdid li ġej:

"(4) Meta jsir ordni għax-xoljiment ta' kumpannija skond il-paragrafu (g) tas-subartikolu (3) ta' dan l-artikolu, il-kumpannija għandha titqies li tkun xoljiet fid-data meta jkun sar l-ordni u d-dispożizzjonijiet tas-Sub-Titli I u III tat-Titlu II tat-Taqsima V ta' dan l-Att li jirregolaw l-istralċ ta' kumpanniji għandhom japplikaw."

151. Minnufih wara s-subartikolu (5) ta' l-artikolu 404 ta' l-Att prinċipali, għandu jidhol is-subartikolu (6) ġdid li ġej:-

Emenda ta' l-artikolu 404 ta' l-Att prinċipali.

"(6) Ir-Registratur għandu jeżerċita s-setgħat mogħtija b'dan l-artikolu meta jkun jidhirlu spedjenti u fl-interess pubbliku li hekk jagħmel."

Emenda ta' l-artikolu 406 ta' l-Att prinċipali.

152. Fis-subartikolu (1) ta' l-artikolu 406 ta' l-Att prinċipali, minflok il-kliem "sussidjarja jew kumpannija *holding* tal-kumpannija jew kumpannija *holding* tas-sussidjarja taghha," ghandhom jidhlu l-kliem "is-sussidjarja jew kumpannija *parent* tal-kumpannija, jew sussidjarja tal-kumpannija *parent* taghha jew kumpannija *parent* tas-sussidjarja taghha",

Emenda ta' l-artikolu 418 ta' l-Att prinċipali.

153. Fis-subartikolu (2) ta' l-artikolu 418 ta' l-Att prinċipali, minflok il-kliem "tas-setgħat mogħtija lilu taħt din it-Taqsima" ghandhom jidhlu l-kliem "ta-dmirijiet u tas-setgħat mogħtija lilu taħt din it-Taqsima".

Emenda ta' l-artikolu 425 ta' l-Att prinċipali.

154. L-artikolu 425 ta' l-Att prinċipali, ghandu jiġi emendat kif ġej:-

(a) fil-paragrafu (d) tas-subartikolu (1) tiegħu, minflok il-kliem "mid-Disa', l-Għaxar, u l-Hdax-il Skeda" ghandhom jidhlu l-kliem "mid-Disa', l-Għaxar, il-Hdax u t-Tnax-il Skeda";

(b) fil-paragrafu (g) tas-subartikolu (1) tiegħu, minflok il-kliem "fuq xi borża" ghandhom jidhlu l-kliem "fuq xi *exchange* ta' investment rikonoxxut";

(c) minflok il-paragrafu (h) tas-subartikolu (1) tiegħu, ghandu jidhol dan li ġej:

"(h) jispeċifika l-kategoriji ta' kumpanniji pubbliċi li ma jistgħux jorġu *warrants* ta' azzjonijiet ikun x'ikun l-isem kif ikunu deskritti u jippreskrivi regoli biex ikomplu jirregolaw u jirrestringu l-hruġ ta' *warrants* ta' azzjonijiet;"

(d) fil-paragrafu (i) tas-subartikolu (1) tiegħu, minflok il-kliem "speċifikati; u" ghandha tidhol il-kelma "speċifikat;"

(e) il-paragrafu (j) tas-subartikolu (1) tiegħu, ghandu jiġi numerat mill-ġdid bħala paragrafu (l); u

(f) minnufih wara l-paragrafu (i) tas-subartikolu (1) tiegħu, ghandhom jidhlu ż-żewġ paragrafi (j) u (k) ġodda li ġejjin:

"(j) jipprovdi għall-eżenzjoni ta' kumpanniji *offshore* ffurmati u registrati taħt l-Att dwar iċ-Ċentru tas-Servizzi Finanzjarji ta' Malta minn kull waħda mid-dispożizzjonijiet ta' dan l-Att, jew għall-applikazzjoni għal kull kumpannija bħal dawk ta' l-imsemmija dispożizzjonijiet

b'dawk il-kwalifiki u sugġetti għal dawk il-varjazzjonijiet u kondizzjonijiet li jistgħu jiġu preskritti, inkluża l-preskrizzjoni ta' regoli addizzjonali jew differenti u htigiet li jirregolaw dawk il-kumpanniji;

(k) jipprovdi għall-eżenzjoni ta' kumpanniji barranin, li jistabbilixxu fergħa jew f'post ta' negozju f' Malta taħt it-Taqsima XI ta' dan l-Att, minn kull dispożizzjoni tat-Taqsima XI ta' dan l-Att, jew għall-applikazzjoni għal kull kumpanniji barranin bħal dawk ta' l-imsemmija dispożizzjonijiet b'dawk il-kwalifiki u sugġetti għal dawk il-varjazzjonijiet u kondizzjonijiet li jistgħu jiġu preskritti, inkluża l-preskrizzjoni ta' regoli addizzjonali jew differenti u htigijiet li jirregolaw dawk il-kumpanniji barranin; u".

155. L-artikolu 427 ta' l-Att prinċipali għandu jiġi emendat kif ġej:- Emenda ta' l-artikolu 427 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "għall-Għaxar Skeda" għandhom jidhlu l-kliem "għall-Hdax-il Skeda";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "Fl-Għaxar Skeda" għandhom jidhlu l-kliem "Fil-Hdax-il Skeda" u minflok il-kliem "Il-penali għal kull jum ta' nuqqas tkun dovuta għal kull jum li matulu jkompli n-nuqqas, u għandha tizdied minn dik il-gurnata li fiha r-Registatur jagħti avviż taħt is-subartikolu (3) ta' l-artikolu 401 ta' dan l-Att li tkun dovuta penali." Għandhom jidhlu l-kliem "Il-penali tkun dovuta fil-jum li fih jiġri n-nuqqas u l-penali għal kull jum li matulu jkompli u għandha tibda tghodd mill-jum li jiġi wara dak li fih jiġri n-nuqqas."; u

(ċ) minnufih wara s-subartikolu (3) tiegħu, għandu jidhol is-subartikolu (4) gdid li ġej:

"(4) Kumpannija tkun responsabbli *in solidum* ma' l-uffiċjali tagħha għall-hlas ta' kull penali amministrattiva mposta taħt dan l-Att."

156. Fis-subartikolu (15) ta' l-artikolu 428 ta' l-Att prinċipali, il-kliem "registraat taħt dan l-Att, hliet għal xi rizzoluzzjoni, avviż, prospett jew dokument li jkun meħtieġ li jiġi" għandhom jithassru. Emenda ta' l-artikolu 428 ta' l-Att prinċipali.

157. Minflok il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 431 ta' l-Att prinċipali, għandu jidhol dan li ġej: Emenda ta' l-artikolu 431 ta' l-Att prinċipali.

“(a) kumpanniji *offshore* iffurmati u registrati taht l-Att dwar iċ-Ċentru tas-Servizzi Finanzjarji ta’ Malta ghandhom, bla hsara ghad-dispożizzjonijiet ta’ l-imsemmi Att, ikomplu jkunu regolati mill-Ordinanza, u d-dispożizzjonijiet ta’ dan l-Att m’ghandhomx japplikaw ghalihom, ghal dak iż-żmien jew sa dik id-data li l-Ministru jista’ b’ordni fil-Gazzetta, jistabilixxi u d-dispożizzjonijiet ta’ dan l-Att ghandhom jibdew japplikaw ghalihom minn dik id-data:

Izda l-Ministru jista’, b’regolamenti maghmula taht dan l-Att, jeżenta lil dawk il-kumpanniji minn xi wahda jew iżjed mid-dispożizzjonijiet ta’ dan l-Att, b’dawk il-kwalifiki u suġġetti ghal dawk il-varjazzjonijiet u kondizzjonijiet li jistgħu jiġu speċifikati fihom;” .

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

158. Fit-Test Ingliz tas-sub-titlu tat-Tieni Skeda ta’ l-Att prinċipali, minflok il-kliem “Part X of this Act” ghandhom jidhlu l-kliem “Part XI of this Act”.

Emenda tal-Hames Skeda li tinsab ma’ l-Att prinċipali.

159. Fil-paragrafu 4 tal-Hames Skeda li tinsab ma’ l-Att prinċipali, minflok il-kliem “fil-lista ufficjali tal-borża” kull fejn jinsabu, ghandhom jidhlu f’kull każ il-kliem “fil-lista ta’ *exchange* ta’ investment rikonoxxut”.

Emenda tas-Sitt Skeda li tinsab ma’ l-Att prinċipali.

160. Il-paragrafu 1 tas-Sitt Skeda li tinsab ma’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-sub-paragrafu (ċ) tiegħu, minflok il-kliem “tar-riċerka; u” ghandhom jidhlu l-kliem “tar-riċerka;”;

(b) fis-sub-paragrafu (d) tiegħu, minflok il-kliem “fir-riżervi.” ghandhom jidhlu l-kliem “fir-riżervi; u”; u

(ċ) minnufih wara s-sub-paragrafu (d) tiegħu ghandu jidhol is-sub-paragrafu (e) ġdid li ġej:

“(e) l-eżistenza ta’ ferġhat tal-kumpannija.”.

Emenda tas-Seba’ Skeda li tinsab ma’ l-Att prinċipali.

161. Minflok is-Seba’ Skeda li tinsab ma’ l-Att prinċipali ghandha tidhol is-Seba’ Skeda li tinsab fl-Ewwel Skeda li tinsab ma’ dan l-Att.

Emenda tad-Disa’ Skeda li tinsab ma’ dan l-Att.

162. Minnufih wara l-paragrafu 13 tad-Disa’ Skeda li tinsab ma’ l-Att prinċipali ghandu jidhol il-paragrafu 14 ġdid li ġej:

“14. Il-jeddijiet tal-vot f’impriża ghandhom jitnaqqsu b’kull jeddijiet marbuta ma’ azzjonijiet -

(a) miżmuma bhala garanzija, kemm-il darba l-jeddijiet in kwistjoni jkunu eżerċitati skond l-istruzzjonijiet riċevuti; jew

(b) miżmuma in konnessjoni ma' l-ghoti ta' self bhala parti minn attivitajiet kummerċjali normali, kemm-il darba l-jeddijiet tal-vot ikunu eżerċitati fl-interess tal-persuna li tipprovdi l-garanzija.”.

163. Fit-titlu tal-Hdax-il Skeda li tinsab ma' l-Att prinċipali, minflok il-kliem “Il-Hdax-il Skeda” ghandhom jidhlu l-kliem “It-Tnax-il Skeda”. Emenda tal-Hdax-il Skeda li tinsab ma' l-Att prinċipali.

164. Fit-titlu ta' l-Għaxar Skeda li tinsab ma' l-Att prinċipali, minflok il-kliem “L-Għaxar Skeda” ghandhom jidhlu l-kliem “Il-Hdax-il Skeda”. Emenda ta' l-Għaxar Skeda li tinsab ma' l-Att prinċipali.

165. Minnufih wara d-Disa' Skeda li tinsab ma' l-Att prinċipali, ghandha tidhol l-Għaxar Skeda li tinsab fit-Tieni Skeda li tinsab ma' dan l-Att. Żieda ta' l-Għaxar Skeda ġdida ma' l-Att prinċipali.

166. Il-Hdax-il Skeda kif numerata mill-ġdid li tinsab ma' l-Att prinċipali, ghandha tiġi emendata kif ġejj: Emenda tal-Hdax-il Skeda kif numerata mill-ġdid ta' l-Att prinċipali.

(a) minflok il-paragrafi li ġejjin:-

“66(6)	Nuqqas ta' soċju fdat bl-amministrazzjoni jew rappreżentanza li jikkonsenja lir-Registatur kopja ta' kull dokument li jibdel jew iżid ma' l-att ta' soċjetà in akkomandita li l-kapital tagħha jkun maqsum f'azzjonijiet jew nuqqas li jikkonsenja att emendat tas-soċjetà	200 lira	10 liri
70(6)	Kummerċ jew tmexxija ta' negozju taht ċerti ismijiet projbiti	200 lira	Xejn
74(2)	Nuqqas ta' kumpannija li tippreżenta rapport ta' proposta għall-akkwist ta' attiv ta' sottoskrivent jew ta' azzjonista ta' magġoranza lir-Registatur.	500 lira	Xejn”

għandhom jidhlu dawn li ġejjin:

“66(6)	Nuqqas ta' soċju fdat bl-amministrazzjoni jew rappreżentanza li jikkonsenja kopja ta' kull dokument li jibdel jew iżid ma' l-att ta' soċjeta' in akkomandita jew soċjetà limitata li l-kapital tagħha jkun maqsum f'azzjonijiet lir-Registratur jew nuqqas li jikkonsenja att emendat tas-soċjetà	200 lira	10 liri
70(6)	Kummerċ jew tmexxija ta' negozju taht ċerti ismijiet projbiti	200 lira	10 liri
74(2)	Nuqqas ta' kumpannija li tippreżenta rapport lir-Registratur ta' proposta għal akkwist ta' attiv mhux ta' flus minghand sottoskrivent jew membru	500 lira	Xejn”;
(b) minnufih wara l-paragrafu:			
“133(5)	Uffiċjal ta' kumpannija li jikser dispożizzjonijiet oħra dwar il-vot bil-prokura f'laqgħat tal-kumpannija	200 lira	Xejn”
għandu jidhol dan li ġej:			
“138(8)	Nuqqas li jinhatar segretarju tal-kumpannija	200 lira	10 liri”; u
(ċ) minnufih wara l-paragrafu:			
“397(1)	Persuna responsabbli għall-ħruġ, ċirkolazzjoni jew tqassim ta' prospett, eċċ., għal kumpannija barranija bi ksur ta' l-artikoli minn 391 sa 396	1000 lira	Xejn”

għandhom jidhlu dawn li ġejjin:

“399(A)(1)

Stralċjarju, uffiċjal jew aġent ta' kumpannija barranija li jonqos li jagħti avviz lir- Registatur ta' stralċ ta' kumpannija jew eġhluq ta' fergħa jew post tan-negożju	200 lira	10 liri
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399(A)(2)

Stralċjarju ta' kumpannija barranija li jonqos li javża lir- Registatur bil-hatra	200 lira	10 liri”.
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TAQSIMA VIII DISPOŻIZZJONIJIET MIXXELLANJI

167. (1) Bla hsara għal kull liġi oħra f'xi stampar mill-ġdid ta' dan l-Att it-Taqsima II sa VII, ma hemmx għalfejn ikunu riprodotti u jkun biżżejjed li tiġi riprodotta t-Taqsima I ta' dan l-Att: Dispożizzjonijiet
mixxellanji.

Iżda ebda haġa f'dan is-subartikolu ma għandha tiftiehem li tnaqqas il-validita' ta' xi haġa li tinsab fit-Taqsimiet hekk mhux prodotti.

(2) Mal-bidu fis-sehħ tat-Taqsimiet II sa VII ta' dan l-Att, it-titlu fit-tul ta' dan l-Att ikun “Att biex jiġi provdi li jkunu nfużzati dispożizzjonijiet ta' tpaċija u *netting* f'każ ta' falliment jew insolvenza.”.

C 1510

L-EWWEL SKEDA

(Artikolu 161)

IS-SEBA' SKEDA

(Artikolu 184)

Numru tal-Kumpanija

KONTENUT U FORMOLA TA' PROSPETT ANNWALI

Prospett annwali ta'

.....

..... (isem tal-Kumpanija)

Sa liema data dan il-prospett hu magħmul:

.....

(li tkun l-anniversarju tad-data tar-registrazzjoni tal-kumpanija)

Indirizz

(Indirizz ta' l-uffiċċju registrat tal-kumpanija)

Din il-formula għandha tintela f **FORMA STAMPATA BOLD**

2. Sommarju tal-Kapital Azzjonarju

L-ammonti kollha fl-irri Maltin għandhom jidher bis-simbolu Lm quddiemhom.
Is-simboli wżati għal muniti oħra għandhom jigu ndikati (meta applikabbli):

Munita	Simbolu
.....
.....
.....
.....

(a) Kapital Azzjonarju Nominali

Kapital Azzjonarju Nominali.....	maqsuma fi:
(nizzel in-numru u l-klassi)	azzjonijiet ta'
.....	kull waħda
.....	azzjonijiet ta'
.....	kull waħda
.....	azzjonijiet ta'
.....	kull waħda

(b) Kapital Azzjonarju Maħruġ

Numru ta' azzjonijiet ta' kull klassi li jkunu ttiċhdu sad-data ta' dan il-prospett (liema numru għandu jaqbel mat-total muri fil-lista li għandhom il-membri eżistenti)	Numru	Klassi
	.....	..... azzjonijiet
	.....	..... azzjonijiet
	.....	..... azzjonijiet
	.....	..... azzjonijiet
Numru ta' azzjonijiet ta' kull klassi maħruġa bħala parti mħallsa u safejn kull azzjoni bħal din tkun hekk mħallsa.	maħruġa bħala mħallsa sa	
	kull azzjoni	azzjonijiet
	maħruġa bħala mħallsa sa	
	kull azzjoni	azzjonijiet
	maħruġa bħala mħallsa sa	
	kull azzjoni	azzjonijiet
	maħruġa bħala mħallsa sa	
	kull azzjoni	azzjonijiet
Numru totali ta' azzjonijiet ta' kull klassi konfiskati	Numru	Klassi
	.....	..... azzjonijiet
	.....	..... azzjonijiet
	.....	..... azzjonijiet
	.....	..... azzjonijiet
Ammont totali mħallas, jekk ikun hemm, fuq azzjonijiet konfiskati		

3. *Lista ta' Membri Passati u Preżenti*

Lista ta' persuni li jkollhom azzjonijiet jew *stock* fil-kumpannija sad-data li fiha jsir dan il-prospett, u ta' persuni li kelhom azzjonijiet jew *stock* fiha f'kull żmien mid-data ta' l-aħhar prospett, jew fil-każ ta' l-ewwel prospett, mir-registrazzjoni tal-kumpannija.

Folio fir-registru tal- <i>ledger</i> li jkollu partikolaritajiet	Ismijiet Indirizzi (fil-każ ta' korp ġuridiku, l-uffiċju registrat)	Kont ta' Azzjonijiet		Rimarki
		Numru azzjonijiet minn membri eżistenti fid-data tal-prospett * #	Partikolaritajiet ta' azzjonijiet trasferiti jew trasmessi <i>causa mortis</i> mid-data ta' l-aħhar prospett, jew, fil-każ ta' l-ewwel prospett, mir-registrazzjoni tal-kumpannija minn (a) persuni li għadhom membri u (b) persuni li ma baqgħux membri * *	
			Numru #	Data tar-registrazzjoni tat-trasferiment
			(a)	(b)

3. *Lista ta' Membri Passati u Preżenti (Pagna ta' kontinwazzjoni)*

5. Partikolaritajiet tas-Segretarju tal-Kumpannija

Partikolaritajiet tal-persuna li tkun segretarju tal-kumpannija fid-data ta' dan il-prospett

Isem (fil-każ ta' individwu isem jew ismijiet u kunjom. Fil-każ ta' korp ġuridiku, l-isem tal- korp)	Nazjonalità	Indirizz residenzjali tas-soltu (fil-każ ta' korp ġuridiku, l-uffiċċju registrat)

Iffirmat

Direttur / Segretarju ta-Kumpannija

IT-TIENI SKEDA

(Artikolu 165)

“L-GHAXAR SKEDA

(Artikolu 66A)

Soċjetajiet in akkomanditi jew Soċjetajiet Limitati

TAQSIMA I – REGOLAMENTI GHAL SOĊJETAJIET IN AKKOMANDITI JEW SOĊJETAJIET LIMITATI

Tifsir

1. F’ din l-Iskeda, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort’ ohra -
“detentur ta’ liċenzja” tfisser persuna li jkollha liċenzja għal servizzi ta’ Investment skond l-artikolu 6 ta’ l-Att dwar Servizzi ta’ Investment.

Formazzjoni ta’ Soċjetajiet in akkomanditi jew Soċjetajiet Limitati

2. (1) Soċjetà in akkomandita jew soċjetà limitata tista’ tkun furmata minn żewġ soċji jew iżjed, topera taht l-isem ta’ soċjetà u jkollha l-obbligi tagħha garantiti mir-responsabbiltà *in solidum* b’mod mhux limitat ta’ soċju jew soċji, imsejhin soċji ġenerali, u mir-responsabbiltà’, limitata għall-ammont, jekk ikun hemm, mhux imħallas mill-kontribuzzjoni ta’ soċju wiehed jew iżjed, imsejha soċji limitati.

(2) Soċjetà in akkomandita jew soċjetà limitata, ikollha personalità ġuridika separata u distinta minn dik tas-soċji tagħha, u skond hekk tkun soġġetta għall-jeddijiet u obbligi, tista’ tkun sid ta’ proprjetà u żżommha taht kull titolu legali u li tħarrek u tkun imħarrka, f’isimha, u dik il-personalita’ ġuridika għandha tkompli sa dak iż-żmien li l-isem tas-soċjetà ikun imħassar mir-registru, f’liema każ is-soċjetà ma tkompliż teżisti.

Kostituzzjoni ta’ Soċjetà in akkomandita jew soċjetà limitata

3. (1) Soċjetà in akkomandita jew soċjetà limitata tkun tikkonsisti minn:
 - (a) wiehed jew iktar soċji ġenerali li jkunu responsabbli *in solidum* għad-djun kollha tas-Soċjetà in akkomandita jew soċjetà limitata mingħajr limitazzjoni u li għall-inqas wiehed minnhom ikun detentur ta’ liċenza li jkun liċenzjat bħala *manager* ta’ skema ta’ investment kollettiv skond kif imfisser fl-Att dwar is-Servizzi ta’ Investment; u

(b) wiehed jew iktar soċji limitati li jidhlu fis-soċjetà bhala soċji limitati skond l-Att tas-soċjetà, li malli jidhlu fis-soċjetà, jikkontribwixxu, jew jiftiehm u li jikkontribwixxu għall-kapital tagħha somma speċifikata; u hlief għal xi parti mhux imħallsa tal-kontribuzzjoni tagħhom tas-soċjetà ma jkunux responsabbli għal xi dejn tas-soċjetà.

(2) Kull persuna tista' tkun soċju f'soċjetà in akkomandita jew soċjetà limitata.

(3) Il-kontribuzzjoni ta' soċji limitati tista' tkun soċjofatta bil-provdiment ta' flus jew proprjetà oħra li tkun tista' tiġi valutata ekonomikament iżda ma tistax tkun tikkonsisti minn servizzi futuri jew obbligi biex isir xi xogħol jew jiġu provduti servizzi; u meta tkun provduta proprjetà li ma tkunx flus, il-valur tal-proprjetà għandu jitqies li jkun il-valur tas-suq xieraq fiż-żmien tat-trasferiment tagħha lis-soċjetà.

Isem tas-Soċjetà

4. (1) Soċjetà in akkomandita jew soċjetà limitata tista' tissejjaħ b'kull isem, iżda dak l-isem għandu jintemur bil-kliem "Soċjetà Limitata" jew l-abbrevazzjoni "LP".

(2) Ebda persuna li tkun qed tmexxi xi negozju f'Malta, barra minn soċjetà in akkomandita jew soċjetà limitata jew soċji fiha, ma tista' b'xi mod jew iehor tiddekrivi lilha nnifisha jew iżżomm lilha nnifisha jew b'mod raġonevoli tkun miżhuma li tindika, jew tuża xi isem li jindika jew jista' b'mod raġonevoli jiftiehem li, jew li qed tmexxi negozju bhala, soċjetà in akkomandita jew soċjetà limitata jew, skond il-każ, jew soċju tagħha.

(3) L-isem ta' soċju limitat jew parti distintiva minnu ma jistgħux ikunu parti mill-isem tas-soċjetà.

(4) Soċju limitat li xjentiment ihalli ismu jew parti distintiva minnu jintuża bhala l-isem tas-soċjetà jew parti minn dak l-isem tas-soċjetà jkun responsabbli bhala soċju ġenerali lejn kull persuna li tagħti kreditu lis-soċjetà li ma tkunx taf li s-soċju limitat ma jkunx soċju ġenerali.

(5) Persuna li tikser id-dispożizzjonijiet tas-sub-paragrafu (2) ta' dan il-paragrafu tista' tehel penali, u għal kull jum li matulu jkompli n-nuqqas, penali oħra.

Kontenut ta' l-att tas-soċjetà

5. (1) Soċjetà in akkomandita jew soċjetà limitata ma tkunx validament kostitwita kemm-il darba ma jkunx sar u iffirmit att tas-soċjetà u dwarha jinħareġ certifikat ta' reġistrazzjoni taħt din l-Iskeda.

(2) L-att tas-soċjetà jkun bil-miktub u għandu jstabbilixxi l-ftehim tas-soċji dwar l-affarijiet tas-soċjetà u t-tmexxija tan-negozju tagħha.

(3) L-att tas-soċjetà jkun jorbot lis-soċji u l-assenjati tagħhom u soċji sussegwenti bl-istess mod daqslikieku dawk il-persuni kienu esegwenti huma nfushom.

(4) L-att tas-soċjetà għandu jagħti-

(a) l-isem u r-residenza ta' kull wiehed mill-ewwel soċji fejn jispeċifika l-ewwel soċji ġenerali u l-ewwel soċji limitati;

(b) l-isem tas-soċjetà;

(ċ) l-uffiċċju registrat f' Malta tas-soċjetà;

(d) bla hsara għad-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 66A ta' dan l-Att, l-għanijiet tas-soċjetà;

(e) il-kontribuzzjoni ta' kull wiehed mill-ewwel soċji tas-soċjetà fejn ikun speċifikat il-valur tal-kontribuzzjoni relattiva u l-ammont imhallas dwar kull wahda minn dawk il-kontribuzzjonijiet;

(f) iż-żmien, jekk ikun hemm, stabbilit għall-ħajja tas-soċjetà .

(5) L-att tas-soċjetà għandu jkun konsenjat għar-registrazzjoni lir-Registatur li, meta jkun sodisfatt li jkun ihares il-htigijiet ta' din l-Iskeda, għandu jirregistraha.

(6) Meta l-att tas-soċjetà jkun att pubbliku jew skrittura privata iskritta fl-atti ta' nutar pubbliku, kopja awtentika tiegħu għandha tkun konsenjata minflok l-original.

(7) L-imsemmija konsenja għandha ssir minn wiehed mis-soċji jew mill-agent awtorizzat tiegħu.

Dmir tar-Registatur u effetti tar-registrazzjoni

6. (1) Mar-registrazzjoni ta' l-att tas-soċjetà u mal-ħlas tad-drittijiet preskritti taħt il-paragrafu (e) tas-subartikolu (4) ta' l-artikolu 66A ta' dan l-Att, ir-Registatur għandu jiċċertifika minn idejh li s-soċjetà hi registrata u s-soċjetà tibda teżisti u tkun awtorizzata li tibda tinnegozzja taħt l-isem tas-soċjetà mid-data taċ-ċertifikat:

Izda, jekk tinkiseb registrazzjoni qabel id-data stabbilita fl-att tas-soċjetà għall-bidu fis-seħħ tas-soċjetà, iċ-ċertifikat għandu juri dik id-data, u s-soċjetà għandha tibda teżisti u tkun awtorizzata li tibda n-negozju minn dik l-aħħar data.

(2) ċertifikat ta' registrazzjoni mogħti dwar soċjetà jkun prova konkluziva li l-htigijiet ta' din l-Iskeda dwar registrazzjoni u hwejjeġ preċedenti u incidental għaliha jkunu tharsu u li s-soċjetà tkun registrata kif imiss taħt dan l-Att.

Meta ma jinħariġx ċertifikat ta' reġistrazzjoni

7. Kemm-il darba u sakemm ċertifikat ta' reġistrazzjoni jinħareġ taħt din l-Iskeda dwar soċjetà jew sad-data murija f'ċertifikat ta' reġistrazzjoni bħala li fiha s-soċjetà għandha tibda teżisti -

(a) kull żewġ persuni jew iktar li jmexxu negozju taħt isem li b' mod qarrieqi jindika l-eżistenza ta' soċjetà jkollhom, kontra xulxin u limitament għall-proprietà akkwistata minn dak in-negozju, dawk il-jeddijiet biss li bil-liġi huma mogħtija lil komproprietarji;

(b) kull obbligazzjoni li tkun saret favur terzi f' *bona fide* taħt isem li b' mod qarrieqi jindika l-eżistenza ta' soċjetà tkun torbot *in solidum* lil dawk il-persuni, li, kieku ħareġ ċertifikat ta' reġistrazzjoni, kienu jkunu soċji li qed imexxu negozju taħt dak l-isem.

Bdil fl-att tas-soċjetà

8. (1) Kemm-il darba ma jkunx provdut xort' oħra bl-att tas-soċjetà, kull tibdil jew żieda għalih jistgħu jsiru biss bil-kunsens unanimu tas-soċji.

(2) Ikun id-dmir tas-soċju ġenerali vestit bl-amministrazzjoni jew rappreżentanza ta' soċjetà in akkomandita jew soċjetà limitata li jikkonsenja lir-Registratur għar-reġistrazzjoni kull strument jew kopja tiegħu li jibdel jew iżid ma' l-att tas-soċjetà fi żmien erbatax-il jum mid-data ta' l-imsemmi tibdil jew żieda, flimkien ma' kopja stampata ta' l-att tas-soċjetà, kif emendat; u kull test qabel emendat ta' l-att tas-soċjetà jista' jittwarrab mir-Registratur meta test emendat sussegwenti jkun konsenjat lilu għar-reġistrazzjoni:

Izda fil-każ ta' nuqqas ta' qbil bejn it-test ta' xi att ta' soċjetà emendat u t-test oriġinali ta' l-att ta' soċjetà reġistrata, it-test ta' l-aħħar flimkien ma' kull strumenti reġistrati skond id-dispożizzjonijiet tas-sub-paragrafu (3) ta' dan il-paragrafu, għandhom jipprevalu.

(3) Kull tibdil jew żieda fl-att tas-soċjetà ta' soċjetà in akkomandita jew soċjetà limitata ikunu bla effett, kemm-il darba u sakemm ma jkunux reġistrati kif provdut fis-sub-paragrafu (2) ta' dan il-paragrafu.

(4) Jekk ikun hemm nuqqas mit-tħaris tad-dispożizzjonijiet tas-sub-paragrafu (2) ta' dan il-paragrafu, kull soċju ġenerali li jkun naqas jista' jehel penali, u, għall kull jum li matulu jkompli n-nuqqas, penali oħra.

(5) Meta soċjetà in akkomandita jew soċjetà limitata tibdel isimha, is-soċju ġenerali għandu fi żmien erbatax-il jum javża lir-Registratur b'dak il-bdil u r-Registratur għandu jdaħħal l-isem il-ġdid fir-reġistru u johroġ ċertifikat ta' reġistrazzjoni mibdul skond iċ-ċirkostanzi tal-każ.

(6) Jekk ikun hemm nuqqas mit-tħaris tad-dispożizzjonijiet tas-sub-paragrafu (5) ta' dan il-paragrafu, kull soċju ġenerali li jkun naqas jista' jehel penali, u għal kull jum li matulu jkompli n-nuqqas, penali oħra.

Soċji ġenerali

9. L-amministrazzjoni u r-rappreżentanza tas-soċjetà jkunu vestiti fis-soċji ġenerali, u kemm-il darba l-att tas-soċjetà ma jipprovdi xort'oħra, dik l-amministrazzjoni u r-rappreżentanza jkunu vestiti f'kull wiehed mis-soċji ġenerali individwalment.

Soċji Limitati

10. (1) Soċju limitat ma għandux jiehu sehem fit-tmexxija jew fl-amministrazzjoni ta' xi negozju tas-soċjetà u ma għandux jagħmel transazzjonijiet tan-negozju, jew, jiffirma, jew jeseġwixxi dokumenti f'isem is-soċjetà.

(2) Soċju limitat li jaġixxi jew ikun jidher li qed jaġixxi bi ksur tad-dispożizzjonijiet tas-sub-paragrafu (1) ta' dan il-paragrafu, ikun responsabbli daqslikieku kien soċju ġenerali dwar id-djun kollha li jkunu saru waqt li kien hekk qed jaġixxi jew kien jidher li qed jaġixxi.

(3) Soċju limitat ma jitqiesx li jkun ha sehem fit-tmexxija jew fl-amministrazzjoni tas-soċjetà kif imfisser f'dan il-paragrafu minhabba biss xi waħda jew iżjed miċ-ċirkostanzi li ġejjin:

(a) ikun impjegat, aġent jew kuntrattur tas-soċjetà jew ta' soċju ġenerali;

(b) jaġixxi bħala soċju ġenerali, ufficjal, impjegat jew azzjonist ta' soċju ġenerali korporat;

(c) jikkonsulta ma' u jagħti parir lil soċju ġenerali dwar in-negozju tas-soċjetà in akkomandita jew soċjetà limitata;

(d) jinvestiga, jirrevedi, japprova jew jingħata parir fuq il-kontijiet jew affarijiet tas-soċjetà in akkomandita jew soċjetà limitata;

(e) jeżerċita xi jedd jew setgħa li b'din l-Iskeda hi mogħtija lil soċji limitati;

(f) japprova jew ma japprovax emenda għall-ftehim tas-soċjetà;

(g) jiehu sehem fi, jew jitlob, il-hatra jew tneħħija ta' uditur tal-kumpannija;

(h) jivvota bħala soċju limitat f'xi laqgħa tas-soċji;

(i) jaġixxi bħala garanti jew jipprovdi garanzzja għall-obbligazzjonijiet li tidhol għalihom is-soċjetà in akkomandita jew soċjetà limitata;

(j) jislef flus lil, jissellef flus mingħand jew jagħmel xi transazzjoni mas-soċjetà in akkomandita jew soċjetà limitata.

(4) Id-dispożizzjonijiet tas-sub-paragrafu minnufih qabel dan ma ghandhomx jiftiehem li jfissru li, jekk soċju limitat jeżerċita xi jedd, setgħa jew funzjoni, ikun neċessarjament, minhabba biss dak il-fatt, ha sehem fit-tmexxija tan-negozju tas-soċjetà in akkomandita jew soċjetà limitata skond kif imfisser f'dan il-paragrafu.

Meta soċju limitat ma jibqax soċju

11. (1) Persuna ma tibqax soċju limitat:

(a) ma' l-assenjazzjoni valida u assoluta ta' l-interess tagħha kollu fis-soċjetà;

(b) mar-restituzzjoni tal-kontribuzzjoni tagħha kollha (magħdud jekk xieraq, it-tweqqif ta' l-obbligazzjonijiet tagħha kollha biex tagħmel kontribuzzjoni); jew

(ċ) f'dak iż-żmien jew ma' dik il-ġrajja li tista' tkun hekk speċifikata fl-att tas-soċjetà:

iżda, f' kull każ bhal dan isimha jitneħħa mir-registru tas-soċji.

(2) Il-fatt li persuna ma tkunx baqgħet soċju limitat ma jehlisix minn xi responsabbiltà li tohrog mis-sub-paragrafu (4) tal-paragrafu 4 u s-sub-paragrafu (2) tal-paragrafu (10) ta' din l-Iskeda.

(3) Il-fatt biss li persuna tiegħaf milli tkun soċju limitat ma jikkostitwix tibdil jew emenda ta' l-att tas-soċjetà.

Meta soċju ġenerali ma jibqax soċju

12. (1) Persuna ma tibqax soċju ġenerali ma' wahda mill-ġrajjet li ġejjin:

(a) ir-riżenja, l-irtir jew tneħħija skond il-htigijiet, jekk ikun hemm, ta' l-att tas-soċjetà;

(b) fil-każ ta' persuna naturali, il-falliment, il-mewt jew l-inkapaċità legali tagħha;

(ċ) fil-każ ta' soċju ġenerali korporat, ix-xoljiment tagħha.

(2) Soċju ġenerali għandu fi żmien erbatax-il jum minn meta ma jibqax soċju ġenerali, jikkonsenja lir-Registatur għar-registrazzjoni avviz bil-miktub ta' dak il-fatt u r-Registatur għandu jiehu hsieb li dak l-avviz ikun registrat. Soċju ġenerali ma jkunx meħlus minn xi obbligu taht din l-Iskeda sa dak iż-żmien li jikkonsenja lir-Registatur għar-registrazzjoni avviz bil-miktub ta' dak il-fatt.

Records

13. (1) Soċjetà in akkomandita jew soċjetà limitata ghandha żżomm dawn li ġejjin jew kopja tagħhom fl-uffiċċju reġistrat:

(a) l-att tas-soċjetà u kull emenda għalih;

(b) reġistru tas-soċji li juri l-ismijiet shaħ u l-indirizzi tagħhom flimkien ma' indikazzjoni ta' min hu soċju ġenerali u min-hu limitat;

(ċ) il-kont kapitali ta' kull soċju limitat li juri dak li japplika għal kull soċju limitat minn dawn li ġejjin -

(i) l-ammonti u d-dati tal-kontribuzzjonijiet tiegħu;

(ii) l-ammonti miftiehma li jkunu kontribwiti u ż-żminijiet meta jew il-grajjiet li magħhom il-kontribuzzjonijiet għandhom isiru;

(iii) l-ammonti u d-dati ta' kull hlasijiet li jirrapprezentaw dak li jdaħħal fuq il-kontribuzzjonijiet tiegħu jew xi parti minnhom;

(iv) meta ftehim biex issir kontribuzzjoni jkun meħlus għal kollox jew f'parti, l-ammont u d-data ta' dak il-belsien;

(d) *ir-records* tal-kontijiet;

(e) il-minuti tal-laqgħaet kollha tas-soċji ġenerali;

(f) id-dokumenti kollha li minn żmien għal żmien ikunu konsenjati lir-Reġistratur.

(2) Id-dokumenti kollha jew kopji tad-dokumenti li bis-sub-paragrafu (1) ta' dan il-paragrafu għandhom jinżammu fl-uffiċċju reġistrat għandhom, bla ħsara għad-dispożizzjonijiet ta' l-att tas-soċjetà, ikunu disponibbli għall-ispezzjoni minn kull soċju waqt il-hinijiet normali tax-xogħol.

(3) Id-dokumenti msemmija fil-partiti (b) u (ċ) tas-sub-paragrafu (1) ta' dan il-paragrafu jikkostitwixxu prova *prima facie* tal-ħwejjeġ speċifikati fihom.

(4) Minkejja d-dispożizzjonijiet ta' qabel ta' dan il-paragrafu, id-dokumenti deskritti fis-sub-paragrafu (1) ta' dan il-paragrafu jistgħu, sakemm ikun permess bl-att tas-soċjetà, minflok li jinżammu fl-uffiċċju reġistrat, jinżammu f'dak il-post l-iehor li s-soċji ġenerali jidhrilhom xieraq, bla ħsara għall-jedd tas-soċji kollha biex jispezzjonaw dawk id-dokumenti.

(5) Fil-każ li dak il-post l-iehor kif imsemmi fis-sub-paragrafu (4) ta' dan il-paragrafu jkun barra minn Malta, kopji tal-kontijiet, prospetti dwar in-negozju u kopji tal-minuti ta' laqgħat ta' soċji ġenerali għandhom jintbagħtu u jinżammu f'post f'Malta,

fejn dawn ikunu, bla hsara għad-dispożizzjonijiet tal-ftehim tas-soċjetà, għall-ispezzjon minn kull soċju waqt il-hinijiet normali tax-xogħol.

(6) Il-kopji tal-kontijiet u prospetti msemmija fis-sub-paragrafu (5) ta' dan il-paragrafu li għandhom jintbagħtu u jinżammu f'Malta għandhom ikunu b'mod li juru bi preċiżjoni xierqa l-qagħda finanzjarja tan-negozju tas-soċjetà f' intervalli ta' mhux iżjed minn sitt xhur.

(7) Kull *records* tal-kontijiet li soċjetà in akkomandita jew soċjetà limitata hi meħtieġa li żżomm b' dan il-paragrafu għandhom ikunu konservati minnha għal perijodu ta' għaxar snin mid-data li fihom ikunu saru u, fin-nuqqas ta' tharis ma' dan is-sub-paragrafu, is-soċjetà u kull soċju generali jistgħu jehlu penali.

(8) Kull kont, *record* jew dokument ieħor li b'din l-Iskeda hu meħtieġ li jinżamm minn soċjetà għandu jinżamm jew dhul f'kotba jew b'kull mod ieħor, mingħajr hsara għall-ġeneralità ta' qabel, fuq il-kompjuter jew f'forma elettronika oħra.

(9) Jekk xi kont, *record* jew dokument ieħor bhal dak jinżamm b'mod li jsir dhul barra minn f'kotba -

(a) għandu jitqies għall-finijiet ta' din l-Iskeda li qed jinżamm f'post fejn jista' jkun hemm aċċess għalih u li jistgħu jinkisbu kopji miktubin tiegħu; u

(b) jekk il-hwejjeġ in kwistjoni jkunu reġistrati f'forma mhux legibbli, ir-reġistrazzjoni tagħhom trid tkun li tista' tiġi riprodotta f'forma legibbli.

(10) Jekk dwar xi soċjetà in akkomandita jew soċjetà limitata jkun hemm kontravvenzjoni ta' xi dispożizzjonijiet tas-sub-paragrafi (1), (2), (5) jew (6) ta' dan il-paragrafu, is-soċjetà u kull soċju generali jista' jehel penali u għal kull jum li matulu jkompli n-nuqqas, penali oħra.

(11) Kull dmir impost b'din l-Iskeda biex issir spezzjoni ta' dokumenti li jinżammu mis-soċjetà għandu, irrispettivament mill-mezz kif jinżammu dawk id-dokumenti, jitqies bhala dmir biex issir spezzjoni ta' dawk id-dokumenti f'forma legibbli.

Kontijiet ta' soċjetà in akkomandita jew soċjetà limitata

14. (1) Kull soċjetà in akkomandita jew soċjetà limitata għandha żżomm *records* tal-kontijiet xierqa li għandhom ikunu—

(a) biżżejjed biex juru u jispjegaw it-transazzjonijiet tas-soċjetà ;

(b) juru bi preċiżjoni xierqa, f' kull żmien, il-qagħda finanzjarja tas-soċjetà f' dak iż-żmien;

(c) hekk li s-soċċi ġenerali jkunu jistgħu jiżguraw li l-karta tal-bilanċ u l-kont ta' qliegħ u telf jithejjew sewwa u skond il-prinċipji ta' kontijiet ġeneralment aċċettati u skond kull leġislazzjoni rilevanti li fiż-żmien tkun isseħħ f'Malta;

(d) hekk li jkun fihom ir-registrazzjoni ta' kuljum tas-somom ta' flus kollha riċevuti u minfuqa mis-soċjetà u l-hwejjeg li dwarhom dawk l-riċevuti u l-infieg ikunu saru; u

(e) *record* ta' l-attiv u tal-passiv tas-soċjetà.

(2) Is-soċċi ġenerali ta' kull soċjetà in akkomandita jew soċjetà limitata għandhom ihejju għal kull żmien ta' kontijiet, kontijiet individwali li jkun fihom karta tal-bilanċ kif tkun fl-aħħar jum taż-żmien tal-kontijiet li għalih tirreferi, il-kont ta' qliegħ u telf għal dak iż-żmien, in-noti tal-kontijiet u kull dikjarazzjonijiet finanzjarji ohra li jistgħu jkunu meħtieġa bil-prinċipji u l-prattika ta' kontijiet ġeneralment aċċettati. Dawn id-dokumenti flimkien għandhom jiffurmaw dokument shih.

(3) Il-kontijiet individwali għandhom isiru b'mod ċar u skond id-dispożizzjonijiet ta' dan l-Att u skond il-htigijiet tal-prinċipji u l-prattika ta' kontijiet ġeneralment aċċettati.

(4) Kontijiet individwali għandhom juru sewwa u xieraq l-attiv, il-passiv, il-qagħda finanzjarja u qliegħ jew telf tal-kumpanija.

(5) Il-kontijiet individwali għandhom iharsu l-htigijiet ta' dan l-Att u tal-prinċipji u l-prattika ta' kontijiet ġeneralment aċċettati dwar il-forma u l-kontenut tal-karta tal-bilanċ u l-kont ta' qliegħ u telf u dwar tagħrif addizzjonali li għandu jġi provdut bhala noti mal-kontijiet.

(6) Meta l-applikazzjoni tad-dispożizzjonijiet ta' dan l-Att ma tkunx biżżejjed biex jintwera sewwa u xieraq kif imfisser fis-sub-paragrafu (4) ta' dan il-paragrafu, għandu jingħata tagħrif addizzjonali.

(7) Meta f'każijiet eċċezzjonali l-applikazzjoni ta' dispożizzjoni ta' dan l-Att ma tkunx taqbel ma' l-obbligu li kontijiet individwali juru sewwa u xieraq, dik id-dispożizzjoni għandu jkun hemm deroga minnha sabiex ikun muri sewwa u xieraq. Kull deroga bhal dik għandha tintwera fin-noti tal-kontijiet flimkien ma' spjegazzjoni għar-ragunijiet li wasslu għaliha u dikjarazzjoni ta' l-effett tagħha fuq l-attiv, il-passiv, il-qagħda finanzjarja u qliegħ jew telf.

Applikazzjoni tal-Kapitoli IX u X tat-Taqsima V ta' dan l-Att

15. Hlief kif provdut f'din l-Iskeda, id-dispożizzjonijiet tal-Kapitolu IX u tal-Kapitolu X tat-Taqsima V ta' dan l-Att għandhom, safejn ikunu applikabbli u safejn ma jkunux inkonsistenti mad-dispożizzjonijiet ta' din l-Iskeda, japplikaw għal soċjetà in akkomandita jew soċjetà limitata, fejn riferenza fihom għal "kumpanija" għandha tiftiehem bhala riferenza għal soċjetà in akkomandita jew soċjetà limitata u riferenza għal "diretturi" għandha tiftiehem bhala riferenza għal soċċi ġenerali.

Kontijiet jintbghatu lil soċji limitati

16. Fl-egħluq taż-żmien tal-kontijiet, il-karta tal-bilanċ u l-kont ta' qliegh u telf tas-soċjetà flimkien mar-rapport tas-soċji ġenerali u r-rapport ta' l-awdituri għandu jkun komunikat lis-soċji limitati.

Għoti lura ta' kontribuzzjoni ta' soċji limitati

17. (1) Soċju limitat ma għandux, max-xoljiment jew xort'ohra, jirċievi mill-kapital tas-soċjetà xi hłas bhala għoti lura ta' xi parti mill-kontribuzzjoni tas-soċjetà kemm-il darba, fiż-żmien jew minnufih wara li jsir xi hłas, is-soċjetà in akkomandita jew soċjetà limitata ma tkunx solventi.

(2) Meta s-soċjetà ma tkunx solventi fiż-żmien jew minnufih wara li jsir dak il-hłas, jew f'każ ta' insolvenza tas-soċjetà fi żmien sitt xhur minnufih wara ż-żmien li jsir dak il-hłas, il-hłas għandu, għal żmien sena mid-data li fiha tkun riċevuta mis-soċju limitat, tithallas lura minnu sal-limitu meħtieġ biex jithallas kull dejn tas-soċjetà li jkun sar matul iż-żmien meta l-kontribuzzjoni tiegħu kienet tagħmel parti mill-attiv tas-soċjetà.

(3) Bla hsara għad-dispożizzjonijiet tas-sub-paragrafi (1) u (2) ta' dan il-paragrafu, soċju limitat jista' jitlob lura l-kontribuzzjoni tiegħu -

(a) max-xoljiment tas-soċjetà; jew

(b) f'dak iż-żmien jew mal-ġrajja ta' xi haġa jew iktar kif jista' jkun speċifikat fl-att tas-soċjetà.

(4) Soċju limitat jista', minkejja n-natura tal-kontribuzzjoni tiegħu, u bla hsara għad-dispożizzjonijiet ta' l-att tas-soċjetà, jitlob u jirċievi jew flus jew, meta l-attiv tas-soċjetà jkun jista' jinqasam, dik il-parti maqsuma ta' l-attiv tas-soċjetà li tkun daqs il-valur tal-kontribuzzjoni tiegħu.

(5) Kull riferenza f'dan il-paragrafu, tkun kif tkun espressa, li soċju jirċievi hłas għandha tinkludi riferenza għall-helsien ta' kull dejn dovut minnu u li jkun jagħmel parti mill-attiv tas-soċjetà (magħduda kull obligazzjoni min-naħa tiegħu li jagħmel kontribuzzjoni għall-kapital tas-soċjetà); u skond hekk kull riferenza fis-sub-paragrafu (2) għal-hłas lura minn soċju għandha titqies li tinkludi riferenza li jkun għamel jew issodisfa b'mod xieraq id-dejn jew l-obbligazzjoni.

(6) Għall-finijiet ta' din l-Iskeda l-epressjoni "solventi" tfisser li soċjetà in akkomandita jew soċjetà limitata tkun tista' thallas id-djun tagħha kollha, barra mill-hłas tal-kontribuzzjonijiet lis-soċji, mat-tqassim ta' l-attiv max-xoljiment tas-soċjetà mingħajr ma tmiss l-attiv separat tas-soċji ġenerali li ma jkunux kontribwiti lis-soċjetà; u l-espressjoni "mhux solventi" għandha tiftiehem f'dan is-sens.

(7) Tqassim ta' kull attiv ta' soċjetà in akkomandita jew soċjetà limitata lil soċju limitat għandhu titqies bħala għoti lura ta' kontribuzzjoni għall-finijiet tad-dispożizzjonijiet tas-sub-paragrafu (1) ta' dan il-paragrafu, sal-limitu li t-tqassim inaqqas il-valur tas-sehem u l-interess tiegħu fl-attiv tas-soċjetà, kalkolat fuq il-bażi ta' l-attiv nett tas-soċjetà, ikun inqas mill-valur ta' l-ammont kontribwit jew miftiehem li jkun kontribwit minnu.

Dhul ta' soċji limitati oħra

18. Bla hsara għad-dispożizzjonijiet ta' l-att tas-soċjetà, soċjetà in akkomandita jew soċjetà limitata għandha thalli kull numru limitat ta' soċji limitati biex isiru soċji limitati fis-soċjetà, kemm-il darba dak id-dhul ikun magħmul skond ftehim bil-miktub u jkun ippruvat billi jitnizzlu l-partikolaritajiet tas-soċji limitati godda fir-registru tas-soċji.

Assenjazzjoni ta' nteress ta' soċju limitat

19. (1) Bla hsara għad-dispożizzjonijiet ta' l-att tas-soċjetà l-interess ta' soċju limitat ikun assenjabbli jew għal kollox jew f'parti.

(2) Kull assenjazzjoni minn soċju limitat ta' l-interess tiegħu fis-soċjetà jew f'xi parti minna:

(a) ma għandhiex ixkolji s-soċjetà;

(b) ma tkunx valida kemm-il darba ma ssirx bil-miktub u skond htigijiet oħra, jekk ikun hemm, ta' l-att tas-soċjetà;

(ċ) ma għandhix, kemm-il darba u sakemm min jirċievi l-assenjazzjoni ma jidholx fis-soċjetà skond id-dispożizzjonijiet tal-paragrafu 18 ta' din l-Iskeda, tagħti l-jedd lil min jirċievi l-assenjazzjoni biex isir jew biex jeżercita xi jedd jew setgħa ta' soċju limitat;

(d) malli min jirċievi l-assenjazzjoni jidhol fis-soċjetà bħala soċju limitat skond id-dispożizzjonijiet tal-paragrafu 15 ta' din l-Iskeda, tagħti lil min jirċievi l-assenjazzjoni l-jeddijiet u s-setgħat u, bla hsara tal-partita (e) ta' hawn taht, tqegħda sugġett għar-restrizzjonijiet u obbligazzjonijiet (magħduda kull obbligazzjoni għall-egħmil ta' kontribuzzjonijiet tal-kapital tas-soċjetà) li l-assenjatur kien intitolat jew sugġett għalihom relattivament għall-interess assenjat minnufih qabel l-assenjazzjoni;

(e) ma teħlisx lill-assenjatur minn xi responsabbiltà li toħroġ mis-sub-paragrafu (5) tal-paragrafu 4 u mis-sub-paragrafu (2) tal-paragrafu 10 ta' din l-Iskeda.

(3) Soċju limitat, ma' l-assenjazzjoni valida u assoluta ta' l-interess tiegħu kollu fis-soċjetà u mat-tneħħija tiegħu mir-registru tas-soċji, jieqaf milli jkun soċju limitat u mid-dritt li jeżercita xi jedd jew setgħa ta' soċju limitat.

Kawzi ta' xoljiment ta' soċjetajiet in akkomanditi jew soċjetajiet limitati

20. (1) Soċjetà in akkomandita jew soċjetà limitata tkun xolta meta tigri xi waħda mill-ġrajjet li ġejjin:

- (a) meta tigri xi waħda mill-ġrajjet speċifikati fl-att tas-soċjetà;
- (b) mad-data stabbilita għat-terminu tagħha skond l-att tas-soċjetà, jekk ikun hemm;
- (ċ) mal-ftehim bil-miktub tas-soċji kollha li s-soċjetà għandha tkun xolta u avviz ta' dak il-fatt jinghata lir-Registatur skond is-sub-paragrafu (8) ta' paragrafu 22 ta' din l-Iskeda;
- (d) jekk ma jkunx hemm soċju ġenerali għal żmien ta' sitt xhur;
- (e) jekk ma jkunx hemm soċju limitat għal żmien ta' sitt xhur.

(2) Meta ma jibqa' ebda soċju ġenerali, is-soċji limitati jistgħu, matul l-imsemmija sitt xhur, jaħtru wiehed minn fosthom jew xi persuna oħra biex twettaq l-atti ta' amministrazzjoni ordinarja u kull soċju limitat jew persuna oħra maħtura skond id-dispożizzjonijiet ta' dan is-sub-paragrafu ma għandhiex tinkorri xi responsabbilita' li xort'oħra kienet tinkorri taht din l-Iskeda għat-twettiq ta' atti ordinarji ta' amministrazzjoni matul l-imsemmija żmien ta' sitt xhur.

(3) Bla hsara għad-dispożizzjonijiet ta' l-att tas-soċjetà, soċjetà in akkomandita jew soċjetà limitata ma għandhiex tkun xolta b'xi tibdil fis-soċji limitati, jew bil-falliment, insolvenza, mewt, irtirar, tneħħija, riżenja, inkapaċità jew xoljiment ta' xi soċju limitat sew jekk individwu, soċjetà, kumpannija jew korp ġuridiku iehor.

Xoljiment mill-Qorti

21. (1) Il-Qorti tista' tordna x-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata fuq ir-rikors ta' xi soċju jew kreditur jew fuq ir-rikors tar-Registatur jekk fil-fehma tagħha:

- (a) is-soċjetà ma tkunx solventi;
- (b) in-negozju tas-soċjetà ikun sospiż għal żmien kontinwu ta' tnax-il xahar;
- (ċ) l-affarijiet tas-soċjetà jkunu qed jitmexxew b'mod li jkunu oppressiv għal xi wiehed mis-soċji limitati jew bi preġudizzju għall-interessi tagħhom bħala soċji limitati jew ikunu kalkolati li jolqtu hażin it-tmexxija tan-negozju tas-soċjetà;
- (d) is-soċji limitati ma tkunx qed tinghatalhom l-informazzjoni dwar l-affarijiet tal-kumpannija li b'mod raġonevoli jistgħu jistennew;

(e) l-affarijiet tas-soċjetà jkunu qed jitmexxew b'dak il-mod li johloq frodi tal-kredituri jew b'xi mod li jkun illegittimu;

(f) ikun hemm nuqqas persistenti mis-soċjetà jew minn xi soċju ġenerali tagħha mat-tarhis ta' din l-Iskeda jew ta' xi regolament magħmul bis-saħħa ta' dan dan l-Att;

(g) ikun hemm raġunijiet ta' gravita' biżżejjed biex jiġġustifikaw ix-xoljiment.

(2) Ma' l-egħmil ta' ordni taħt is-sub-paragrafu (1) ta' dan il-paragrafu għax-xoljiment ta' soċjetà jew f'xi żmien wara, il-Qorti tista' tagħti dawk l-ordnijiet l-oħra dwar ix-xoljiment li jidhrilha xierqa fiċ-ċirkostanzi, magħdud kull ordni għall-hatra ta' stralċjarju wiehed jew iktar biex jistralċja l-affarijiet tas-soċjetà u jqassam l-assi tagħha.

Dispożizzjonijiet ġenerali applikabbli għal xoljiment

22. (1) Max-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata l-affarijiet tagħha għandhom, kemm-il darba ma jinhatarx stralċjarju mill-Qorti taħt is-sub-paragrafu (2) tal-paragrafu 21 ta' din l-Iskeda jew taħt is-sub-paragrafu (3) ta' dan il-paragrafu, tkun xolta mis-soċji ġenerali.

(2) Max-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata ebda soċju limitat ma jista', hliet skond id-dispożizzjonijiet tal-paragrafi 17 u 24 ta' din l-Iskeda, jirtira xi parti mill-kontribuzzjoni tiegħu jew xort'oħra jagħmel talba bħala kreditur tas-soċjetà.

(3) Max-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata jew f'xi żmien wara, il-Qorti tista' fuq rikors ta' xi soċju (magħdud min jirċievi assenjazzjoni tiegħu) jew xi kreditur, tagħti dawk l-ordnijiet dwar ix-xoljiment li jidhrilha xierqa, magħdud ordni għall-hatra ta' stralċjarju wiehed jew iżjed biex jistralċja l-affarijiet tas-soċjetà u jqassam l-attiv tagħha.

(4) Mal-hatra ta' stralċjarju, sew jekk taħt dan il-paragrafu jew taħt il-paragrafu 21, is-setgħat kollha tas-soċji ġenerali għandhom jieqfu; u kull persuna li tkun tidher li qed teżerċita xi setgħa ta' soċju ġenerali f'xi żmien meta, skond dan is-sub-paragrafu dawk is-setgħat kienu waqfu, tista' tehel penali.

(5) Max-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata s-soċjetà għandha tieqaf milli tmexxi n-negozju hliet sal-limitu li jkun meħtieġ għall-istralċ benefiċjali tagħha; u meta dwar soċjetà jkun hemm kontravvenzjoni tad-dispożizzjonijiet ta' dan is-sub-paragrafu, is-soċjetà u kull soċju ġenerali jistgħu jehlu penali.

(6) L-ispejjeż kollha li b'mod xieraq ikunu saru għax-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata, magħduda r-rimunerazzjoni ta' l-istralċjarju, għandhom jithallsu mill-attiv tas-soċjetà qabel ma jithallsu djun oħra.

(7) Max-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata, minkejja d-dispożizzjonijiet tas-sub-paragrafu (8) ta' hawn taht li bis-sahha tagħhom iċ-ċertifikat ta' reġistrazzjoni ma jibqax validu, il-persuni li jkunu qed jistralċjaw l-affarijiet tas-soċjetà, f'isem u għan-nom tas-soċjetà:

(a) jistgħu, sal-limitu li jkun mehtieg għall-istralċ benefiċjali tas-soċjetà, jagħmlu prosekuzzjoni, difiża jew jirriżolvu kull azzjoni ċivili jew kriminali;

(b) jistgħu jiddisponu mill-proprjetà tas-soċjetà u jirrealizzaw l-attiv tagħha;

u
(ċ) għandhom, skond id-dispożizzjonijiet tal-paragrafu 24 ta' din l-Iskeda jissodisfaw id-djun tas-soċjetà u jgassmu lis-soċji kull attiv li jibqa' tas-soċjetà;

kollox bla hsara għar-responsabbiltà personali tas-soċji.

(8) Max-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata, avviż tal-fatt għandu, fi żmien erbatax-il jum mid-data tax-xoljiment, ikun ipprezentat mis-soċji ġenerali lir-Regjstratur li għandu jiehu hsieb li avviż ta' dak il-fatt għandu jkun pubblikat fil-Gazzetta.

(9) Meta s-soċji ġenerali jonqsu li jagħtu avviż kif mehtieg bid-dispożizzjonijiet tas-sub-paragrafu (8) ta' dan il-paragrafu, is-soċji ġenerali jistgħu jehlu penali u jkomplu bir-responsabbiltà tagħhom daqslikieku kienu soċji ġenerali ta' soċjetà in akkomandita jew soċjetà limitata li ma tkunx giet xolta.

(10) Ix-xoljiment ta' soċjetà għandu jitqies li jkun gara ma' l-ewwel minn dan li ġej:

(a) mid-data tal-ġrajja li minnha, taht id-dispożizzjonijiet ta' din l-Iskeda, is-soċjetà tkun xolta; jew

(b) id-data ta' l-ordni mill-Qorti taht din l-Iskeda għax-xoljiment tagħha.

(11) Malli l-affarijiet tas-soċjetà in akkomandita jew soċjetà limitata jkunu stralċjati għal kollox, il-persuni li jkunu mexxew l-istralċ għandhom:

(a) ihejju rendikont ta' l-istralċ li jagħti dettalji tat-tmexxija tagħha u tad-disponiment tal-proprjetà tas-soċjetà, u li jiddikjara jekk xi waħda mill-affarijiet imsemmija fil-paragrafu 23 ta' din l-Iskeda tkunx giet għall-attenzjoni tagħhom jew le;

(b) jagħtu lis-soċji kollha kopja ta' l-imsemmi rendikont; u

(ċ) jikkonsenjaw lir-Regjstratur kopja ta' l-imsemmi rendikont għar-reġistrazzjoni.

(12) Il-persuni li jmessu l-istralċ ta' soċjetà in akkomandita jew soċjetà limitata jistgħu, b'rikors, jitolbu d-direzzjonijiet tal-Qorti dwar kull haġa li għandha x'taqsam ma' l-istralċ; u ma dak ir-rikors il-Qorti tista' tagħti dik l-ordni li jidhrilha xierqa.

(13) Mal-konsenja lir-Registratur tar-rendikont tal-kont ta' l-istralċ, ir-Registratur għandu ma' dan jirreġistrah u jhassar l-isem tas-soċjetà minn fuq ir-Registru, u malli jagħmel hekk iċ-ċertifikat ta' registrazzjoni tas-soċjetà ma jibqax validu. Ir-Registratur għandu minnufih jippubblika avviż tat-tmiem ta' l-istralċ u ta' dak it-thassir.

Responsabbiltà personali għal ċerti nuqqasijiet

23. (1) F'kull każ fejn –

(a) soċjetà in akkomandita jew soċjetà limitata tkun giet xolta u ma tkunx tista' thallas id-djun tagħha; u

(b) dwar is-soċjetà tkun saret kontravvenzjoni ta' xi dispożizzjoni rilevanti, li –

(i) tkun ikkontribwit għall-fatt li s-soċjetà ma tkunx tista' thallas id-djun tagħha;

(ii) tkun b'mod materjali żgwidat jew qarrqet b'xi soċju jew kreditur, jew tkun irriżultat f'incertezza sostanzjali dwar l-attiv, il-passiv, flus tal-klijenti jew strumenti ta' investiment tas-soċjetà; jew

(iii) tkun sostanzjalment impediet l-istralċ xieraq ta' l-affarijiet tas-soċjetà;

il-Qorti tista', fuq rikors ta' xi kreditur jew soċju jew xi persuna oħra li tkun qed tmexxi l-istralċ tas-soċjetà, tiddikjara li xi ufficjal jew ufficjal passat ta' xi soċju ġenerali fis-soċjetà; li jkun responsabbli għall-kontravvenzjoni jkun personalment responsabbli, mingħajr limitazzjoni ta' responsabbiltà, għad-djun tas-soċjetà jew dik il-parti minnhom kif jista' jiġi speċifikat mill-Qorti.

(2) Meta l-Qorti tagħmel dikjarazzjoni taht is-sub-paragrafu (1) ta' dan il-paragrafu dwar xi persuna, din tista' –

(a) tagħti dawk id-direzzjonijiet li jidhrilha xierqa sabiex tagħti effett lid-dikjarazzjoni; u

(b) tordna li r-responsabbiltà ta' dik il-persuna taht id-dikjarazzjoni tkun piż fuq –

(i) xi dejn dovut mis-soċjetà lilha, lil xi persuna f'isimha, lil xi persuna li tgħid li tkun irċevit assenjazzjoni mingħandha jew permezz tagħha jew lil xi persuna li taġixxi f'isem dik il-persuna li tirċievi assenjazzjoni; jew

(ii) kull piż fuq xi attiv tas-soċjetà jew xi interess f'xi piż bhal dak miżmum jew vestit f'dik il-persuna jew f'xi persuna ohra kif imsemmija;

u l-Qorti tista' wkoll minn żmien għal żmien tagħmel dawk l-ordnijiet l-ohra li jidhrilha xierqa sabiex tagħti effett lil xi piż impost taħt dan is-sub-paragrafu.

(3) Fis-sub-paragrafu (2) ta' dan il-paragrafu, l-espressjoni "persuna li tirċievi assenjazzjoni" tinkludi kull persuna li lilha jew favur tagħha, bid-direzzjoni tal-persuna responsabbli, id-dejn, il-piż jew l-interess ikun inholoq, inħareġ jew gie trasferit, iżda ma tinkludix persuna li tirċievi assenjazzjoni għal konsiderazzjoni prezzjuża (barra minn konsiderazzjoni maż-żwieġ) mogħtija in *bona fide* u bla avviż ta' xi raġunijiet li fuqhom setgħat saret id-dikjarazzjoni.

(4) Il-Qorti ma għandhiex taġħmel dikjarazzjoni taħt is-sub-paragrafu (1) ta' dan il-paragrafu dwar persuna, jekk tikkunsidra li -

(a) tkun ħadet il-passi kollha raġonevoli biex tiżgura tharis mis-soċjetà in akkomandita jew soċjetà limitata tad-dispożizzjonijiet rilevanti; jew

(b) kellha raġunijiet xierqa biex temmen u fil-fatt kienet temmen li persuna kompetenti u ta' min jorbot fuqha, li kienet qed taġixxi taħt is-sorveljanza jew kontroll ta' jew maħtura mis-soċji ġenerali -

(i) kienet inkarigata bid-dmir li tiżgura li dawk id-dispożizzjonijiet ikunu mharsa; u

(ii) kienet f'pożizzjoni li taqdi dak id-dmir.

(5) Id-dispożizzjonijiet ta' qabel ta' dan il-paragrafu jkunu bla ħsara għal xi penali, rimedju jew proċedura ohra, ċivili jew kriminali, dwar il-kontravvenzjoni.

(6) F'xi każ fejn -

(a) soċjetà in akkomandita jew soċjetà limitata tkun ġiet xolta u ma tkunx tista' thallas id-djun tagħha; u

(b) dwar is-soċjetà tkun saret kontravvenzjoni ta' xi dispożizzjoni rilevanti li -

(i) tkun ikkontribwit għall-fatt li s-soċjetà ma tkunx tista' thallas id-djun tagħha;

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(ii) tkun b'mod materjali żgwidat jew qarrqet b'xi soċju jew kreditur, jew tkun irriżultat f'incertezza sostanzjali dwar l-attiv, il-passiv, flus tal-klijenti jew strumenti ta' investment tas-soċjetà; jew

(iii) tkun sostanzjalment impedit l-istralċ xieraq ta' l-affarijiet tas-soċjetà;

kull uffiċjal jew uffiċjal passat ta' xi soċju ġenerali tas-soċjetà li jkun responsabbli għall-kontravvenzjoni (bla hsara għal kull responsabbiltà ċivili) ikun hati ta' reat.

(7) Fil-prosekuzzjoni għal reat taht dan il-paragrafu, tkun difiza għall-persuna akkużata li turi li -

(a) tkun hadet il-passi kollha raġonevoli biex tiżgura tharis mis-soċjetà in akkomandita jew soċjetà limitata tad-dispożizzjonijiet rilevanti; jew

(b) kellha raġunijiet xierqa biex temmen u fil-fatt kienet temmen li persuna kompetenti u ta' min jorbot fuqha, li kienet qed taġixxi taht is-sorveljanza jew kontroll ta' jew mahtura mis-soċji ġenerali -

(i) kienet inkarigata bid-dmir li tiżgura li dawk id-dispożizzjonijiet ikunu mharsa; u

(ii) kienet f'pożizzjoni li taqdi dak id-dmir.

(8) Għall-finijiet ta' dan il- paragrafu -

(a) l-espressjoni "uffiċjal", dwar soċju ġenerali, tfisser kull direttur, *manager*, membru ta' xi kumitat ta' l-amministrazzjoni jew awtorità oħra li tikkontrolla, segretarju jew uffiċjal iehor simili tas-soċju ġenerali, u kull persuna li skond id-direzzjonijiet jew l-istruzzjonijiet tagħha xi whud mill-persuni msemmija jkunu mdorrija jaġixxu;

(b) l-espressjoni "dispożizzjoni rilevanti" tfisser kull dispożizzjoni rilevanti ta' din l-Iskeda u kull dispożizzjoni oħra li fiż-żmien tkun preskritta b'regolamenti taht dan l-Att; u

(c) persuna titqies li tkun responsabbli għal kontravvenzjoni ta' dispożizzjoni rilevanti jekk il-kontravvenzjoni -

- (i) l-eghmil tagħha jkun bil-kunsens jew konnivenza tagħha; jew
- (ii) kienet attribwibbli jew faċilitata b'xi negligenza minn naħa tagħha.

Tqassim ta' attiv max-xoljiment

24. Max-xoljiment ta' soċjetà in akkomandita jew soċjetà limitata, l-attiv għandu jitqassam fl-ordni li ġejja -

(a) l-ewwel, lill-kredituri li ma jkunux soċji, sal-limitu xort'oħra permess bil-liġi, b'sodisfazzjon tad-djun tas-soċjetà;

(b) it-tieni, lil soċji limitati li huma kredituri u li ma jkunux ukoll soċji generali, sal-limitu xort'oħra permess bil-liġi, b'sodisfazzjon tad-djun tas-soċjetà barra minn djun deskritti bis-sub-paragrafu (ċ) ta' dan il-paragrafu;

(ċ) finalment, suġġett għad-dispożizzjonijiet ta' l-att tas-soċjetà, lil soċji kif ġej -

(i) l-ewwel, lil soċji limitati bi hlas lura tal-kontribuzzjonijiet tagħhom jew, fejn applikabbli, għall-helsien mill-obbligi tagħhom li jagħmlu kontribuzzjonijiet;

(ii) it-tieni, lil soċji limitati barra milli għal kapital u profitti;

(iii) it-tielet, lil soċji generali dwar kapital;

(iv) finalment, lil soċji generali dwar profitti.

Tqassim ta' kapital f'azzjonijiet

25. (1) Bla ħsara għad-dispożizzjonijiet ta' qabel ta' din l-Iskeda, il-kapital ta' soċjetà in akkomandita jew soċjetà limitata jista' jitqassam f'azzjonijiet.

(2) Id-dispożizzjonijiet ta' dan l-Att dwar azzjonijiet f'kumpanija barra mid-dispożizzjonijiet ta' l-artikolu 72 tiegħu għandhom japplikaw għall-azzjonijiet f'soċjetà in akkomandita jew soċjetà limitata safejn dawn ma jkunux inkonsistenti mad-dispożizzjonijiet ta' qabel ta' din l-Iskeda.

(3) Id-dispożizzjonijiet ta' l-artikolu 78, tas-subartikolu (4), (5) u (6) ta' l-artikolu 137 u tas-subartikolu (2) ta' l-artikolu 142 ta' dan l-Att għandhom japplikaw

għal soċjetà in akkomandita jew soċjetà limitata, li l-kapital tagħha jkun maqsum f'azzjonijiet, bis-sostituzzjoni ta' riferenzi għal soċji generali vestiti bl-amministrazzjoni jew b'rappreżentanza minflok riferenzi għal diretturi, uffiċjali jew bord tad-diretturi; bis-sostituzzjoni ta' riferenzi għal soċjetà in akkomandita jew soċjetà limitata, li l-kapital tagħha jkun maqsum f'azzjonijiet, minflok riferenzi għal kumpannija; bis-sostituzzjoni ta' riferenzi għal att tas-soċjetà minflok riferenzi għal memorandum jew memorandum u statut; bis-sostituzzjoni ta' riferenzi għal soċji minflok riferenzi għal azzjonisti; u, dwar is-subartikolu (5) ta' l-artikolu 137 ta' dan l-Att, bis-sostituzzjoni tal-frazi "deċiżjoni tas-soċji" minflok il-frazi "xi riżoluzzjoni tal-laqgħa generali jew minn deċiżjoni tal-bord tad-diretturi".

(4) Soċjetà in akkomandita jew soċjetà limitata, li l-kapital tagħha ma jkunx maqsum f'azzjonijiet, tista' tibdel l-istat tagħha għal soċjetà in akkomandita jew soċjetà limitata li l-kapital tagħha jkun maqsum f'azzjonijiet, b'deċiżjoni mehuda skond id-dispożizzjonijiet ta' l-att tas-soċjetà, jew, fin-nuqqas ta' xi dispożizzjoni bħal dik, bil-kunsens tas-soċji kollha, kemm generali u limitati:

Iżda meta wiehed jew iktar mis-soċji limitati, li flimkien ikollhom mhux iktar minn kwart tal-kontribuzzjoni totali tas-soċji limitati, ma jagħtux il-kunsens tagħhom, is-soċjetà in akkomandita jew soċjetà limitata tista' b'danakollu tghaddi biex tibdel l-istat tagħha, iżda tkun mehtieġa, għall-fini ta' dak it-tibdil, li tillikwida u tħallas lura lil kull soċju li ma jkunx ta' l-kunsens tiegħu fis-soċjetà in akkomandita jew soċjeta limitata b' dawk il-kondizzjonijiet li jistgħu jiġu miftiehma, jew kif il-Qorti, fuq talba jew tas-soċjetà jew tas-soċju limitat, jidhrilha xieraq li tordna.

(5) Soċjetà in akkomandita jew soċjetà limitata, li l-kapital tagħha jkun maqsum f'azzjonijiet, tista' tibdel l-istat tagħha għal soċjetà in akkomandita jew soċjetà limitata li l-kapital tagħha ma jkunx maqsum f'azzjonijiet, b'deċiżjoni mehuda skond id-dispożizzjonijiet ta' l-att tas-soċjetà jew, fin-nuqqas ta' xi dispożizzjoni bħal dik, bil-kunsens tas-soċji kollha kemm generali u limitati:

Iżda meta wiehed jew iktar mis-soċji limitati, li flimkien ikollhom mhux iktar minn għaxra wiehed tal-kapital azzjonarju tal-kumpannija, ma jagħtux il-kunsens tagħhom, is-soċjetà in akkomandita jew soċjetà limitata tista' b'danakollu tghaddi biex tibdel l-istat tagħha, iżda tkun mehtieġa, għall-fini ta' dak it-tibdil, li tifdi l-azzjonijiet miżmuma minn kull soċju tas-soċjetà in akkomandita jew soċjetà limitata li ma jkunx ta' l-kunsens tiegħu, jekk hu hekk jitlob, b'dawk il-kondizzjonijiet li jistgħu jiġu miftiehma jew kif il-Qorti, fuq talba tas-soċjetà jew tas-soċju limitat, jidhrilha xierqa li tordna.

(6) Ikun id-dmir tas-soċju generali vestit bl-amministrazzjoni jew bir-rappreżentanza ta' soċjetà in akkomandita jew soċjetà limitata, li tkun iddeċidiet li tibdel l-istat tagħha skond is-sub-paragrafu (4) jew is-sub-paragrafu (5) ta' dan il-

paragrafu, li tikkonsenja lir-Registratur għar-registrazzjoni l-istrument jew kopja tiegħu li jibdel jew iżid ma' l-att tas-soċjetà kif emendat skond id-dispożizzjonijiet tas-sub-paragrafu (2) tal-paragrafu 8 ta' din l-Iskeda.

(7) It-tibdil fl-istat imsemmi fis-sub-paragrafu (4) jew fis-sub-paragrafu (5) ta' dan il-paragrafu ma għandux jibda jsehh kemm-il darba u sakemm ma jgix registrat kif mehtieg bis-sub-paragrafu (6) ta' dan il-paragrafu.

(8) (a) Id-dispożizzjonijiet ta' dan il-paragrafu għandhom japplikaw biss għal soċjetà in akkomandita jew soċjetà limitata li tikkwalifika għal skema ta' investiment kollettiv licenzjata skond l-Att dwar Servizzi ta' Investiment.

(b) Għall-finijiet ta' dan il-paragrafu, kemm-il darba r-rabta tal-kliem ma tehtiegx xort'ohra -

“munita bażi” tfisser il-munita li fiha tkun denominata sotto-klassi;

“awtorità kompetenti” tfisser l-awtorità kompetenti taht l-Att dwar is-Servizzi ta' Investiment;

“munita” tfisser, barra mil-lira Maltija, kull munita konvertibbli skond l-artikolu 186 ta' dan l-Att;

“frazzjoni finanzjarja” tfisser frazzjoni ta' azzjoni shiha f'kull klassi ta' azzjonijiet maħruġa minn soċjetà in akkomandita jew soċjetà limitata b'kapital azzjonarju varjabbli;

“sotto-klassi” tfisser klassi distinta ta' azzjonijiet f'soċjetà in akkomandita jew f'soċjetà limitata li lilha jkunu allokatu attiv u passiv distinti minn attiv u passiv ohra allokatu lil klassijiet ohra ta' azzjonijiet fl-istess soċjetà u li jistgħu jsegwu oġġettivi ta' investiment u jintrabtu ma' *policies* ta' investiment differenti minn dawk ta' klassijiet ohra ta' azzjonijiet fl-istess soċjetà.

(c) Att ta' soċjetà in akkomandita jew soċjetà limitata li l-kapital tagħha jkun maqsum f'azzjonijiet jista' jipprovdì għall-kostituzzjoni tas-soċjetà bhala soċjetà in akkomandita jew soċjetà limitata b'kapital azzjonarju varjabbli u d-dispożizzjonijiet tas-subartikoli (2) sa (7) u tas-subartikolu (9) ta' l-artikolu 84 ta' dan l-Att għandhom, safejn applikabbli, japplikaw *mutatis mutandis* u riferenza għall-frazi “memorandum jew statut” għandha titqies bhala riferenza għal “att ta' soċjetà” u riferenza għall-frażijiet “kumpannija” u “kumpannija ta' investiment” għandha titqies bhala riferenza għal “soċjetà in akkomandita jew soċjetà limitata u riferenza fil-paragrafu (f) ta' l-artikolu 69 ta' dan l-Att għandha titqies bhala riferenza għall-paragrafu (e) tas-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att.

(d) Att ta' soċjetà in akkomandita jew soċjetà limitata li l-kapital tagħha jkun maqsum f'azzjonijiet jista' jipprovdì għall-kostituzzjoni tas-soċjetà bhala

soċjetà in akkomandita jew soċjetà limitata fil-forma ta' soċjetà *umbrella* jew *multi-class*, u jipprova għall-kostituzzjoni ta' sotto-klassijiet, u l-klassijiet differenti ta' azzjonijiet li jistgħu jinharġu minn dik is-soċjetà, meta kull klassi ta' azzjonijiet tirrappreżenta sotto-klassi distinta tas-soċjetà u denominata f'dik il-munita jew f'dawk il-muniti kif jista' jiġi provdut fl-att.

(e) Soċjetà in akkomandita jew soċjetà limitata tista' tkun biss validament kostitwita bhala soċjetà *umbrella* jew *multi-class* jekk tkun hekk liċenzjata mill-awtorità kompetenti.

(f) Soċjetà in akkomandita jew soċjetà limitata liċenzjata kif imiss bhala soċjetà *umbrella* jew *multi-class* tista', bl-approvazzjoni ta' l-awtorità kompetenti, tistabbilixxi sotto-klassijiet godda bil-holqien u hrug ta' klassijiet godda ta' azzjonijiet.

(g) Kull klassi ta' azzjonijiet li tirrappreżenta sotto-klassi f' soċjetà *umbrella* jew *multi-class* tista' tiġi msejha b'munita differenti, iżda klassi ta' azzjonijiet tista' tissejjaħ b'munita waħda biss.

(h) Soċjetà *umbrella* jew *multi-class* li jkollha l-kapital azzjonarju tagħha denominat f'muniti differenti għandha tagħmel il-kontijiet annwali tagħha f'waħda minn dawk il-muniti, kif jista' jiġi approvat mill-awtorità kompetenti.

(i) Is-soċju ġenerali ta' soċjetà *umbrella* jew *multi-class* għandu jzomm *records* tal-kontijiet xierqa ta' l-attiv u l-passiv ta' kull sotto-klassi fil-munita bażi ta' dik is-sotto-klassi.

(j) Id-dispożizzjonijiet tas-sub-paragrafu (h) għandhom *mutatis mutandis* japplikaw għall-egħmil ta' kull rapporti jew dikjarazzjonijiet finanzjarji ohra li jistgħu jkunu meħtieġa taħt dan l-Att jew mill-awtorità kompetenti.

(k) Għall-finijiet tas-sub-paragrafi (h) u (j) ta' dan il-paragrafu, il-konverżjoni minn munita bażi ta' sotto-klassi f'munita li fiha jsiru l-kontijiet annwali tas-soċjetà *umbrella* jew *multi-class* għandha ssir bl-użu tar-rata tal-kambju bejn l-ewwel u t-tieni munita fid-data tal-karta tal-bilanċ, u dik ir-rata tkun ir-rata medja ta' l-egħluq mahruġa mill-Bank Ċentrali ta' Malta. Din in-nota għandha tintwera fin-noti tal-kontijiet.

(l) Soċjetà in akkomandita jew soċjetà limitata kostitwita bhala soċjetà *umbrella* jew *multi-class* tista' fl-att ta' soċjetà tagħha tagħzel li l-attiv u l-passiv ta' kull sotto-klassi kompriża f'dik is-soċjetà jiġu trattati, għall-finijiet u effetti kollha tal-liġi, bhala patrimonju separat mill-attiv u l-passiv ta' kull sotto-klassi ohra ta' dik is-soċjetà. Meta soċjetà in akkomandita jew soċjetà limitata kostitwita bhala soċjetà *umbrella* jew *multi-class* tagħmel l-għażla kif intqal qabel, l-attiv u

l-passiv ta' kull sotto-klassi ta' dik is-soċjetà għandhom, għall-finijiet u effetti kollha tal-liġi jitqiesu li jikkostitwixxu patrimonju separat mill-attiv u l-passiv ta' kull sotto-klassi oħra ta' dik is-soċjetà.

(m) Hlief għal dak il-proporzjon tal-passiv ta' soċjetà in akkomandita jew soċjetà limitata kostitwita bħala soċjetà *umbrella* jew *multi-class* li bis-saħħa ta' l-att tas-soċjetà jew bis-saħħa tal-kondizzjonijiet tal-ħruġ ta' l-azzjonijiet li jikkostitwixxu sotto-klassi jkun, jew għandu jkun attribwit lil, sotto-klassi waħda jew aktar fil-proporzjon stabbilit fih, il-passiv magħmul dwar kull sotto-klassi għandu jithallas mill-attiv li jifforma l-patrimonju tagħha u fil-każ li dak l-attiv ma jkunx biżżejjed biex jithallas il-passiv hekk magħmul, il-kredituri dwaru ma jkollhom ebda dritt jew rimedju kontra l-attiv l-ieħor tas-soċjetà, u d-dispożizzjonijiet ta' kull liġi jew regolament fis-seħħ li jirregola l-insolvenza ta' soċjetajiet ma għandhux japplika.

(n) Is-soċju ġenerali ta' soċjetà in akkomandita jew soċjetà limitata kostitwita bħala soċjetà *umbrella* jew *multi-class* għandu jzomm jew jara li jinżammu dawk ir-records, kontijiet, dikjarazzjonijiet u dokumenti oħra separati kif ikun meħtieġ sabiex ikun jidher li l-attiv u l-passiv ta' kull sotto-klassi jkun distint u separat mill-attiv u l-passiv tas-sotto-klassijiet l-oħra fl-istess soċjetà.

(o) Id-dispożizzjonijiet tal-hames Skeda li tinsab ma' dan l-Att għandhom japplikaw *mutatis mutandis* għal soċjetà in akkomandita jew soċjetà limitata b'kapital azzjonarju varjabbli.

(p) (i) Soċjetà in akkomandita jew soċjetà limitata tista', jekk hekk awtorizzata bl-att tas-soċjetà tagħha, tohroġ azzjonijiet frazzjonali sa dak in-numru ta' postijiet deċimali, li ma jkunux inqas minn tlieta, kif ikun speċifikat fl-att ta' soċjetà, u taht dawk il-pattijiet u l-kondizzjonijiet li jkunu stipulati fih.

(ii) Azzjonijiet frazzjonali għandhom ikunu awtomatikament konsolidati f'azzjoni shiħa ta' l-istess klassi meta l-azzjonijiet frazzjonali miżmuma minn azzjonist wieħed isiru ekwivalenti għal azzjoni shiħa.

Penalitajiet amministrattivi dwar soċjetajiet in akkomanditi jew soċjetajiet limitati

26. (1) Meta xi dispożizzjoni ta' din l-Iskeda tipprovdi għall-impożizzjoni ta' penali, l-ammont ta' dik il-penali għandu jiġi stabbilit b'riferenza għat-Taqsima II ta' din l-Iskeda, li tispeċifika l-ogħla penali li tista' tiġi mposta mir-Registatur taht xi waħda mid-dispożizzjonijiet ta' din l-Iskeda.

(2) Fit-Taqsima II ta' din l-Iskeda, l-ewwel kolonna turi l-paragrafu jew is-sub-paragrafu ta' din l-Iskeda li jippreskrivi li penali għandha tiġi mposta, it-tieni kolonna tagħti deskrizzjoni ġenerali ta' l-informazzjoni, liema deskrizzjoni ma għandhix tkun il-bażi bex tiġi nterpretata xi dispożizzjoni ta' din l-Iskeda, it-tielet kolonna

tippreskrivi l-oghla penali u r-raba' kolonna tippreskrivi l-oghla penali għal nuqqas ta' kull jum, jekk il-każ. Il-penali ssir dovuta fil-jum li fih jiġri n-nuqqas u l-penali għal nuqqas ta' kull jum tkun dovuta għal kull jum li matulu jkompli n-nuqqas u tibda għaddejja mill-jum li jiġi minnufih wara l-jum li fih isir in-nuqqas.

(3) Azzjoni mir-Registratur għall-ġbir ta' penali taht din l-Iskeda tkun preskritta malli jgħaddu hames snin mill-jiem li fih isir in-nuqqas.

(4) Dwar penalitajiet stabbiljiti taht din l-Iskeda, id-dispozizzjonijiet ta' l-artikolu 401 ta' dan l-Att għandhom japplikaw *mutatis mutandis*.

TAQSIMA II - PENALITAJIET

Paragrafu	Nuqqas	Penali	Penali għal kull jum
4(5)	Persuna li ma tkunx is-socjeta' in akkomandita jew socjeta' limitata jew socju fiha li b'mod qarrieqi tindika ezistenza ta' socjeta'	200 lira	10 liri
8(4)	Nuqqas ta' xi socju generali, vestit bl-amministrazzjoni jew rappreżentanza, li jikkonsenja lir-Registratur għar-registrazzjoni l-istrument jew kopja tiegħu li jibdel jew iżid ma' l-att tas-socjeta', fi zmien erbatax-il jum mit-tibdil jew zieda	200 lira	10 liri
8(6)	Nuqqas ta' socju generali, li jinnotifika lir-Registratur f'tibdil fl-isem, ta' xi socju generali, fl-uffiċċju registrat, fl-oġġettivi jew fiz-zmien stabbilit għat-terminu tas-socjeta', fi zmien erbatax-il jum mit-tibdil	200 lira	10 liri
13(10)	Nuqqas mis-socjeta' in akkomandita jew socjeta' limitata li żżomm id-dokumenti fl-uffiċċju registrat, li tqegħdhom disponibbli għal spezzjon, u nuqqas dwar dokumenti li għandhom jintbagħtu jew jinżammu f'Malta	200 lira	10 liri
13(7)	Nuqqas li jinżammu xi <i>records</i> tal-kontijiet imsemmija għal zmien ta' għaxar snin mid-data li fiha jkunu saru	500 lira	Xejn
22(4)	Eżercizzju minn xi persuna tas-setgħat tas-socji generali wara l-hatra ta' stralċjarju	500 lira	Xejn
22(5)	Eżercizzju minn xi persuna tan-negożju tas-socjeta' wara x-xoljiment tagħha	500 lira	Xejn
22(9)	Nuqqas tas-socji generali li jagħtu avviz ta' xoljiment kif meħtieġ bil-paragrafu 22(8)	200 lira	10 liri"

Għanijiet u Raġunijiet

L-għan ewlieni ta' dan l-Abbozz huwa li jipprovdi dwar dispożizzjonijiet għal tpaċija u *netting* f'każ ta' falliment jew insolvenza u dwar l-infurzar ta' dawk is-dispożizzjonijiet.

L-Abbozz għandu wkoll l-għan li jaġġorna u jtejjeb dispożizzjonijiet eżistenti ta' l-Att dwar il-Kumpanniji u li jintroduċi dispożizzjonijiet godda dwar kumpanniji b'responsabbiltà in akkomandita u soċjetajiet kummerċjali oħra.

L-Abbozz jipprovdi wkoll għal emendi ta' diversi liġijiet oħra.

**A BILL
entitled**

AN ACT to make provision for the enforceability of set-off and netting on bankruptcy or insolvency and to amend various other financial and commercial laws.

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

PART I

1. (1) The title of this Act is the Set-off and Netting on Insolvency Act, 2002. Short title and commencement.

(2) This Part shall come into force on such date as the Minister responsible for finance may by notice in the Gazette establish.

2. In this Act, unless the context otherwise requires - Interpretation.

“close-out netting provision” means a provision of a contract under which on the occurrence of a specified event, whether through the operation of netting or set-off or otherwise -

(a) the benefit of time for the performance of relevant obligations by the debtor may no longer be claimed and, or the relevant obligations become immediately due and expressed as an obligation to pay an amount representing their estimated current value, or are terminated and replaced by an obligation to pay such an amount, and, or ,

(b) any obligation of a party to deliver property to the other is immediately performable notwithstanding any benefit of time granted to the debtor and expressed as an obligation to pay an amount representing its estimated current value or

replacement value or is terminated and replaced by an obligation to pay such an amount, and

(c) an account is taken of what is due from each party to the other in respect of such obligations and those obligations fall to be discharged by the payment of an aggregate net sum equal to the balance of account by the party from whom the larger amount is due;

“netting” means the conversion into one net claim or one net obligation of claims and obligations arising under any contract with the result that only a net claim can be demanded or a net obligation be owed.

Set-off and netting.

3. (1) Notwithstanding the provisions of any other law, any close-out netting provision or any other provision in any contract providing for or relating to the set-off or netting of sums due from each party to the other in respect of mutual credits, mutual debts or other mutual dealings shall be enforceable in accordance with its terms, whether before or after bankruptcy or insolvency, in respect of mutual debts, mutual credits or mutual dealings which have arisen or occurred before the bankruptcy or insolvency of one of the parties, against :

(a) the parties to the contract,

(b) any guarantor or any person providing security for any party to the contract,

(c) the liquidator, receiver, curator, controller, special controller or other similar officer of either party to the contract, and

(d) the creditors of the parties to the contract.

(2) When a close-out netting provision is enforced, obligations expressed in different currencies are converted into a single currency and such obligations shall be discharged by the payment of an aggregate net sum equal to the balance of account by the party from whom the larger amount is due.

(3) Any authority or mandate in a contract to implement any close-out netting provision shall not be revoked by the declaration of bankruptcy or the insolvency of any other party to the contract.

(4) Subarticle (1) of this article shall not apply in respect of any close-out netting agreement entered into at a time at which the other party knew or ought to have known that an application for the

dissolution and winding up of the company by reason of insolvency was pending, or that the company has taken formal steps under any applicable law to bring about its dissolution and winding up by reason of insolvency.

(5) Subarticle (1) of this article shall also not apply where the insolvent party is an individual or a commercial partnership other than a company and the other party knew or ought to have known of events of the same nature as stated in the preceding sub-article in relation to the insolvent party.

(6) Notwithstanding the provisions of any other law, nothing shall limit or delay the application of any provision of any contract providing for or relating to set-off or netting which would otherwise be enforceable and no order of any court nor any warrant or injunction or similar order issued by a court or otherwise and no proceedings of whatever nature shall have any effect in relation thereto.

(7) Nothing in subarticle (6) of this article shall -

(a) prevent the application of any law which would render netting or set-off unenforceable in any particular case on the grounds of fraud or on any similar ground, or

(b) permit the enforceability of netting or set-off under this article if any provision of a contract between the parties concerned would make netting or set-off void because of fraud or any similar ground.

(8) Articles 303, 304 and 315 of the Companies Act and article 485 of the Commercial Code shall only be applicable in relation to a close-out netting provision where there is fraud on the part of the party to the agreement not being the insolvent party.

Cap. 386
Cap. 13

4. It shall be lawful for the parties to a contract, when entering into the contract -

Agreements in
relation to
obligations and
transactions.

(a) to agree on any system or mechanism which will enable the parties to convert a non-financial obligation into a monetary obligation of equivalent value and to value such obligation for the purposes of any set-off or netting;

(b) to agree on the rate of exchange or the method to be used to establish the rate of exchange to be applied in effecting any set-off or netting when the sums to be set off or netted are in different currencies, and to establish the currency in which payment of the net sum is to be effected;

(c) to agree that any transactions or other dealings carried out pursuant to any contract, whether identified specifically or by reference to a type or class of transactions or dealings, shall be treated as a single transaction or dealing for the purpose of the set-off or netting provisions in the contract and that all such transactions or dealings shall be treated as a single transaction or dealing by the parties or any liquidator, receiver, curator, controller or special controller or other officer acting for the parties and any court.

Applicability to branches in Malta.

5. A close-out netting provision entered into by a party which is a branch in Malta of an oversea company shall be valid and enforceable in accordance with the provisions of this Act notwithstanding the provisions of any other law which may be applicable to such party, including the law under which such company is constituted.

PART II

AMENDMENT OF THE BUSINESS PROMOTION ACT, CAP. 325

Amendment of the Business Promotion Act, Cap. 325.

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

7. Immediately after subarticle (9) of article 3 of the principal Act, there shall be added the following new subarticle (10):

"(10) Notwithstanding the provisions of subarticles 4(6), 5(7), 5A(6) and 15 of this Act, with effect from the year of assessment 2004 no company shall be entitled to the incentives provided by articles 4, 5 and 5A of this Act:

Provided that a company may qualify for such benefits and incentives as may be prescribed by the Minister."

PART III

AMENDMENT OF THE MALTA FINANCIAL SERVICES AUTHORITY ACT, CAP. 330

Amendment of Malta Financial Services Authority Act, Cap. 330

8. (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".

(2) This Part shall come into force on such date as the Minister responsible for finance may by Order in the Gazette establish

and different dates may be so established for different provisions and different purposes thereof.

9. In paragraph (d) of subarticle (6) of article 6 of the principal Act, for the words “or of body, or to any other cause, or of misbehaviour;”, there shall be substituted the words “or of body, or of misbehaviour;”. Amendment of article 6 of the principal Act.

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

(a) in subarticle (1) thereof, for the words “right to request reasonable access”, there shall be substituted the words “right to reasonable access and entry”; Amendment of article 16 of the principal Act.

(b) in paragraph (b) of subarticle (2) thereof, for the words “to the Authority.” there shall be substituted the words “to the Authority; and”;

(c) immediately after paragraph (b) of subarticle (2) thereof, there shall be inserted the following new paragraph (c):

“(c) require 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 directive 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 directive within the time and manner stated in the directive.”; and

(d) immediately after subarticle (2) thereof, there shall be inserted the following new subarticle (3):

“(3) Where a licence holder or the manager, secretary, director or the person responsible for a licence holder contravenes or fails to comply with any of the conditions imposed in a licence issued by the Authority in terms of article 4 of this Act or any directives or Guidelines issued in terms of this article, the Authority may by notice in writing impose on persons licensed or authorised by it, or falling under its regulatory or supervisory functions including managers, secretaries, directors and, or other persons, as the case may be, an administrative penalty and the provisions of subarticles (9) and (11) of article 6 of the Investment Services Act shall apply *mutatis mutandis*.”.

Amendment of
article 21 of the
principal Act.

11. Article 21 of the principal Act shall be amended as follows:

(a) subarticle (16) thereof shall be re-numbered subarticle (17); and

(b) immediately after subarticle (15) thereof, there shall be inserted the following new subarticle (16):

“(16) An appeal made under this article shall not suspend the operation of any decision or directive from which the appeal is made:

Provided that a decision to cancel a licence shall not become operative until the expiration of the period within which an appeal lies under this article and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or the date on which the appeal is abandoned.”.

Amendment of
various articles of
the principal Act.

12. For the words “Executive Co-Ordination Committee” wherever they occur in the various articles of the principal Act, there shall be substituted in each case the words “Co-Ordination Committee”.

PART IV

AMENDMENT OF THE MALTA FREEPORTS ACT, CAP. 334

Amendment of the
Malta Freeports Act,
Cap. 334.

13. This Part amends and shall be read and construed as one with the Malta Freeports Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of
article 20A of the
principal Act.

14. Article 20A of the principal Act shall be amended as follows:

(a) the present provision shall be re-numbered as subarticle (1) thereof; and

(b) immediately after subarticle (1) thereof as re-numbered, there shall be added the following new subarticle (2):

“(2) Notwithstanding the provisions of subarticle (1) of this article, with effect from the year of assessment 2004, no person shall be entitled to the benefits provided by articles 18 and 19 of this Act and with effect from first day of January 2003 no person shall be entitled to the benefits provided by article 20 of this Act:

Provided that a person may qualify for such benefits as may be applicable to him under the Business Promotion Act.”. Cap. 325

PART V

AMENDMENTS OF THE FINANCIAL MARKETS ACT, CAP. 345

15. (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”. Amendments of the Financial Markets Act, Cap. 345.

(2) This Part shall come into force on such date as the Minister responsible for finance may by Order in the Gazette establish and different dates may be so established for different provisions and different purposes thereof.

16. Article 37 of the principal Act shall be amended as follows: Amendment of article 37 of the principal Act.

(a) for subarticle (2) thereof, there shall be substituted the following:

“(2) In the exercise of the powers assigned to the Competent Authority by virtue of this article, the provisions of subarticle (2) of article 17 of the Investment Services Act shall apply *mutatis mutandis*.”; and

(b) subarticle (3) thereof shall be deleted.

17. For article 49 of the principal Act there shall be substituted the following: Substitution of article 49 of the principal Act.

“49. The Minister, acting on the advice of the Competent Authority, may make regulations:

(a) to give effect to the provisions of this Act, including regulations for the better regulation of recognised investment exchanges and, or the admissibility to listing of securities thereon and to provide for the direct or indirect membership of, or access to, recognised investment exchanges within the terms of and in line with Malta’s international commitments;

(b) to govern the transfer of ownership and, or delivery of securities quoted on a recognised investment exchange,

clearing and settlement of transactions effected on a recognised investment exchange, payment in respect of the transfer of securities quoted on a recognised investment exchange, pledging of securities quoted on a recognised investment exchange;

(c) to regulate the application of article 50 to recognised investment exchanges, other than the Exchange, and to commercial partnerships other than companies;

(d) to regulate the transposition, implementation and giving effect to the provisions, requirements, obligations and commitments relating to regulation of recognised investment exchanges and, or the admissibility to listing of securities thereon 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.”

PART VI

AMENDMENT TO THE COMPETITION ACT, CAP. 379

Amendment to the
Competition Act,
Cap. 379.

18. (1) This Part amends and shall be read and construed as one with the Competition Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for commerce may by notice in the Gazette establish.

Amendment of
article 30 of the
principal Act.

19. For subarticle (2) of article 30 of the principal Act there shall be substituted the following:

“(2) Undertakings entrusted with the operation of services of a general economic interest or having the character of a revenue producing monopoly shall be subject to the provisions of this Act insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

(3) The Minister may by order in the Gazette declare a specific service entrusted to a particular undertaking to be a service in the general economic interest.”

PART VII

AMENDMENTS OF THE COMPANIES ACT, CAP. 386

20. (1) This Part amends and shall be read and construed as one with the Companies Act, hereinafter in this Part referred to as "the principal Act".

Amendments of the
Companies Act,
Cap. 386.

(2) This provisions of this Part shall come into force on such date as the Minister responsible for the registration of commercial partnerships may, by notice in the Gazette, establish, and different dates may be so established for different provisions and different purposes thereof.

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

Amendment of
article 2 of the
principal Act.

(a) in subarticle (1) thereof :-

(i) for the definition of "ECU" there shall be substituted the following:

" "euro" refers to the currency unit of the participating states in the European Monetary Union;"

(ii) in the definition of "group company", for the word "holding" wherever it occurs there shall be substituted in each case the word "parent";

(iii) in the definition of "member", for the words "'member" means a shareholder of a company" there shall be substituted the words "'member", except where otherwise specifically defined, means a shareholder of a company";

(iv) in the definition of "prospectus" for the words "debentures of a company;" there shall be substituted the words "debentures of a company or other commercial partnership;"

(v) immediately after the definition of "public company" there shall be inserted the following new definition:

" "Recognised Investment Exchange" means a recognised investment exchange within the provisions of the Financial Markets Act"; and

Cap. 345

(vi) in the definition of "security" for the words "instrument issued by a company;" there shall be substituted

the words "instrument issued by a company or other commercial partnership;"

(b) the present subarticles (3),(4) and (5) thereof shall be renumbered subarticles (4), (5) and (7) respectively;

(c) immediately after subarticle (2) thereof, there shall be inserted the following new subarticle (3):

"(3) (a) For the purposes of this Act, the following shall constitute offers made to the public:

(i) an offer made to the public generally;

(ii) an offer made to offerees exceeding fifty in number, subject to the provisions of paragraph (b) hereunder.

(b) The following shall not constitute offers made to the public notwithstanding that the number of offerees may exceed fifty in number:

(i) an offer where the shares are offered as fully paid up shares for no consideration; or

(ii) an offer where the total consideration payable for the shares being offered does not exceed LM 10,000 and the maximum consideration payable by an individual offeree does not exceed LM 100; or

(iii) an offer where the minimum consideration which may be paid by any person for shares acquired pursuant to the offer is at least LM 50,000; or

(iv) an offer made exclusively to existing members or debenture holders of the company; or

(v) an offer made to an underwriter; or

(vi) an offer made in connection with or pursuant to a proposed merger of the offering company with another company; or

(vii) an offer made in connection with a take-over bid; or

(viii) an offer made exclusively to a restricted circle of persons, the number of which is below two hundred and fifty, acting for their own account in the context of their trade or profession; or

(ix) an offer made exclusively to a select and clearly identifiable section of the community or group of persons known to the offeror and acting for their own account, not exceeding in aggregate two hundred and fifty in number, sharing with the offeror some clear common interest, goal or objective, including members of the same family and membership of a club or association:

Provided that in respect of offers made by virtue of subparagraphs (ii), (viii) and (ix) of this paragraph and where the number of offerees exceeds fifty, the prior approval in writing of the Registrar shall be required for such offers not to constitute an offer to the public;

(c) In the event of any reasonable doubt arising as to whether or not a particular offer of shares amounts to an offer made to the public, the matter shall be determined by the Registrar whose decision shall be final.

(d) In this article, the term "shares" includes other securities that may be issued by a company.

(e) Where the offer is made by a commercial partnership, not being a company and whether formed or registered under this Act or any other Act, the provisions of this article shall apply to such offer *mutatis mutandis*.

(f) The Minister may by Order published in the Gazette revise or amend any of the figures or amounts referred to in this article.”;

(d) for subarticle (4) thereof as renumbered, there shall be substituted the following:

“ (4) For the purposes of this Act, compliance with “generally accepted accounting principles and practice” shall require adherence to International Accounting Standards as may be issued from time to time by the International Accounting Standards Board, or any other body succeeding it by whatever name it may be known, and to any accounting

standards as may be made applicable from time to time in terms of the Accountancy Profession Act.

In this subarticle, the International Accounting Standards Board refers to the Board, established by deed of constitution on the 28th June, 1973 which comprises the professional accountancy bodies which are members of the International Federation of Accountants, established at the International Congress of Accountants in Munich in 1977.”; and

(e) immediately after subarticle (5) thereof as renumbered, there shall be inserted the following new subarticle (6):

“(6) For the purposes of this Act, where any document, which is required to be delivered or given to or served on the Registrar, is to be signed by an expert and such expert is a company, partnership or other body corporate, such document shall carry the signature of an individual who is a director, partner or equivalent officer, as the case may be, duly authorised to sign on its behalf.”.

Amendment of article 3 of the principal Act.

22. In subarticle (2) of article 3 of the principal Act, for the words “the Eleventh Schedule” there shall be substituted the words “the Twelfth Schedule”.

Amendment of article 4 of the principal Act.

23. In paragraph (b) of subarticle (1) of article 4 of the principal Act, for the words “partnership *en commandite*” there shall be substituted the words “partnership *en commandite* or limited partnership”.

Amendment of article 6 of the principal Act.

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

(a) for subarticle (2) thereof, there shall be substituted the following:

“(2) In all its business letters and order forms a body corporate registered under Part XI of this Act shall mention in legible characters its name, the country of its constitution or incorporation, its registration number and registered office in its country of constitution or incorporation, kind of commercial partnership, the address of the branch or place of business in Malta, its registration number under Part XI of this Act and, where applicable, the fact that the overseas company is being wound up.” ;

(b) in subarticle (4) thereof, for the words “partnership *en commandite*” there shall be substituted the words “partnership *en commandite* or limited partnership”; and

(c) in subarticle (9) thereof, for the words “every liquidator who is in default” there shall be substituted the words “every liquidator or partner, as the case may be, who is in default”.

25. For the second proviso to article 7 of the principal Act, there shall be substituted the following : Amendment of article 7 of the principal Act.

“Provided furthermore that at least one of the partners shall be either an individual or a body corporate which has its obligations guaranteed by the unlimited and joint and several liability of one or more of its members.”

26. In subarticle (1) of article 21 of the principal Act, for the words “any dissolution of the partnership other than upon expiry of the period, if any, fixed for its duration” there shall be substituted the words “any dissolution of the partnership on the grounds mentioned in paragraphs (b) or (f) of article 35 of this Act”. Amendment of article 21 of the principal Act.

27. Article 35 of the principal Act, shall be amended as follows: Amendment of article 35 of the principal Act.

(a) for paragraph (d) thereof, there shall be substituted the following:

“(d) if in the opinion of the Court there exist grounds of sufficient gravity to warrant dissolution;”; and

(b) in paragraph (f) thereof, for the words “in such other cases”, there shall be substituted the words “subject to the provisions of article 21 of this Act, in such other cases”.

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

(a) the present provision shall be renumbered as subarticle (1); and

(b) immediately after subarticle (1) as re-numbered, there shall be inserted the following new subarticle (2):

“(2) Where the office of a liquidator becomes vacant, the provisions of subarticle (2) of article 37 of this Act shall apply.”.

29. Article 49 of the principal Act shall be amended as follows: Amendment of article 49 of the principal Act.

(a) the present provision shall be renumbered as subarticle (1); and

(b) immediately after subarticle (1) as re-numbered, there shall be inserted the following new subarticle (2):

“(2) Where the manner in which the partnership is to be wound up is provided for in the deed of partnership or is determined by agreement between the partners, it shall be the duty of the partners to deliver to the Registrar for registration a notice, signed by all of them, that the winding up has been completed and the Registrar shall thereupon register it and strike the name of the partnership off the register. The Registrar shall forthwith publish a notice of the completion of the winding up and of such striking off.”.

Amendment of Part IV of the principal Act.

30. In Part IV of the principal Act, including the heading thereof, for the words “partnership *en commandite*” wherever they occur, there shall be substituted the words “partnership *en commandite* or limited partnership”.

Amendment of article 51 of the principal Act.

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

(a) for the words “called limited partners.” there shall be substituted the words “called limited partners.”; and

(b) immediately at the end thereof there shall be inserted the following new proviso:

“Provided that at least one of the general partners shall be either an individual or a body corporate which has its obligations guaranteed by the unlimited and joint and several liability of one or more of its members.”.

Amendment of article 53 of the principal Act.

32. Article 53 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “A person who holds himself out” there shall be substituted the words “A person, including a limited partner, who holds himself out”; and

(b) in subarticle (2) thereof, for the word “partner” wherever it occurs there shall be substituted in each case the words “general partner”.

Amendment of article 58 of the principal Act.

33. Article 58 of the principal Act shall be amended as follows:

(a) for the words “appoint the partners who are” there shall be substituted the words “appoint the partners from amongst themselves who are”; and

(b) in the proviso thereof, for the words “the appointment or dismissal of partners” there shall be substituted the words “the appointment of general partners to, or the dismissal of general partners”.

34. Immediately after subarticle (11) of article 66 of the principal Act there shall be inserted a new subarticle (12) as follows: Amendment of article 66 of the principal Act.

“(12) (a) Where a partnership *en commandite* or limited partnership, the capital of which is divided into shares, is dissolved and a liquidator has been appointed, as soon as the affairs of the partnership are fully wound up, the liquidator shall make an account of the winding up, showing how the winding up has been conducted and how the property of the partnership *en commandite* or limited partnership has been disposed of, and shall draw up a scheme of distribution and he shall cause the account to be audited by one or more auditors appointed by a decision of the partners. The liquidator shall by judicial act serve on each of the partners a copy of the accounts and of the scheme of distribution, if any, together with the auditors’ report and giving any explanation thereof.

(b) The accounts and the scheme of distribution shall be deemed to have been approved by all the partners if no objection thereto is lodged by writ of summons by any of the partners within three months of the service of the judicial act referred to in paragraph (a) of this subarticle.

(c) The provisions of article 153 of this Act shall apply to an auditor appointed in terms of paragraph (a) of this subarticle, and the words “the previous three years” in the said article 153 shall be construed as referring to the last three years immediately preceding the date of dissolution. Such auditor shall not be a person who has held the office of auditor of the partnership *en commandite* or limited partnership at any time during the last three years immediately preceding the date of dissolution.”

35. Immediately after article 66 of the principal Act there shall be added the following new article 66A: Addition of new article 66A to the principal Act.

“ Partnership
en
commandite
or limited
partnership

66A(1) This article shall apply to a partnership *en commandite* or limited partnership which in the deed of partnership expressly limits its objects to the collective investment of its funds in securities and in other movable and immovable property, or in any of them, with the aim of spreading investment risk and giving the partners the benefit of the results of the management of its funds, and to matters

ancillary or incidental thereto, and which qualifies as a collective investment scheme and is duly licensed in terms of the Investment Services Act, or for any other purpose as the Minister may from time to time prescribe by regulations.

(2) A partnership *en commandite* or limited partnership within the meaning of subarticle (1) of this article shall be regulated by the provisions contained in the Tenth Schedule to this Act and, unless otherwise provided in the said Schedule, by the provisions of Part IV of this Act but only in so far as such provisions are not inconsistent with the said Schedule:

Provided that where any particular matter arises in relation to a partnership *en commandite* or limited partnership within the meaning of subarticle (1) of this article which is not specifically regulated by any provision of the Tenth Schedule or Part IV of this Act, reference shall be made, where applicable and to the extent possible, to any relevant provision of this Act, including any regulations made thereunder.

(3) The Minister may make regulations for the better carrying out of any of the provisions of the Tenth Schedule to this Act and of Part IV of this Act as applicable to partnerships *en commandite* or limited partnerships within the meaning of subarticle (1) of this article, and may, without prejudice to the generality of the foregoing, by such regulations make provisions as to any of the following matters-

(a) the forms to be used for the purposes of this Act in respect of such partnerships *en commandite* or limited partnerships;

(b) the registration of such partnerships *en commandite* or limited partnerships under this Act and any matters incidental thereto;

(c) any matter to be prescribed under this Act in respect of partnerships *en commandite* or limited partnerships within the meaning of subarticle (1) of this article;

(d) the amendment of any provision -

(i) relating to matters to be filed with the Registrar in connection with registration of such partnerships *en commandite* or limited partnerships;

(ii) relating to the records to be kept by such partnerships *en commandite* or limited partnerships;

(e) to prescribe fees payable under this Act in respect of such partnerships *en commandite* or limited partnerships;

(f) the exemption of partnerships *en commandite* or limited partnerships within the meaning of subarticle (1) of this article or any category thereof from any of the provisions of the Tenth Schedule or of this Act, as the case may be, subject to such modifications, variations and conditions as may be specified.

(5) Regulations made under this article may make different provisions for different cases or classes of cases.

36. Article 69 of the principal Act shall be amended as follows: Amendment of article 69 of the principal Act.

(a) in paragraph (f) of subarticle (1) thereof, for the words “in respect of each share;” there shall be substituted the words “in respect of each share and, where the share capital is divided into different classes of shares, the rights attaching to the shares of each class;”; and

(b) immediately after subarticle (2) thereof, there shall be inserted the following new subarticle (3):

“(3) Companies formed and registered before the coming into force of this subarticle shall comply with the provisions of paragraph (f) of subarticle (1) of this article on the disclosure, in the memorandum of association of the company, of the rights attaching to the shares of each different class, within twelve months from the coming into force of this subarticle:

Provided that companies formed and registered before the coming into force of this subarticle shall be deemed to satisfy the requirements of paragraph (f) of subarticle (1) of this article on the disclosure, in the memorandum of association, of the rights attaching to the shares of each different class, if such provision or equivalent thereof is already incorporated in the articles of association of the company.”.

37. Article 70 of the principal Act shall be amended as follows: Amendment of article 70 of the principal Act.

(a) for subarticle (5) thereof, there shall be substituted the following:

“(5) A company shall not be registered by a name which includes the word ‘nominee’ unless it is a company qualified to be registered as a nominee company under the Malta Financial Services Authority Act or the Trusts Act.”;

(b) in paragraph (a) of subarticle (6) thereof, for the words “or ltd.”, there shall be substituted the words “ or “limited” or “ltd.”; and

(c) in paragraph (b) of subarticle (6) thereof, the words “or the Investment Services Act,” shall be deleted, and the marginal note “Cap. 370” in relation thereto shall be deleted.

Amendment of the English text of article 74 of the principal Act.

38. In the English text, for paragraph (b) of subarticle (3) of article 74 of the principal Act, there shall be substituted the following:

“(b) there has been some other contravention of this article which that person knew or ought to have known amounted to a contravention;

the company shall be entitled to recover from that person any consideration given by it under the agreement, or an amount equal to the value of the consideration at the time of the agreement, and the agreement, so far as not carried out, shall be void.”.

Amendment of article 76 of the principal Act.

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

(a) in subarticle (1) thereof, for the words “68 to 75 and of article 139” there shall be substituted the following words “68 to 73 and of articles 75 and 139”; and

(b) immediately after subarticle (3) thereof, there shall be inserted the following new subarticle (4):

“(4) Notwithstanding the provisions of subarticle (1) of this article, and without prejudice to the provisions of subarticle (2) of article 77 of this Act, the responsibility for ensuring that the articles of association, if any, of a company, are correct, complete and in full compliance with this Act and any other applicable law shall lie with the persons who have entered into and subscribed to the memorandum of association.”.

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

(a) for subarticle (2) thereof, there shall be substituted the following:

“(2) It shall be the duty of the directors and of the company secretary to deliver to the Registrar for registration a printed copy of any resolution as aforesaid within fourteen days after the date of the resolution, together with a revised and updated copy of the memorandum, and of the articles, if any, as amended by the said resolution and incorporating all the changes effected to date relating to the directors, company secretary, the representation of the company, change in registered office of the company, or any transfer or transmission of shares or any allotment of shares. Any previous amended text of the memorandum and articles, if any, may be discarded by the Registrar when a subsequent amended text is delivered to him for registration:

Provided that in the event of a discrepancy between the text of any amended memorandum and articles, if any, and the text of the original memorandum and articles, if any, registered in accordance with the provisions of article 76 of this Act, the latter text together with resolutions registered in accordance with the provisions of subarticle (2) of this article shall prevail.

Notwithstanding the provisions of subarticle (2) of this article, where the alteration consists in a change in the registered office in Malta of the company, the directors or company secretary shall send to the Registrar for registration a return of any change in the registered office, specifying the date of the change, together with the new registered office, within fourteen days from the happening thereof.”;

(b) subarticle (4) thereof, shall be renumbered subarticle (5); and

(c) immediately after subarticle (3) thereof, there shall be inserted the following new subarticle (4):

“(4) The responsibility for ensuring that any proposed amendments to the articles of association, if any, of a company, are correct, complete and in full compliance with this Act and any other applicable law shall lie with the directors of the said company.”.

Amendment of
article 83 of the
principal Act.

41. Article 83 of the principal Act shall be amended as follows :

(a) for the second proviso to subarticle (5) thereof, there shall be substituted the following:

“Provided further that any such reserve shall be used only for offsetting losses incurred or for increasing the issued share capital by the capitalisation of such reserve.”;

(b) in subarticle (6) thereof for the words “calls on their shares.” there shall be substituted the words “calls on their shares.”; and

(c) immediately after subarticle (6) thereof, there shall be inserted the following new proviso:

“Provided that if the provisions of subarticles (1) and (2) of this article relating to the rights granted to the creditors of the company are followed for the purpose of reducing any sum of money contained in any such reserve, as is referred to in subarticle (5) of this article, the amounts deriving therefrom may be used for making payments or distributions to shareholders.”.

Amendment of
article 84 of the
principal Act.

42. Article 84 of the principal Act shall be amended as follows:

(a) for sub-paragraph (ii) of paragraph (c) of subarticle (2) thereof, there shall be substituted the following:

“that the shares of the company shall be purchased by the company directly or indirectly out of the assets of the company, at the request of any of the holders thereof or as otherwise provided by the memorandum or articles of the company.”; and

(b) in subarticle (7) thereof, for the words “105 to 112” there shall be substituted the words “105 to 113”.

Amendment of
article 84A of the
principal Act.

43. Article 84A of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “to carry on business of affiliated insurance,” there shall be substituted the words “to carry on the business of insurance,”;

(b) for paragraph (a) of subarticle (2) thereof, there shall be substituted the following:

“ “business of insurance” shall include the business of insurance manager, as well as the business of insurance broking under the Insurance Brokers and other Intermediaries Act; and reference to “company” shall include reference to a partnership *en commandite* or similar or equivalent body corporate the capital of which is divided into shares;” and

Cap.404

(c) in paragraph (b) of subarticle (2) thereof, for the words “in such manner as may be prescribed;” there shall be substituted the words “ in such manner as may be prescribed and includes a reference to segregated accounts, compartments or units within a company having multiple accounts, compartments or units, by whatever name designated, and the word “cellular” shall be interpreted and applied accordingly;”.

44. Immediately after article 84A of the principal Act, there shall be inserted the following new article 84B:

Insertion of new article 84B to the principal Act.

“Application of article 84 (10) (c) to collective investments schemes

84B. Nothing in article 84 of this Act shall be deemed to prohibit a company, which is not a company with variable share capital but which qualifies as a collective investment scheme and is duly licensed under the Investment Services Act, from being constituted as an umbrella or multi-class company and the provisions of paragraph (c) of subarticle (10) of article 84 of this Act shall apply *mutatis mutandis* to such company.”.

45. In subarticle (4) of article 85 of the principal Act, for the words “Registrar for registration,” there shall be substituted the words “Registrar for registration, within fourteen days after the date of the relative resolution,”.

Amendment of article 85 of the principal Act.

46. Immediately after subarticle (1) of article 88 of the principal Act, there shall be inserted the following new proviso:

Amendment of article 88 of the principal Act.

“Provided that shares in a company, whether public or private, shall not be offered on a pre-emptive basis to the company itself, notwithstanding any other provision of this Act empowering the company to hold its own shares.”

47. For paragraph (c) of subarticle (1) of article 89 of the principal Act, there shall be substituted the following:

Amendment of article 89 of the principal Act.

“(c) by a holder of a collective investment scheme licence within the meaning of the Investment Services Act provided such issue is made in accordance with rules or regulations made under that Act.”.

Amendment of the English text of article 95 of the principal Act.

48. In the English text of paragraph (a) of subarticle (2) of article 95 of the principal Act, for the words “the allotment; or agreement” there shall be substituted the words “the allotment or agreement”.

Amendment of article 101 of the principal Act.

49. In subarticle (1) of article 101 of the principal Act, for the words “on any stock exchange” there shall be substituted the words “on a recognised investment exchange”.

Amendment of article 109 of the principal Act.

50. In paragraph (b) of article 109 of the principal Act, for the word “liabilities” there shall be substituted the word “reserves”.

Amendment of article 110 of the principal Act.

51. Article 110 of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the word “holding” there shall be substituted the word “parent”;

(b) in paragraph (a) of subarticle (1) thereof, for the word “holding” there shall be substituted the word “parent”; and

(c) in paragraph (b) of subarticle (1) thereof, for the words “for the purpose of or in connection with” there shall be substituted the words “for the purpose of”.

Amendment of article 113 of the principal Act.

52. Subarticle (1) of article 113 of the principal Act shall be amended as follows:

(a) for the words from “It shall not be lawful” to the words “in the company, unless -”, there shall be substituted the words “It shall be lawful for a company to pay a commission or make a discount or allowance to any person in consideration for his subscribing or agreeing to subscribe, whether absolutely or conditionally for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, provided that -”; and

(b) for paragraph (d) thereof, there shall be substituted the following:

“(d) in no event may the value of such shares be reduced to below their nominal value as a result of the payment of such commission, discount or allowance.”.

Amendment of article 115 of the principal Act.

53. Article 115 of the principal Act shall be amended as follows:

(a) for paragraph (b) of subarticle (1) thereof, there shall be substituted the following:

“(b) no such shares shall be issued after 1st January 2003 unless the following conditions are satisfied as regards the terms and manner of redemption-

(i) the date on or by which, or dates between which, the shares are to be or may be redeemed must be specified in the company’s memorandum or articles or, if the memorandum or articles so provide, fixed by the directors, and in the latter case the date or dates must be fixed before the shares are issued;

(ii) any other circumstances in which the shares are to be or may be redeemed must be specified in the company’s memorandum or articles;

(iii) the amount payable on redemption must be specified in, or determined in accordance with, the company’s memorandum or articles, and in the latter case the memorandum or articles must not provide for the amount to be determined by reference to any person’s discretion or opinion; and

(iv) any other terms and conditions of redemption shall be specified in the company’s memorandum or articles;” and

(b) in subarticle (5) thereof, for the words “Registrar for registration.”, there shall be substituted the words “Registrar for registration, within fourteen days after the date of redemption.”.

54. Article 122 of the principal Act shall be amended as follows: Amendment of article 122 of the principal Act.

(a) in paragraph (a) of subarticle (12) thereof, for the words “Malta Stock Exchange” wherever they occur, there shall be substituted in each case the words “recognised investment exchange”; and.

(b) in subarticle (15) thereof, for the words “Registrar within fourteen days” there shall be substituted the words “Registrar for registration within fourteen days”.

55. For subarticle (2) of article 135 of the principal Act, there shall be substituted the following: Amendment of article 135 of the principal Act.

“(2) An ordinary resolution shall be passed by a member or members having the right to attend and vote holding in the

aggregate shares entitling the holder or holders thereof to more than fifty per cent of the voting rights attached to shares represented and entitled to vote at the meeting, or such other higher percentage as the memorandum or articles may prescribe.”.

Amendment of article 136 of the principal Act.

56. In article 136 of the principal Act, for the words “as security for its obligations” there shall be substituted the words “as security for its obligations or for those of any third party”.

Addition of new article 136A to the principal Act.

57. Immediately after article 136 of the principal Act there shall be added the following new article 136A:

“General duties of directors.

136A(1) A director of a company shall be bound to act honestly and in good faith in the best interests of the company.

(2) The directors of a company shall promote the well-being of the company and shall be responsible for :

(a) the general governance of the company and its proper administration and management; and

(b) the general supervision of its affairs.

(3) In particular, but without prejudice to any other duty assigned to the directors of a company, or to any one of them, by the memorandum or articles of association or by this Act or any other law, the directors of a company shall:

(a) be obliged to exercise the degree of care, diligence and skill which would be exercised by a reasonably diligent person having both -

(i) the knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by or entrusted to that director in relation to the company; and

(ii) the knowledge, skill and experience that the director has;

(b) not make secret or personal profits from their position without the consent of the company, nor make personal gain from confidential company information;

(c) ensure that their personal interests do not conflict with the interests of the company;

(d) not use any property, information or opportunity of the company for their own or anyone else's benefit, nor obtain benefit in any other way in connection with the exercise of their powers, except with the consent of the company in general meeting or except as permitted by the company's memorandum or articles of association;

(e) exercise the powers they have for the purposes for which the powers were conferred and shall not misuse such powers."

58. For subarticle (4) of article 137 of the principal Act, there shall be substituted the following: Amendment of article 137 of the principal Act.

"(4) Notwithstanding anything contained in the memorandum and articles of association relating to the manner in which the representation of the company is to be exercised, anything done by the board of directors of a company which exceeds the limits of their authority or by any director which is beyond his powers, shall be binding on the company unless that act exceeds the powers granted to the board of directors or to a director, as the case may be, by virtue of this Act."

59. Immediately after subarticle (7) of article 138 of the principal Act, there shall be inserted the following new subarticle (8): Amendment of article 138 of the principal Act.

"(8) If default is made in complying with the provisions of subarticle (4) of this article every director of the company who is in default shall be liable to a penalty, and for every day during which the default continues, to a further penalty."

60. For subarticle (1) of article 140 of the principal Act, there shall be substituted the following: Amendment of article 140 of the principal Act.

"(1) A company may remove a director before the expiration of his period of office by a resolution taken at a general meeting of the company and passed by a member or members having the right to attend and vote, holding in the aggregate shares entitling the holder or holders thereof to more than fifty per cent of the voting rights attached to shares represented and entitled to vote at the meeting."

61. In paragraph (c) of subarticle (1) of article 142 of the principal Act, for the words "he is a minor; or" there shall be substituted the words "he is a minor who has not been emancipated to trade; or". Amendment of article 142 of the principal Act.

Amendment of
article 143 of the
principal Act.

62. In subarticle (1) of article 143 of the principal Act, for the words "on account of others; nor" there shall be substituted the words "on account of others, nor".

Amendment of
article 150 of the
principal Act.

63. In article 150 of the principal Act, for the words "shall be deemed to be required to be done" there shall be substituted the words "shall be deemed also to be required to be done".

Amendment of
article 165 of the
principal Act.

64. In paragraph (b) of subarticle (3) of article 165 of the principal Act, for the words "under article 180 of this Act" there shall be substituted the words "under article 182 of this Act".

Amendment of
article 167 of the
principal Act.

65. Article 167 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof for the words "principles and practice." there shall be substituted the words "principles and practice:";

(b) immediately after subarticle (2) thereof there shall be inserted the following new proviso:

"Provided that in the event that a provision of this Act is in conflict or is not compatible with generally accepted accounting principles and practice, the accounts shall be drawn up so as to give a true and fair view in terms of the requirements established under subarticle (3) of this article.";

(c) for subarticle (3) thereof, there shall be substituted the following:

" (3) The individual accounts shall give a true and fair view of the company's assets, liabilities, financial position and profit or loss.";

(d) subarticles (4) and (5) thereof shall be respectively renumbered subarticles (5) and (6);

(e) immediately after subarticle (3) thereof, there shall be inserted a new subarticle (4) as follows:

" (4) The individual accounts shall comply with the requirements of the Third Schedule to this Act as to the form and content of the balance sheet and profit and loss account and as to additional information to be provided by way of notes to the accounts."; and

(f) in subarticle (6) thereof as renumbered, for the words "with the obligation laid down in subarticle (3) of this article that provision shall be departed from in order to give a true and fair view within the meaning of the said subarticle (3). Any such departure" there shall be substituted the words "with the obligation for the individual accounts to give a true and fair view, that provision shall be departed from in order to give a true and fair view. Any such departure".

66. In subarticle (1) of article 168 of the principal Act, for the words "subarticle (3) of article 167 and of subarticle (6) of article 171 of this Act", there shall be substituted the words "subarticle (4) of article 167 and of subarticle (4) of article 171 of this Act".

Amendment of
article 168 of the
principal Act

67. In subarticle (1) of article 169 of the principal Act, for the words "Notwithstanding the provisions of subarticle (3) of article 167" there shall be substituted the words "Notwithstanding the provisions of subarticle (4) of article 167".

Amendment of
article 169 of the
principal Act

68. Article 171 of the principal Act shall be amended as follows:

Amendment of
article 171 of the
principal Act.

(a) in subarticle (2) thereof, for the words "principles and practice." there shall be substituted the words "principles and practice:";

(b) immediately after subarticle (2) thereof, there shall be inserted the following new proviso:

"Provided that in the event that a provision of this Act is in conflict or is not compatible with generally accepted accounting principles and practice, the accounts shall be drawn up so as to give a true and fair view in terms of the requirements established under subarticle (3) of this article.";

(c) the present subarticles (4), (5) and (6) thereof shall be respectively renumbered (5), (6) and (4); and

(d) in subarticle (6) thereof as renumbered, for the words "with the obligation laid down in subarticle (3) of this article that provision shall be departed from in order to give a true and fair view within the meaning of the said subarticle (3). Any such departure" there shall be substituted the words "with the obligation for the consolidated accounts to give a true and fair view, that provision shall be departed from in order to give a true and fair view. Any such departure".

Amendment of
article 173 of the
principal Act.

69. In the proviso to subarticle (1) of article 173 of the principal Act, for the words "Malta Stock Exchange" there shall be substituted the words "recognised investment exchange".

Amendment of
article 174 of the
principal Act.

70. Article 174 of the principal Act, shall be amended as follows:

(a) for paragraph (b) of subarticle (1) thereof, there shall be substituted the following:

"(b) where ninety per cent or more in nominal value of the shares in the said parent company are held by a parent company and notice requesting the preparation of consolidated accounts has not been served on the first mentioned company by shareholders holding in the aggregate the remaining percentage in nominal value of all the shares thereof. Such notice shall not be valid unless it is served not later than six months after the commencement of the accounting period to which it relates."; and

(b) in subarticle (3) thereof, for the words "the Malta Stock Exchange" there shall be substituted the words "a recognised investment exchange".

Amendment of
article 179 of the
principal Act.

71. In subarticle (13) of article 179 of the principal Act, for the words "Council of the International Federation of Accounts" there shall be substituted the words "Council of the International Federation of Accountants".

Amendment of
article 180 of the
principal Act.

72. Immediately after subarticle (6) of article 180 of the principal Act, there shall be inserted the following new subarticle :

"(7) For the purposes of this article, reference to the term "annual accounts" shall include the directors' report as specified in article 177 of this Act and the auditors' report as specified in article 179 of this Act."

Amendment of
article 183 of the
principal Act.

73. Article 183 of the principal Act shall be amended as follows:

(a) in the proviso to subarticle (2) thereof, for the words "the directors' report." there shall be substituted the words "the directors' report.";

(b) immediately after the proviso to subarticle (2) thereof, there shall be inserted the following new proviso:

"Provided further that where the exempt company which qualifies to draw up abridged accounts is a company referred

to in paragraph (b) of subarticle (1) of article 185 of this Act, it may deliver to the Registrar only its abridged balance sheet, all the notes to the accounts relevant for the purposes of that balance sheet, but without the profit and loss account, the directors' report and the auditors' report.”;

(c) in the proviso to subarticle (4) thereof for the words “as drawn up.” there shall be substituted the words “as drawn up.”; and

(d) immediately after the proviso to subarticle (4) thereof, there shall be inserted the following new proviso:

“Provided further that the provisions of this subarticle shall not apply to companies referred to in paragraph (b) of subarticle (1) of article 185 of this Act.”.

74. For article 184 of the principal Act, there shall be substituted the following:

Amendment of article 184 of the principal Act.

“184(1) Every company shall, after 1st January 2004, upon each anniversary of its registration, make a return in the form set out in the Seventh Schedule to this Act showing the matters therein specified and made up to the date of such anniversary:

Provided that -

(a) where a company was, immediately before the 1st January 2004, in default with respect to the delivery of one or more annual returns, this article shall not affect the obligation of the company to make such a return or returns or the payment of any penalty arising from such a default;

(b) where a company has converted any of its shares into stock and registered the conversion as provided in article 79 of this Act, the list of past and present members shown in Part 3 of the Seventh Schedule to this Act shall state the amount of stock held by each of the existing members instead of the amount of shares and the particulars relating to shares required by that part.

(2) The annual return, duly completed, shall be signed by at least one director of the company or the company secretary and forwarded to the Registrar for registration within forty-two days after the date to which it is made up.

(3) If default is made in complying with the provisions of this article, every officer of the company who is in default shall be liable to a penalty, and, for every day during which the default continues, to a further penalty.”

Amendment of
article 185 of the
principal Act.

75. Article 185 of the principal Act shall be amended as follows:

(a) subarticle (1) thereof shall be renumbered as paragraph (a) of subarticle (1);

(b) in paragraph (a) of subarticle (1) as re-numbered, for the words “as specified in subarticle (3) of this article.” there shall be substituted the words “as specified in subarticle (3) of this article;”;

(c) immediately after paragraph (a) of subarticle (1) of article 185 there shall be inserted the following new paragraph (b):

“(b) Private companies which on their balance sheet dates do not exceed the limits of two of the three following criteria:

- balance sheet total: twenty thousand liri;
- turnover: forty thousand liri;
- average number of employees during the accounting period: two;

shall be exempted from the provisions of Chapter IX of Part V of this Act and from the requirement imposed by article 179 of this Act and such companies may, for all purposes of this Act, draw up abridged balance sheets and abridged layouts of profit and loss account as specified in subarticle (2) of this article and abridged notes to the accounts as specified in subarticle (3) of this article.”;

(d) in subarticle (3) thereof, for the words “indents (d) and (j) to (o)” there shall be substituted the words “indents (d) and (g) to (o)”;

(e) immediately after subarticle (6) thereof, there shall be inserted the following new proviso:

“ Provided that the provisions of subarticle (6) of this article shall not apply to a parent company which is exempted from the requirement to prepare consolidated accounts in accordance with article 174 of this Act.”

76. In subarticle (1) of article 186 of the principal Act, for the words “ECU shall be a convertible currency.” there shall be substituted the words “the euro shall be a convertible currency.”

Amendment of article 186 of the principal Act.

77. For subarticle (4) of article 187 of the principal Act, there shall be substituted the following:

Amendment of article 187 of the principal Act.

“(4) Annual accounts shall be published in the currency in which they are drawn up. They may also be published in both the currency in which they are drawn up and in euro. The conversion into euro shall be made by using the exchange rate between the currency used and the euro on the balance sheet date, and such rate shall be the official closing middle rate issued by the Central Bank of Malta. This rate shall be disclosed in the notes to the accounts.”

78. Article 188 of the principal Act shall be amended as follows:

Amendment of article 188 of the principal Act.

(a) in paragraph (e) thereof, for the words “a company; or” there shall be substituted the words “a company;”;

(b) in paragraph (f) thereof, for the words “share capital is expressed.” there shall be substituted the words “share capital is expressed; or”; and

(c) immediately after paragraph (f) thereof, there shall be inserted the following new paragraph (g) as follows:

“(g) amend or vary any of the provisions of this Chapter for the purpose of bringing them in line with the requirements of International Accounting Standards or International Standards on Auditing.”

79. Article 191 of the principal Act shall be amended as follows:

Amendment of article 191 of the principal Act.

(a) in subarticle (1) thereof, for the words “partnership *en commandite* the capital of which is not divided into shares are themselves partnerships *en commandite* the capital of which is divided into shares” there shall be substituted the words “partnership *en commandite* or limited partnership, the capital of which is not divided into shares, are themselves partnerships *en commandite* or limited partnerships, the capital of which is divided into shares”;

(b) in subarticle (2) thereof, for the words “partnership *en commandite*” wherever they occur there shall be substituted in each case the words “partnership *en commandite* or limited partnership”; and

(c) in subarticle (3) thereof, for the words “of a partnership *en commandite* the capital of which is not divided into shares are themselves companies or are partnerships *en commandite*” there shall be substituted the words “of a partnership *en commandite* or limited partnership the capital of which is not divided into shares are themselves companies or are partnerships *en commandite* or limited partnerships”.

Amendment of article 194 of the principal Act.

80. In paragraph (a) of subarticle (4) of article 194 of the principal Act, for the words “the Malta Stock Exchange” there shall be substituted the words “a recognised investment exchange”.

Amendment of article 199 of the principal Act.

81. In subarticle (5) of article 199 of the principal Act, for the words “the Registrar.” there shall be substituted the words “the Registrar for registration.”.

Amendment of article 209 of the principal Act.

82. In paragraph (b) of subarticle (2) of article 209 of the principal Act, for the words “offered for sale to the public, within the meaning given to that expression by article 89 of this Act.”, there shall be substituted the words “offered to the public, within the meaning given to the expression “offers made to the public” in subarticle (3) of article 2 of this Act.”.

Amendment of article 210 of the principal Act.

83. In article 210 of the principal Act, for the words “duly convened and held” there shall be substituted the words “duly convened and held and the provisions of article 155 shall not apply”.

Amendment of article 212 of the principal Act.

84. In subarticle (1) of article 212 of the principal Act, for the words “the provisions of subarticle (1) of article 72 of this Act” there shall be substituted the words “the provisions of article 68 and of subarticle (1) of article 72 of this Act”.

Amendment of article 214 of the principal Act.

85. Article 214 of the principal Act shall be amended as follows:

(a) in subparagraph (i) of paragraph (a) of subarticle (2) thereof, for the words “twelve months;” there shall be substituted the words “twenty four months;”; and

(b) for subarticle (4) thereof, there shall be substituted the following :

“(4) Where a company continues carrying on business without having at least two members beyond the period of six months referred to in subparagraph (i) of paragraph (b) of subarticle (2) of this article, a person who, for the whole or any part of the period that the company carries on business

after the said six months, is a member of the company and knows that it is carrying on business with only one member, shall be held unlimitedly and jointly and severally liable with the company for all the obligations contracted by the company for the whole period or as the case may be, that part of it, from the lapse of the six months until the dissolution of the company or until such time as the default is remedied by the company in accordance with the proviso to subarticle (3) of this article.”.

86. Article 217 of the principal Act shall be amended as follows: Amendment of article 217 of the principal Act.

(a) in subarticle (1) thereof for the words “The provisions of this article shall apply where, following its dissolution, a company -” there shall be substituted the following:

“The provisions of subarticles (2) and (3) of this article shall only apply following the dissolution of a company where a company before its dissolution -”; and

(b) in paragraph (b) of subarticle (1) thereof, for the words “paid by way of contribution to its assets,” there shall be substituted the words “paid by way of contribution to its assets in terms of article 216 of this Act,”.

87. Article 218 of the principal Act shall be amended as follows: Amendment of article 218 of the principal Act.

(a) in subarticle (1) thereof for the words “contributory or contributories.” there shall be substituted the words “contributory or contributories.”;

(b) immediately after subarticle (1) there shall be inserted the following new proviso:

“Provided that an application in terms of paragraph (a) of this subarticle may also be made by any shareholder or director of the company.”;

(c) in subarticle (4) thereof, for the words “subarticle (2) of article 214 of this Act.”, there shall be substituted the words “subparagraphs (ii) and (iii) of paragraph (b) of subarticle (2) of article 214 of this Act.”; and

(d) for subarticle (5) thereof, there shall be substituted the following:

“(5) By virtue of article 294 of this Act, a winding up application for a winding up by the Court may be filed notwithstanding that a company is being wound up voluntarily. Such an application may also be made by the Official Receiver appointed in accordance with the provisions of article 225 of this Act.”.

Amendment of article 219 of the principal Act.

88. Article 219 of the principal Act shall be amended as follows:

(a) the present provision shall be renumbered as subarticle (1); and

(b) immediately after subarticle (1) thereof as renumbered, there shall be inserted the following new subarticle (2):

“(2) Notwithstanding the provisions of subarticle (1) of this article, where the Court is satisfied that the requirements of paragraph (a) of subarticle (1) of article 218 of this Act have been complied with, the Court shall accede to the application.”.

Amendment of article 222 of the principal Act.

89. In article 222 of the principal Act, for the words “whether precautionary or executive, issued or carried” there shall be substituted the words “whether precautionary or executive, other than a warrant of prohibitory injunction, issued or carried”.

Amendment of article 223 of the principal Act.

90. Immediately after the proviso to subarticle (1) of article 223 of the principal Act, there shall be inserted the following new proviso:

“Provided further that where a winding up order has been made by virtue of paragraph (a) of subarticle (1) of article 218 of this Act, the date of dissolution shall be the date of passing of the resolution for dissolution and consequential winding up by the Court or such later date as may be specified in the said resolution.”.

Amendment of article 224 of the principal Act.

91. Article 224 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “On the making of a winding up order, a copy thereof” there shall be substituted the words “On the making of a winding up order, or on the dismissal of a winding up application, a copy thereof”; and

(b) subarticle (3) thereof shall be deleted.

Amendment of article 230 of the principal Act.

92. In subarticle (2) of article 230 of the principal Act, for the words “company shall be made by extraordinary resolution of the company” there shall be substituted the words “contributories shall be made by a resolution of the contributories”.

93. Article 238 of the principal Act shall be amended as follows: Amendment of article 238 of the principal Act.

(a) in paragraph (f) of subarticle (1) thereof, for the words “distributing its assets.”, there shall be substituted the words “distributing its assets.”;

(b) immediately after paragraph (f) of subarticle (1) thereof, there shall be inserted the following new proviso:

“Provided that the Court may provide by an order that the liquidator may, where there is no liquidation committee, exercise any of the powers mentioned in paragraphs (a) or (b) of this subarticle without the sanction of the Court.”;

(c) in subarticle (3) thereof, for the words “any of those powers:”, there shall be substituted the words “any of those powers.”; and

(d) the proviso to subarticle (3) thereof shall be deleted.

94. In the English text of the proviso to subarticle (10) of article 246 of the principal Act, for the words “the state of in the winding up,” there shall be substituted the words “the state of the winding up,”. Amendment of the English text of article 246 of the principal Act.

95. In the English text of article 255 of the principal Act, for the words “claims or to be excluded” there shall be substituted the words “claims or are to be excluded”. Amendment of the English text of article 255 of the principal Act.

96. In the English text of subarticle (1) of article 257 of the principal Act, for the words “inspection of accounts, according records” there shall be substituted the words “inspection of accounts, accounting records”. Amendment of English text of article 257 of the principal Act.

97. In subarticle (1) of article 265 of the principal Act, for the words “after the passing of the resolution,” there shall be substituted the words “after the date of dissolution of the company,”. Amendment of article 265 of the principal Act.

98. For the proviso to article 266 of the principal Act, there shall be substituted the following: Amendment of article 266 of the principal Act.

“ Provided that where the Court has ordered that the company be wound up voluntarily by virtue of the provisions of subarticle (3) of article 214 of this Act, the company shall be deemed to have been dissolved at the time of the filing of the winding up application.”.

Amendment of
article 268 of the
principal Act.

99. Article 268 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof, for the words "A declaration made as in accordance with" there shall be substituted the words "A declaration made in accordance with"; and

(b) in subarticle (3) thereof:

(i) for the words "wound up voluntarily by nature of the provisions", there shall be substituted the words "wound up voluntarily by virtue of the provisions"; and

(ii) for the words "to make the declarations referred to" there shall be substituted the words "to make the declaration referred to".

Amendment of
article 270 of the
principal Act.

100. Subarticle (3) of article 270 of the principal Act shall be amended as follows:

(a) for the words "the directors shall apply to the Court" there shall be substituted the words "any director shall apply to the Court"; and

(b) for the words "shall be made by the directors of the company within fourteen days" there shall be substituted the words "shall be made within fourteen days".

Amendment of
article 271 of the
principal Act.

101. Article 271 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof, for the word "thereof" there shall be substituted the words "of the meeting"; and

(b) in subarticle (4) thereof, for the words "subarticle (1) of this article," there shall be substituted the words "subarticle (1) of this article, or if a vacancy occurs in the office of a liquidator appointed by the Court,".

Amendment of
article 274 of the
principal Act.

102. Article 274 of the principal Act shall be amended as follows:

(a) in the English text of subarticle (1) thereof, for the words "shall therefore call", there shall be substituted the words "shall thereupon call";

(b) in subarticle (4) thereof for the words "last three years" wherever they appear there shall be substituted the words "previous three years".

103. In subarticle (2) of article 279 of the principal Act, for the words “the directors of the company” there shall be substituted the words “any director of the company”.

Amendment of article 279 of the principal Act.

104. For subarticle (1) of article 280 of the principal Act there shall be substituted the following:

Amendment of article 280 of the principal Act.

“(1) The creditors at the meeting to be held in pursuance of article 278 of this Act, or at any subsequent meeting may, if they think fit, by resolution appoint not more than five representatives of the creditors to a liquidation committee, and if such committee is appointed, the contributories may by resolution appoint up to five persons to act as their representatives on the committee.”.

105. In article 282 of the principal Act, for the words “resignation or otherwise, in the office of a liquidator,” there shall be substituted the words “resignation or removal in the office of a liquidator who was not appointed by the Court,”.

Amendment of article 282 of the principal Act.

106. For subarticle (3) of article 283 of the principal Act there shall be substituted the following:

Amendment of article 283 of the principal Act.

“(3) A member or members holding not less than one tenth of the paid up share capital having the right to vote at general meetings of the company or a creditor or creditors representing not less than one tenth in value of the company creditors may, at any time, by request in writing require the liquidator to convene a general meeting of the company, or a creditors’ meeting, as the case may be. Such request shall be signed by such member or members, or such creditor or creditors, as the case may be, and shall state the objects of the meeting.”.

107. Article 289 of the principal Act shall be amended as follows:

Amendment of article 289 of the principal Act.

(a) the present provision shall be renumbered as subarticle (1); and

(b) immediately after subarticle (1) as renumbered there shall be inserted the following new subarticles (2) and (3):

“(2) A vacancy resulting from the death or resignation of a liquidator appointed by the Court may, on the application of any member, creditor or contributory, be filled by the Court.

(3) The person who applied to the Court in terms of subarticle (2) of this article shall, in the case of a vacancy resulting from the death of a liquidator, inform the Registrar of the demise of the liquidator.”.

Amendment of article 290 of the principal Act.

108. In subarticle (1) of article 290 of the principal Act for the words “within fourteen days from his acceptance of his appointment” there shall be substituted the words “within fourteen days after his appointment”.

Amendment of article 292 of the principal Act.

109. Article 292 of the principal Act shall be amended as follows:

(a) subarticles (2) and (3) thereof shall be renumbered as (4) and (5) respectively;

(b) immediately after subarticle (1) thereof, there shall be inserted the following new subarticle (2):

“(2) The liquidator may apply to the Court to fix a time or times within which creditors are to prove their debts or claims or to be excluded from the benefit of any distribution made before those debts are proved.”; and

(c) in subarticle (3) thereof as renumbered for the words “subarticle (1) of this article” there shall be substituted the words “subarticles (1) and (2) of this article.”.

Amendment of article 298 of the principal Act.

110. For paragraph (b) subarticle (1) of article 298 of the principal Act, there shall be substituted the following:

“(b) At a meeting of contributories a resolution shall be deemed to be passed when three-fourths in value of the contributories present in person or by proxy and voting on the resolution, or a majority in value of all the contributories, have voted in favour of the resolution. The value of the contributories shall be determined according to the number of votes conferred on each contributory by the memorandum or articles of the company or, if the memorandum and articles are silent, according to the value of their respective liabilities to contribute.”

Addition of new articles 300A and 300B to the principal Act.

111. Immediately after article 300 of the principal Act there shall be added the following two new articles to be numbered as article 300A and 300B:

“Rectification of Scheme of Distribution

300A (1) Where in the course of the winding up of a company the liquidator has not taken into account any asset of the company, and the name of the company has been struck off the register, any interested person may, by an application, request the Court to order the rectification of the scheme of distribution, and the Court may, where it considers it appropriate, order such rectification under those terms and conditions it may deem fit.

(2) Where a company has made a distribution to its shareholders pursuant to a scheme of distribution and the name of such company has been struck off the register, any creditor whose claim against the company has not been satisfied may, by an application, claim what is due to him from the shareholders of the company pro rata to the amount received by the shareholders upon the distribution, and the Court may, where it considers it appropriate, order that payments be made by the shareholders to such creditor under those terms and conditions it may deem fit:

Provided that in no case shall a shareholder be required to contribute an amount exceeding that received by him upon distribution.

(3) No application may be made under this article after the expiration of five years from the date on which the name of the company has been struck off the register.

Restoration
of company
name on
register

300B (1) Where a company has been struck off the register, any interested person may, by an application, request the Court to order that the name of the company be restored to the register and the winding up be reopened.

(2) Where, on an application made in terms of subarticle (1) of this article, the Court is satisfied that the winding up and striking off of the company has been vitiated by fraud or illegality of a material nature, the Court may order that the name of the company be restored to the register and the winding up be reopened for such purposes and such period as the Court shall specify in its decision, and the Court shall give such directives and impose such conditions as it may consider appropriate.

(3) The Court shall only accede to the application where it is satisfied that this is the only remedy available.

(4) In its decision the Court shall also determine whether its orders and directives shall be effective in favour of all persons or shall apply limitedly to specified persons indicated in the decision.

(5) No application may be made under this article after the expiration of five years from the date on which the name of the company has been struck off the register.”.

112. For article 303 of the principal Act there shall be substituted the following:

Amendment
of article 303
of the
principal
Act

“303(1) Every privilege, hypothec or other charge, or transfer or other disposal of property or rights, and any payment, execution or other act relating to property or rights made or done by or against a company, and any obligation incurred by the company within six months before the dissolution of the company shall be deemed to be a fraudulent preference against its creditors whether it is of a gratuitous nature or an onerous nature if it constitutes a transaction at an undervalue or if a preference is given, unless the person in whose favour it is made, done or incurred, proves that he did not know and did not have reason to believe that the company was likely to be dissolved by reason of insolvency, and in the event of the company being so dissolved every such fraudulent preference shall be void.

(2) For the purposes of this article,

(a) a company enters into a transaction at an undervalue if:

(i) the company makes a gift or otherwise enters into a transaction on terms that provide for the company to receive no consideration, or

(ii) the company enters into a transaction for a consideration the value of which, in money or money's worth, is significantly less than the value in money or money's worth of the consideration provided by the company;

(b) a company gives a preference to a person if:

(i) that person is one of the company's creditors or a surety or guarantor for any of the company's debts or other liabilities; and

(ii) the company does anything or suffers anything to be done which, in either case, has the effect of putting that person into a position which, in the event of the company going into insolvent winding up, will be better than the position he would have been had that act or omission not occurred.”

113. In subarticle (2) of article 305 of the principal Act, for the words "on which the company goes into liquidation" there shall be substituted the words "of dissolution of the company as determined in accordance with the provisions of this Act."

Amendment of
article 305 of the
principal Act.

114. In subarticle (1) of article 322 of the principal Act for the words "send to the Registrar a statement", there shall be substituted the words "send to the Registrar for registration a statement".

Amendment of
article 322 of the
principal Act.

115. For article 325 of the principal Act there shall be substituted the following:

Amendment of
article 325 of the
principal Act.

"325 (1) Where the Registrar has reasonable cause to believe that a company is not carrying on business or is not in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or is in operation.

(2) If the Registrar receives an answer to the effect that the company is not carrying on business or is not in operation, or does not within one month of sending the letter receive an answer thereto, he may send to the company by post and publish a notice in the Gazette and in a daily newspaper circulating wholly or mainly in Malta that, at the expiration of three months from the date of the last publication of the said notice, the company's name shall, unless cause is previously shown to the contrary or the Registrar is satisfied that there are sufficient grounds not to proceed with the striking off, be struck off the register; and the assets of the company shall devolve upon the Government of Malta.

(3) If, in any case where a company is being wound up voluntarily, the Registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator in terms of article 322 of this Act are overdue by six months or more, the Registrar may publish in the Gazette and in a daily newspaper circulating wholly or mainly in Malta, a notice that at the expiration of three months from the date of the last publication of the said notice, the winding up of the company shall, unless cause is previously shown to the contrary, be deemed to be concluded and consequently that the company's name be struck off the register. The Registrar shall also cause a copy of the said notice to be sent by post to the company and to the liquidator, if any. At the expiration of the aforesaid period of three months the winding up of the company shall, unless cause is previously shown to the contrary, be deemed to be concluded and the Registrar shall strike the name of the company off the register and the company's assets shall devolve upon the Government of Malta.

(4) If any member or creditor of the company, or any other person who appears to the Court to have an interest feels aggrieved by the fact that the name of the company has been struck off the register by virtue of this article, the Court on an application made by the member or creditor or such other person before the expiration of five years from the publication of the notice of the striking off provided for in subarticles (2) and (3) of this article may, if satisfied that it is proper that the name of the company be restored to the register, order that such name be restored to the register, and upon an official copy of the order being delivered by the Registrar of the Superior Courts to the Registrar for registration, the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by its order give such directions and make such provisions as seem fit for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off. The Registrar shall forthwith proceed to publish a notice in the Gazette and in a daily newspaper circulating wholly or mainly in Malta that the name of the company has been restored to the register.

(5) A notice to be sent under this article to a liquidator may be addressed to the liquidator at his last known place of business or address, and a letter or notice to be sent under this article to a company may be addressed to the company at its registered office.

(6) Notwithstanding that the name of the company has been struck off the register in terms of the preceding provisions of this article, the liability, if any, of every director or other officer of the company and of every member of the company shall continue and may be enforced as if the name of the company had not been struck off the register.

(7) Notwithstanding the provisions of subarticle (1) of article 429 of this Act, the provisions of this article shall apply to companies whose dissolution and consequential winding up is regulated by the Ordinance.”

Amendment of
article 327 of the
principal Act.

116. Paragraph (a) of subarticle (5) of article 327 of the principal Act shall be amended as follows:

(a) for the words “subarticle (4)” there shall be substituted the words “subarticle (5)”; and

(b) for the words “sub-paragraph (iv)” there shall be substituted the words “sub-paragraph (iii)”.

Addition of new
articles 329A and
329B to the
principal Act.

117. Immediately after article 329 of the principal Act there shall be added the following two new articles 329A and 329B:

" Duties of
directors
where
company
unable to
pay debts.

329A. Where the directors of a company become aware that the company is unable to pay its debts or is imminently likely to become unable to pay its debts, they shall forthwith, not later than thirty days from when the fact became known to them, duly convene a general meeting of the company by means of a notice to that effect for a date not later than forty days from the date of the notice for the purpose of reviewing the company's position and of determining what steps should be taken to deal with the situation, including consideration as to whether the company should be dissolved or, where applicable, whether the company should make a Company Recovery Application in terms of article 329B of this Act.

Company
Recovery
Procedure.

329B (1) (a) Where a company is unable to pay its debts or is imminently likely to become unable to pay its debts, a Company Recovery Application may be made to the Court requesting the Court to place the company under the Company Recovery Procedure and to appoint a Special Controller to take over, manage and administer the business of the company for a period to be specified by the Court subject to the limitation imposed by paragraph (c) of this subarticle.

(b) A Company Recovery Application, hereinafter in this article also referred to as the "application", shall be made by means of an application which may be made:

(i) by the company following an extraordinary resolution;

(ii) by the directors following a decision of the board of directors; or

(iii) by creditors of the company representing more than half in value of the company's creditors.

(c) The appointment of a Special Controller shall be made for a period not exceeding twelve months; provided that, at any time during which the Company Recovery Procedure is in force, the Court may, upon good cause being shown, extend the period by such additional period or periods which in aggregate do not exceed a further twelve months.

(d) The provisions of this article shall apply to:

(i) all companies other than companies which qualify as “small companies” in terms of article 185 of this Act; and

(ii) to “small companies” having more than Lm200,000 in value owed to creditors.

(e) The Minister may, by regulations, amend or substitute the criteria set out in paragraph (d) of subarticle (1) of this article for the purpose of establishing the applicability of the provisions of this article.

(f) No application may be submitted by a company after it has been dissolved voluntarily or if, in respect of the same company, a winding-up order has already been made.

(2) (a) The application shall, as far as possible, give the full facts, circumstances and reasons which led to the company’s inability or likely imminent inability to pay its debts, together with a statement by the applicants as to how the financial and economic situation of the company can be improved in the interests of its creditors, employees and of the company itself as a viable going concern.

(b) Where an application is made by the company, the following documents shall be annexed to it :

(i) a statement of the company’s assets and liabilities made up to a date not earlier than the date of the application by more than two months; and

(ii) a list containing the names and addresses of the creditors together with an indication of the amount due to each such creditor and the security, if any, of the respective creditors.

(c) Where the application is made by the creditors, it shall be accompanied by appropriate supporting documentation and statements.

(3) (a) On the hearing of an application, the Court may, after examining all the circumstances and the options that are available, either dismiss the application or issue a Company Recovery Order,

hereinafter also referred to in this article as an "Order", acceding thereto and placing the company under the Company Recovery Procedure.

(b) The Court shall accede to the application, and accordingly place the company under the Company Recovery Procedure and issue an Order, only if-

(i) it is satisfied that the company is, or is imminently likely to become, unable to pay its debts within the meaning of subarticle (5) of article 214 of this Act; and

(ii) if it considers that the making of the Order would be likely to achieve one of the following purposes:

- the survival of the company as a viable going concern in part or in whole; or

- the sanctioning under article 327 of this Act of a compromise or arrangement between the company and any of its creditors or members.

(c) In making an Order, the Court shall take into account:

(i) the best interests of the creditors, shareholders and of the company itself, and the possibility of safeguarding employment as appears to be reasonably and financially possible in the circumstances; and

(ii) the cost that would have to be incurred by adopting the Company Recovery Procedure, particularly the fees and charges that would have to be incurred.

(d) Where the company is in possession of a licence or other authorisation under the laws regulating banking, insurance, investment services, financial institutions or listing of securities on a recognised investment exchange, the court shall not proceed to make an Order without first having consulted with the relevant competent authority responsible for supervising that company or any of its activities.

(e) The Court shall take its decision whether to dismiss the application or to make a Company Recovery Order within not more than twenty working days from the filing of the application.

Effect of the
Company
Recovery
Order.

(4) Upon the submission of an application and unless it is dismissed, or during the period during which the Company Recovery Procedure is in force:

(a) any pending or new winding up application shall be stayed;

(b) no resolution for the dissolution and consequential winding up of the company may be passed or given effect to;

(c) the execution of claims of a monetary nature against the company and any interest that may otherwise accrue thereon shall be stayed;

(d) during the tenure of the lease, no landlord or other person to whom rent is payable may exercise any right of termination of lease in relation to premises leased to the company in respect of a failure by the company to comply with any term or condition of its tenancy of such premises, except with leave of the Court and subject to such terms as the Court may deem fit to impose;

(e) no other steps may be taken to enforce any security over the property of the company, or to repossess goods in the possession of the company under any hire-purchase agreement, except with the leave of the Court and subject to such terms as the Court may deem fit to impose;

(f) no precautionary or executive act or warrant mentioned in the Code of Organisation and Civil Procedure shall be made against the company or any property of the company except with leave of the Court and subject to such terms as the Court may deem fit to impose; and

(g) no judicial proceedings shall be commenced or continued against the company or its property except with leave of the Court and subject to such terms as the Court thinks fit to impose.

Appointment
of Special
Controller.

(5) (a) In the Order, the Court shall:

(i) appoint an individual to act as a Special Controller and to carry out such functions and powers as the Court may entrust to him in the administration and management of the property and business of the company;

(ii) fix such reasonable remuneration of the Special Controller, as the Court may consider appropriate after taking into account the company's financial position, business and assets;

(iii) determine the period, not exceeding ten working days from the making of the Company Recovery Order, within which the company shall deposit a sum of money in Court or offer other suitable guarantee or other appropriate arrangement, which, in the opinion of the Court, is sufficient to cover the remuneration, and charges of the Special Controller connected to his appointment.

(b) The Court shall appoint as the Special Controller an individual who the Court has ascertained to its satisfaction enjoys proven competence and experience in the management of business enterprises, is qualified and willing to accept the appointment, and has no conflict of interest in relation to his appointment.

(c) For so long as the Special Controller holds office, the fact of his appointment to such office and his full name together with his residential or business address shall be clearly indicated in all the business letters, order forms, invoices and any other documents of the company.

Powers and
duties of the
Special
Controller.

(6) (a) During the period that an Order is in force, the company shall continue to carry on its normal activities under the management of the Special Controller.

(b) The Special Controller shall, as soon as possible upon his appointment, take into his custody or under his control all the property of the company and he shall thenceforth be responsible to manage and supervise its activities, business and property.

(c) The Special Controller shall examine the assets, affairs and business performance of the company and shall ascertain and verify whether there is a reasonable expectation of the company's recovery and continuation as a viable going concern, in whole or in part, and he shall submit an initial report thereon to the Court not later than two months from the date of his appointment.

(d) On the appointment of the Special Controller, any power conferred on the company, its directors or its officers, whether by this Act, by any other law, or by the Memorandum or Articles of Association of the company, shall be suspended unless the consent of the Special Controller to exercise such power has been obtained, which consent may be given either generally or in relation to a particular case or cases, and no meeting of the company may be summoned except with leave of the Court and subject to such terms as the Court may deem fit to impose.

(e) During such time as the Company Recovery Procedure is in force, any duty conferred on the company, its directors or its officers, whether by this Act, by any other law, or by the Memorandum or Articles of Association of the company, shall be assumed and exercised by the Special Controller.

(f) In addition and without prejudice to any other duty assigned to the Special Controller by the Court or this Act or any other law, the Special Controller shall be obliged to perform his functions fairly and equitably taking into account the best interests of the company, its shareholders and creditors together with the interests of any other interested party.

(g) In addition to the functions and powers entrusted to him by the Court, the Special Controller shall have the power:

(i) after informing the Court, by means of a note, to remove any director of the company and to appoint any individual to serve as a manager;

(ii) to engage persons for the provision of professional or administrative services, and commit

the company to the payment of their respective fees or charges; or

(iii) to call any meeting of the members or creditors of the company.

(h) The Special Controller shall not, without the prior express authorisation of the Court:

(i) engage the company into any commitment of more than six months duration; or

(ii) terminate the employment of company employees as he considers necessary for insuring the continuation of the company as a viable going concern in whole or in part; or

(iii) sell or otherwise dispose of property of the company to himself, or to his spouse or relatives and the provisions of article 306 of this Act shall apply as though references to the liquidator were references to the Special Controller.

(i) The Court may, upon the request of the Special Controller, and upon good cause being shown, extend his appointment and relative functions and powers to any company being a group company in relation to the company placed under the Company Recovery Procedure, provided that, in so far as possible, the Court shall, before so doing, hear the views of the directors, or any of them, of such group company, as it may deem appropriate.

Meeting of
creditors
and
members.

(7) (a) Within one month from his appointment, the Special Controller shall convene a meeting or meetings of creditors and members, whether separately or jointly as he may consider appropriate, for the purpose of -

(i) laying before them for their information and review a comprehensive statement of the company's affairs together with preliminary proposals on the future prospects and management of the company; and

(ii) appointing a joint creditors and members committee, consisting of not more than three creditors and not more than three members, to

render such advice and assistance as the Special Controller may require in the management of the affairs, business and property of the company and its recovery as a viable going concern.

(b) Not less than fourteen days notice shall be given of the holding of any such meeting or meetings, and the Special Controller shall also send a copy of the notice convening the meeting to any directors or other officers of the company, including persons who have been directors or other officers in the past, whose presence at the meeting is, in the opinion of the Special Controller, required.

(c) The Special Controller shall publish a notice of the meetings of creditors and members in a daily newspaper circulating wholly or mainly in Malta, not later than fourteen days before the holding of the meeting.

(d) Where for any reason the creditors or the members or both do not appoint their representatives on the joint creditors' and members' committee, the Special Controller may proceed to continue in the exercise of his functions without such committee or solely with a creditors' or members' committee, as the case may be.

Fraudulent trading.

(8) (a) If during such time as the Company Recovery Procedure is in force, it appears that any business of the company has been carried on with intent to defraud creditors of the company or for any fraudulent purpose, the Court on the application of the Special Controller, may, if it thinks proper so to do, declare that any persons who were knowingly parties to the carrying on of the business in the manner aforesaid be personally responsible, without any limitation of liability for all or any of the debts or other liabilities of the company as the Court may direct.

(b) Where the business of a company is carried on with such intent or for such purposes as is mentioned in paragraph (a) of this subarticle, every person who was knowingly a party in the carrying on of the business in the manner aforesaid, shall be guilty of an offence and

liable on conviction to a fine (*multa*) of not more than one hundred thousand liri or imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

Wrongful trading.

(9) (a) The provisions of this subarticle shall apply where a Company Recovery Procedure is in force and it appears that a person who is a director of the company knew, or ought to have known, that the company is unable to pay its debts or is imminently likely to become unable to pay its debts.

(b) The Court, on the application of the Special Controller of a company to which this subarticle applies, may declare the person being a director referred to in paragraph (a) of this subarticle liable to make a payment towards the company's assets as the Court thinks fit.

(c) The Court shall not grant an application under this subarticle if it is satisfied that the person who is a director took every step he ought to have taken with a view to minimising the potential loss to the company's creditors.

(d) For the purposes of paragraphs (b) and (c) of this subarticle, the facts which a director of a company ought to know or ascertain, the conclusions which he ought to reach and the steps which he ought to take, are those which would be known or ascertained, or reached or taken, by a reasonably diligent person having both -

(i) the knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by or entrusted to that director in relation to the company; and

(ii) the knowledge, skill and experience that the director has.

(e) For the purposes of this subarticle, director includes a person in accordance with whose directions or instructions the directors of the company are accustomed to act.

Removal or vacancy in the office of Special Controller.

(10) (a) If a vacancy occurs by reason of death, resignation or otherwise in the office of the Special

Controller, the Court may appoint another individual to fill the vacancy on an application made for this purpose by the outgoing Special Controller, by a creditor, by a member, by a director, or by the Court of its own motion, as the case may be.

(b) The Court may, of its own motion or on the application of any member or creditor, review, confirm, modify or reverse any act or decision of the Special Controller and give him such directions or orders as it deems fit or remove a Special Controller if it is satisfied that there exist sufficient grounds to warrant his removal and appoint another Special Controller.

Reports to be submitted by the Special Controller.

(11) (a) At the end of every period of four months commencing from the date of the making of the Order until the termination of his appointment, the Special Controller shall submit to the Court a comprehensive report in writing on the proceedings of his administration and of his proposals regarding the prospects for the recovery of the company as a viable going concern in whole or in part.

(b) When the Special Controller submits to the Court the report referred to in paragraph (a) of this subarticle, the Registrar of the Superior Courts shall forthwith forward a copy of it to the Registrar for registration.

Termination of Company Recovery Order.

(12) (a) If, at any time during which a Company Recovery Procedure is in force, it results to the Special Controller, after consulting the joint creditors' and members' committee, that it would serve no useful purpose for the company to continue with the said Procedure, the Special Controller shall forthwith make an application to the Court for the termination of the Company Recovery Procedure, containing his detailed and comprehensive reasons therefor.

Following the receipt of the application made by the Special Controller for the termination of the Company Recovery Procedure, the Court shall order that the company be wound up by the Court. On the making of the winding up order, a copy thereof shall forthwith be forwarded by the Registrar of the Superior Courts to the Registrar for registration.

(b) If, at any time during which a Company Recovery Procedure is in force, it results to the Special Controller, after consulting the joint creditors' and members' committee, that the affairs of the company have improved to the extent that it is in a position to pay its debts, he shall submit an application to the Court, containing his detailed and comprehensive reasons to that effect, and requesting the Court to issue an order for the termination of the Company Recovery Procedure. In the event that the Court accedes the application, it shall make such provisions and conditions, as it may consider necessary in the circumstances of the case.

(c) If, at any time during which a Company Recovery Procedure is in force, the directors of the company or the members at an extraordinary general meeting become satisfied that the affairs of the company have improved to the extent that it is in a position to pay its debts, they may submit an application to the Court, accompanied by appropriate supporting documentation and information, confirming that they are so satisfied, and requesting the Court to issue an order for the termination of the Company Recovery Procedure, and the Court shall not proceed to make an order acceding to or declining the application without having first heard the Special Controller.

In the event that the Court accedes the application, it shall make such provisions and conditions, as it may consider necessary in the circumstances of the case.

(d) At the end of the period of his appointment, the Special Controller shall submit a written Final Report to the Court containing his detailed and comprehensive opinions and reasons as to whether or not the company has a reasonable prospect of continuing as a viable going concern in whole or in part and will be in a position to pay its debts regularly in the future.

(e) Where the Final Report submitted by the Special Controller expresses the opinion that the company has a reasonable prospect of continuing as a viable going concern, in whole or in part, or where an application is made to the Court by the Special Controller under paragraph (b) of this subarticle, it shall additionally have attached to it a precise and detailed Recovery Plan

which shall contain all the proposals required to enable the company to continue as a viable going concern, with such explanations as may be required to give effect to such recovery, including proposals in relation to financial resources, the retention of employees and the future management of the company. The said Recovery Plan shall also explain the proposed manner of paying creditors the whole or a proportion of their claims, whether a voluntary compromise has been reached with all the creditors, or whether it is proposed that the Court sanction a compromise which has not been approved by all the creditors.

(f) Following receipt of the application referred to in paragraph (b) of this subarticle or of the Final Report and the Recovery Plan, the Court may request any explanations and clarifications as it may consider appropriate which shall be provided either verbally or in writing as the Court may direct.

(g) The Court may either reject the proposed Recovery Plan, or it may accept and approve it in whole or in part and may require amendments thereto. Where the Court approves the Recovery Plan submitted by the Special Controller, whether with or without amendments as the Court may direct, the Recovery Plan shall be effective and binding on all interested parties for all purposes of law.

Submission
of
documents
to Registrar
for
registration

(13) (a) Upon the submission of a Company Recovery Application, the issue of a Company Recovery Order, the appointment and termination of the appointment of a Special Controller and the appointment of a replacement thereof, the submission of an application for the termination of a Company Recovery Order and the order of the Court terminating the Company Recovery Procedure for any reason, the Registrar of the Superior Courts shall forthwith submit a copy of any such application, Court order or other relevant document to the Registrar for registration.

(b) The Registrar of the Superior Courts shall forthwith forward a true copy of the Final Report, as accepted and approved by the Court, to the Registrar for registration.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subarticle, a copy of the Recovery Plan, attached to the Final Report or required to be attached to an application for the termination of a Company Recovery Order, shall not be delivered to the Registrar together with such Report or application.

Winding up
by the Court

(14) Where, in terms of any of the provisions of this article, the Court issues an order for the termination of the Company Recovery Procedure on the grounds that the company has no reasonable prospect of continuing as a viable going concern and will not be in a position to pay its debts regularly in the future, it shall order that the company be wound up by the Court. On the making of the winding up order, a copy thereof shall forthwith be forwarded by the Registrar of the Superior Courts to the Registrar for registration.

Power to
make
regulations.

(15) The Minister may make regulations for the better carrying out of any of the provisions of this article.

118. Subarticle (2) of article 330 of the principal Act shall be amended as follows:

Amendment of
article 330 of the
principal Act.

(a) for the words "*en nom collectif* or *en commandite*" there shall be substituted the words "an *en nom collectif* or an *en commandite* or limited partnership"; and

(b) in the proviso thereto, for the words "partnership *en commandite* the capital of which is not divided into shares, or one-tenth of the share capital of the partnership *en commandite* the capital" there shall be substituted the words "partnership *en commandite* or limited partnership, the capital of which is not divided into shares, or one-tenth of the share capital of the partnership *en commandite* or limited partnership, the capital".

119. In subarticle (2) of article 335 of the principal Act, for the words "or a partnership *en commandite* the unlimited liability of all the partners in the partnership *en nom collectif* and that of the general partners in the partnership *en commandite*" there shall be substituted the words "or a partnership *en commandite* or limited partnership the unlimited liability of all the partners in the partnership *en nom collectif* and that of the general partners in the partnership *en commandite* or limited partnership".

Amendment of
article 335 of the
principal Act.

120. Article 336 of the principal Act shall be amended as follows:

Amendment of
article 336 of the
principal Act.

(a) in subarticle (1) thereof, for the words “and *en commandite*” there shall be substituted the words “and partnerships *en commandite* or limited partnerships”; and

(b) in subarticle (2) thereof, for the words “are all *en commandite*” there shall be substituted the words “are all *en commandite* or limited partnerships” and for the words “partnerships are *en commandite*” there shall be substituted the words “partnerships are *en commandite* or limited partnerships”.

Amendment of article 342 of the principal Act.

121. In subarticle (3) of article 342 of the principal Act, for the words “is a partnership *en commandite* “ there shall be substituted the words “is a partnership *en commandite* or limited partnership”.

Amendment of article 343 of the principal Act.

122. In subarticle (2) of article 343 of the principal Act for the words “acquires the assets and liabilities” there shall be substituted the words “acquires all the assets and liabilities”.

Amendment of article 345 of the principal Act.

123. Subarticle (6) of article 345 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof, for the words “decide on the draft terms of merger;” there shall be substituted the words “decide on the draft terms of merger; and”;

(b) in paragraph (b) thereof for the words “the acquiring company; and” there shall be substituted the words “the acquiring company.”; and

(c) in paragraph (c) thereof the letter “(c)” shall be deleted and substituted by the words “Provided that, in any case.”.

Amendment of article 354 of the principal Act

124. For the proviso to subarticle (3) of article 354 of the principal Act, there shall be substituted the following:

“Provided that any fees that may be payable upon an increase in the authorised share capital of the acquiring company shall remain due and payable.”.

Amendment of article 357 of the principal Act

125. In the third proviso to subarticle (1) of article 357 of the principal Act, for the words “to refer to such duty and other fees” there shall be substituted the words “to refer to such fees”.

Amendment of article 358 of the principal Act.

126. Article 358 of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words “all its voting shares” there shall be substituted the words “all its shares”.

(b) in subarticle (1) thereof, for the words “holder of all their shares conferring the right to vote at general meetings and” there shall be substituted the words “holder of all their shares and”;

(c) subarticle (3) thereof shall be amended as follows:

(i) in paragraph (a) thereof for the words “takes effect;” there shall be substituted the words “takes effect; and”;

(ii) in paragraph (b) thereof, for the words “shall apply;” there shall be substituted the words “shall apply.”;

(iii) in paragraph (c) thereof the letter “(c)” shall be deleted and substituted by the words “Provided that, in any case,”; and

(d) subarticle (4) thereof shall be deleted.

127. Article 359 of the principal Act shall be amended as follows: Amendment of article 359 of the principal Act.

(a) subarticle (1) thereof shall be amended as follows:

(i) in paragraph (a) thereof, for the words “shall be published by him at least three months before the date fixed for the general meeting of the companies being acquired which is to decide on the draft terms of acquisition;” there shall be substituted the words “shall be published by him;”;

(ii) paragraphs (b) and (c) thereof shall be respectively re-numbered (c) and (d);

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

“(b) the general meetings of the companies being acquired which are to decide on the draft terms of acquisition shall be held not later than three months from the publication referred to in paragraph (a) of subarticle (1) of this article;” and

(d) in paragraph (c) thereof as re-numbered, for the words “within the period mentioned in paragraph (a) of this subarticle” there shall be substituted the words “within the period mentioned in the preceding paragraph of this subarticle”;

(b) in the proviso to subarticle (2) thereof for the words “to inspect the documents” there shall be substituted the words “to inspect and obtain copies of the documents”; and

(c) subarticle (3) thereof shall be deleted.

Amendment of
article 360 of the
principal Act.

128. Article 360 of the principal Act shall be amended as follows:

(a) in paragraph (b) of subarticle (1) thereof for the words “new companies.” there shall be substituted the words “new companies; or”;

(b) immediately after paragraph (b) of subarticle (1) thereof there shall be inserted the following new paragraph:

“(c) division by a combination of a division by acquisition with a division by the formation of one or more new companies;”;

(c) subarticles (4), (5), (6) and (7) thereof shall be renumbered respectively (5), (6), (7) and (8); and

(d) immediately after subarticle (3) thereof there shall be inserted the following new subarticle:

“(4) Division by a combination of a division by acquisition with a division by formation of one or more new companies is the same as the operation described in subarticle (2) of this article combined with the operation as described in subarticle (3) of this article.”.

Amendment of
article 361 of the
principal Act.

129. In paragraph (h) of subarticle (2) of article 361 of the principal Act, for the words “the precise description” there shall be substituted the words “the precise and detailed description”.

Amendment of
article 362 of the
principal Act.

130. In the English text of subarticle (2) of article 362 of the principal Act, for the words “agreed of as the Court,” there shall be substituted the words “agreed or as the Court,”.

Amendment of
article 363 of the
principal Act.

131. Article 363 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, the words “the allocation of shares.”, shall be substituted by the words “the allocation of shares. The report shall also describe any special valuation difficulties which have arisen.” ;

(b) subarticle (2) thereof shall be deleted;

(c) subarticles (3) and (4) shall be renumbered as subarticles (2) and (3) respectively; and

(d) in subarticle (3) as re-numbered, for the word "(3)" there shall be substituted the word "(2)".

132. In the second proviso of subarticle (3) of article 368 of the principal Act, for the words "paragraph (c) of subarticle (1) of article 375" there shall be substituted the words "paragraph (c) of subarticle (2) of article 375". Amendment of article 368 of the principal Act.

133. Article 370 of the principal Act shall be amended as follows: Amendment of article 370 of the principal Act.

(a) in subarticle (1) thereof, for the words "altered to meet circumstances" there shall be substituted the words "altered to meet the circumstances"; and

(b) in subarticle (2) thereof, for the words "article 344" there shall be substituted the words "article 368".

134. Article 371 of the principal Act shall be amended as follows: Amendment of article 371 of the principal Act.

(a) in the English text of paragraph (a) of subarticle (1) thereof for the words "assets, liabilities and obligations" there shall be substituted the words "assets, rights, liabilities and obligations"; and

(b) for the proviso to subarticle (3) thereof there shall be substituted the following:

"Provided that any fees that may be payable upon an increase in the authorised share capital of the recipient companies shall remain due and payable."; and

(c) immediately after subarticle (4) thereof there shall be inserted the following new subarticle (5):

"(5) Where the assets of the company to be divided include immovable property or rights relating thereto, the directors of the recipient companies shall cause within one month from the coming into force of the division, a declaratory public deed to be published, containing a detailed description and the allocation of the immovable property or rights relating thereto delivered to each of the recipient companies, and a

true copy of the said deed shall be lodged with the Registrar within fourteen days from the enrolment thereof at the Public Registry.”

Amendment of
article 372 of the
principal Act.

135. For paragraph (b) and the words immediately following of article 372 of the principal Act, there shall be substituted the following:

“(b) being an expert who is responsible for drawing up on behalf of the said company the report on the draft terms of the division,

and who, as a consequence of his wilful or negligent misconduct in the performance of his duties causes damages to any shareholder of the company to be divided, shall be liable for such damages.”.

Amendment of
article 373 of the
principal Act.

136. Article 373 of the principal Act shall be amended as follows:

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

(i) for the words “article 361 of this Act; or within three months” there shall be substituted the words “article 361 of this Act, or within three months”;

(ii) for the words “the resolution of the extraordinary general meeting” there shall be substituted the words “any of the resolutions of the extraordinary general meetings mentioned therein”; and

(iii) for the words “by the Registrar in the Gazette;” there shall be substituted the words “by the Registrar;”;

(b) in paragraph (c) thereof, for the words “Registrar in the Gazette,” there shall be substituted the words “Registrar;” and

(c) in paragraph (g) thereof, for the words “the division shall not take effect”, there shall be substituted the words “the division shall not become operative”.

Amendment of
article 374 of the
principal Act

137. Article 374 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “The provisions of articles 361, 362, 363,” there shall be substituted the words “The provisions of article 361, subarticles (1) to (5) of article 362, article 363;” and

(b) for the proviso to subarticle (1) thereof there shall be substituted the following:

“Provided that the proviso to subarticle (3) of article 371 of this Act shall be deemed to refer to such fees as may be payable upon the registration of the new companies.”;

138. Chapter III of Part IX of the principal Act shall be renumbered Chapter IV.

Re-numbering of Chapter III of Part IX of the principal Act.

139. Immediately before Chapter IV of Part IX of this Act as renumbered there shall be added the following new Chapter III:

Addition of new Chapter III of Part IX to the principal Act.

“Chapter III - Division by a combination of a division by acquisition with a division by the formation of one or more new companies

Division by a combination of division by acquisition and division by formation of new companies

374(A) (1) The provisions of articles 361, 362, 363, subarticles (1) and (2) of article 364 and articles 365 to 373 of this Act shall apply to division by combination of a division by acquisition with a division by formation of one or more new companies:

Provided that the proviso to subarticle (3) of article 371 of this Act shall be deemed to refer also to such fees as may be payable upon the registration of the new companies where that is the case.

(2) In addition to the information specified in subarticle (2) of article 361 of this Act, the draft terms of division, shall also indicate the status, name and registered office of the new company or companies.

(3) The draft terms of division and, if they are contained in a separate document, the draft memorandum and the draft articles of the new company or companies shall be approved by an extraordinary resolution taken at a general meeting of the company to be divided and of each existing recipient company.

(4) Neither article 364 nor article 365 of this Act, in so far as they relate to the written report drawn up by one or more experts shall apply in respect of new companies where the shares in such companies are allocated to the shareholders of the company to be divided in proportion to their holding in the issued share capital of that company.

(5) The Registrar shall, after striking the name of the company to be divided off the register in accordance with the provisions of subarticle (1) of article 370 of this Act, proceed to issue a certificate of registration for each one of the new companies formed, denoting the fact of its formation as a result of the division.”

Amendment of
article 375 of the
principal Act.

140. Article 375 of the principal Act shall be amended as follows:

(a) in paragraph (a) of subarticle (3) thereof for the words “subarticle (4) of article 361” there shall be substituted the words “subarticle (5) of article 361”;

(b) immediately after the proviso to paragraph (b) of subarticle (2) thereof there shall be inserted the following new proviso:

“Provided further that the provisions of this paragraph shall, with regard to division by the formation of new companies, apply only to the company being divided;” and

(c) immediately after subarticle (3) thereof there shall be inserted the following new subarticle (4):

“(4) The provisions of subarticle (3) of article 368 of this Act shall not apply to a division under this Chapter where a majority in number representing three-fourths in value of the creditors of the company to be divided have agreed to forego such joint and several liability as is referred to in subarticle (3) of article 368 of this Act.”

Amendment of
Part XI of the
principal Act

141. In Part XI of the Act, including the heading thereof, for the words “place of business” wherever they occur, there shall be substituted in each case the words “branch or place of business”.

Amendment of
article 385 of the
principal Act.

142. Article 385 of the principal Act shall be amended as follows:

(a) for paragraph (b) of subarticle (1) thereof, there shall be substituted the following:

“(b) a list of the directors and company secretary, if any, or of the persons vested with the administration of the oversea company, where that company does not have directors or a company secretary, and, in all cases, a list of the persons vested with the representation of the oversea company. Such lists shall include the following particulars:

(i) in the case of an individual, his name, his usual residential address, his nationality and his business occupation; and

(ii) in the case of a body corporate, its registered or corporate name and registered or principal office;” ;

(b) for paragraph (c) of subarticle (1) thereof, there shall be substituted the following:

“(c) a return containing the following particulars -

(i) the name under which the branch or place of business is carrying on its activities where different from the name of the oversea company;

(ii) the address of the branch or place of business established in Malta by the oversea company, and where more than one branch or place of business has been established, there shall be indicated the address of the principal branch or place of business;

(iii) the activities to be carried out by the branch or place of business established in Malta;

(iv) the names and addresses of one or more individuals resident in Malta authorised to represent the oversea company for the activities of the branch or place of business established in Malta; and

(v) the extent of the authority of any individual falling within subparagraph (iv) above, including whether that individual is authorised to act alone or jointly with others, and in the latter case, the name of any person with whom he is authorised to act.”; and

(c) immediately after paragraph (c) of subarticle (1) thereof there shall be inserted the following new paragraph (d):

“(d) unless disclosed by the document specified in paragraph (a) of subarticle (1) of this article, a return containing the following particulars about the oversea company -

(i) the legal form of the oversea company; and

(ii) the identity of the register in which the overseas company is registered and the number with which it is so registered.”.

Amendment of article 386 of the principal Act.

143. Article 386 of the principal Act shall be amended as follows:

(a) for paragraph (b) thereof, there shall be substituted the following:

“(b) the directors or company secretary or the persons vested with the administration or the representation of an overseas company, or in the particulars specified under paragraph (b) of subarticle (1) of article 385; or”; and

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

“(c) the names or addresses of the individuals authorised to represent an overseas company for the activities of the branch or place of business established in Malta;”.

Amendment of article 390 of the principal Act.

144. Article 390 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof for the words “outside Malta.”, there shall be substituted by the words “outside Malta.”; and

(b) immediately after subarticle (1) thereof there shall be inserted the following new proviso:

“Provided that the said provisions shall not apply to a prospectus issued by a holder of a collective investment scheme licence within the meaning of the Investment Services Act and provided further that the issue of such a prospectus complies with the rules and regulations made under that Act.”.

Amendment of article 391 of the principal Act.

145. In paragraph (b) of subarticle (6) of article 391 of the principal Act, for the words “the Malta Stock Exchange” there shall be substituted the words “a recognised investment exchange”.

Amendment of article 395 of the principal Act.

146. Article 395 of the principal Act shall be amended as follows:

(a) for paragraph (b) of subarticle (1) thereof there shall be substituted the following:

“(b) application is made to the Listing Authority for the admissibility to listing of its shares or debentures on a recognised investment exchange.”;

(b) in subarticle (2) thereof for the words “Malta Stock Exchange” there shall be substituted the words “Listing Authority”; and

(c) in subarticle (3) thereof for the words “for permission to the Malta Stock Exchange” there shall be substituted the words “for admissibility to listing on a recognised investment exchange”.

147. In subarticle (4) of article 396 of the principal Act, for the words “the Malta Stock Exchange” there shall be substituted the words “a recognised investment exchange”.

Amendment of article 396 of the principal Act.

148. Immediately after article 399 of the principal Act, there shall be inserted the following new article 399A:

Addition of new article 399A to the principal Act.

“Closure by
overseas
company of
its branch or
place of
business in
Malta

399A(1)(a) An overseas company shall within one month of the closure of its branch or place of business in Malta deliver a notice to the Registrar for registration notifying him of such closure.

(b) Where an overseas company, constituted or incorporated outside Malta, which has established a branch or place of business within Malta, has been dissolved or for any other reason is being wound up, it shall, within one month from the date of the dissolution or the date on which the winding-up begins, deliver to the Registrar for registration a return in the prescribed form containing the following particulars -

(i) a brief description of the winding-up or other proceedings to which the overseas company has become subject to, specifying whether such proceedings amount to insolvency proceedings, or an arrangement or composition, or any analogous proceedings;

(ii) whether the overseas company has been dissolved or is being wound up by an order of a court;

(iii) if the company is not being so dissolved or wound up, as a result of what action the dissolution or winding-up has commenced;

(iv) whether the dissolution or winding up has been instigated by:

- (a) the overseas company's members;
- (b) the overseas company's creditors; or
- (c) some other person or persons; and

(v) the date on which the dissolution or winding-up became or will become effective.

(c) If an overseas company fails to comply with the provisions of this subarticle, the liquidator or any officer or agent of the company, as the case may be, who is in default shall be liable to a penalty and, in the case of a continuing default, to a further penalty for every day during which the default continues.

(2) (a) A person appointed to be the liquidator of the overseas company shall, within one month from the date of his appointment, deliver to the Registrar for registration a return in the prescribed form containing the following particulars -

(i) his name, his residential address and his business or professional occupation;

(ii) the date of his appointment; and

(iii) a description of his powers together with an explanation of the extent to which these powers are derived otherwise than from the general law or the company's constitution.

(b) The liquidator of the overseas company shall, within one month from the termination of the winding up of the overseas company, deliver to the Registrar for registration, a return in the prescribed form notifying him of such termination.

(c) If the liquidator fails to comply with any of the requirements of paragraphs (a) and (b) of this subarticle he shall be liable to a penalty and, for every day during which the default continues, to a further penalty."

Amendment of
article 401 of the
principal Act.

149. Article 401 of the principal Act shall be amended as follows:

(a) in paragraph (d) of subarticle (1) thereof, for the words "any of the provisions of this Act;" there shall be substituted the words "any of the provisions of this Act and any such delivery,

submission or service to the Registrar and the retention and registration of any document by the Registrar, may be carried out in such manner and by such means and in such format, including electronic communication within the meaning of the Electronic Commerce Act, as the Registrar may deem appropriate;” and

(b) in paragraph (g) of subarticle (1) thereof, for the number “XI” in the English text there shall be substituted the number “IX” and for the words “of this Act; such notice” there shall be substituted the words “of this Act, or of the striking off of the name of a company, under the provisions of article 325 of this Act. Such notice”.

150. Article 402 of the principal Act shall be amended as follows: Amendment of article 402 of the principal Act.

(a) subarticles (4) and (5) thereof shall be respectively renumbered (5) and (6); and

(b) immediately after paragraph (g) of subarticle (3) thereof there shall be inserted the following new subarticle (4):

“(4) When an order is made for the dissolution of a company in terms of paragraph (g) of subarticle (3) of this article, the company shall be deemed to have been dissolved on the date when the order is made and the provisions of Sub-Titles I and III of Title II of Part V of this Act regulating the winding up of companies shall apply.”.

151. Immediately after subarticle (5) of article 404 of the principal Act, there shall be inserted the following new subarticle (6): Amendment of article 404 of the principal Act.

“(6) The Registrar shall exercise the powers conferred by this article where it appears to him that it is expedient and in the public interest to do so.”

152. In subarticle (1) of article 406 of the principal Act for the words “the company’s subsidiary or holding company, or a subsidiary of its holding company or a holding company of its subsidiary,” there shall be substituted the words “the company’s subsidiary or parent company, or a subsidiary of its parent company or a parent company of its subsidiary,”. Amendment of article 406 of the principal Act.

153. In subarticle (2) of article 418 of the principal Act for the words “the powers vested in him under this Part” there shall be substituted the words “the duties and powers vested in him under this Part”. Amendment of article 418 of the principal Act.

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

(a) in paragraph (d) of subarticle (1) thereof for the words “Ninth, Tenth and Eleventh Schedule” there shall be substituted the words “Ninth, Tenth, Eleventh and Twelfth Schedule”;

(b) in paragraph (g) of subarticle (1) thereof for the words “on any stock exchange” there shall be substituted the words “on any recognised investment exchange”;

(c) for paragraph (h) of subarticle (1) thereof, there shall be substituted the following:

“(h) specify the categories of public companies which may not issue share warrants by whatever designation described and prescribe rules further regulating and restricting the issue of share warrants;”;

(d) in paragraph (i) of subarticle (1) thereof for the words “prescribed; and” there shall be substituted the words “prescribed;”;

(e) paragraph (j) of subarticle (1) thereof shall be re-numbered as paragraph (l); and

(f) immediately after paragraph (i) of subarticle (1) thereof, there shall be inserted two new paragraphs (j) and (k) as follows:

“(j) provide for the exemption of offshore companies formed and registered under the Malta Financial Services Authority Act from any of the provisions of this Act, or for the application to any such companies of the said provisions with such qualifications and subject to such variations and conditions as may be prescribed, including the prescription of additional or different rules and requirements regulating such companies;

(k) provide for the exemption of overseas companies, which establish a branch or place of business within Malta under Part XI of this Act, from any of the provisions of Part XI of this Act, or for the application to any such overseas companies of the said provisions with such qualifications and subject to such variations and conditions as may be prescribed, including the prescription of additional or different rules and requirements regulating such overseas companies; and”.

155. Article 427 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words "the Tenth Schedule" there shall be substituted the words "the Eleventh Schedule";

(b) in subarticle (2) thereof, for the words "the Tenth Schedule" there shall be substituted the words "the Eleventh Schedule", and for the words "The daily default penalty shall be due for every day during which the default continues and shall accrue from the day on which the Registrar gives notice under subarticle (3) of article 401 of this Act that a penalty is due." there shall be substituted the following words "The penalty shall become due on the day on which the default occurs and the daily default penalty shall be due for every day during which the default continues and shall accrue from the day following that on which the default occurs."; and

(c) immediately after subarticle (3) thereof, there shall be inserted the following new subarticle (4):

"(4) A company shall be jointly and severally liable with its officers for the payment of any administrative penalties imposed under this Act."

156. In subarticle (15) of article 428 of the principal Act the words "registered under this Act, other than any resolution, notice, return or other document required to be" shall be deleted. Amendment of article 428 of the principal Act.

157. For paragraph (a) of subarticle (1) of article 431 of the principal Act, there shall be substituted the following: Amendment of article 431 of the principal Act.

"(a) offshore companies formed and registered under the Malta Financial Services Authority Act shall, subject to the provisions of the said Act, continue to be regulated by the Ordinance, and the provisions of this Act shall not apply thereto, for such period or until such date as the Minister may, by order in the Gazette, establish and the provisions of this Act shall commence to apply to them from such date:

Provided that the Minister may, by regulations made under this Act, exempt such companies from any one or more of the provisions of this Act, with such qualifications and subject to such variations and conditions as may be specified therein;"

158. In the English text of the sub-title of the Second Schedule of the principal Act for the words "Part X of this Act" there shall be substituted the words "Part XI of this Act". Amendment of the Second Schedule to the principal Act.

C 1610

Amendment of the Fifth Schedule to the principal Act.

159. In paragraph (4) of the Fifth Schedule to the principal Act for the words “official stock exchange listing” wherever they occur, there shall be substituted in each case the words “listing on a recognised investment exchange”.

Amendment of the Sixth Schedule to the principal Act.

160. Paragraph 1 of the Sixth Schedule to the principal Act shall be amended as follows:

(a) in sub-paragraph (c) thereof for the words “development; and” there shall be substituted the word “development;”;

(b) in sub-paragraph (d) thereof for the word “reserves.” there shall be substituted the words “reserves; and”; and

(c) immediately after sub-paragraph (d) thereof there shall be inserted the following new sub-paragraph (e):

“(e) the existence of branches of the company.”.

Amendment of the Seventh Schedule to the principal Act.

161. For the Seventh Schedule to the principal Act there shall be substituted the Seventh Schedule contained in the First Schedule to this Act.

Amendment of the Ninth Schedule to the principal Act.

162. Immediately after paragraph 13 of the Ninth Schedule to the principal Act there shall be added the following new paragraph 14 :

“14. The voting rights in an undertaking shall be reduced by any rights attaching to shares -

(a) held by way of security, provided that the rights in question are exercised in accordance with the instructions received; or

(b) held in connection with the granting of loans as part of normal business activities, provided that the voting rights are exercised in the interests of the person providing the security.”.

Amendment of the Eleventh Schedule to the principal Act.

163. In the title of the Eleventh Schedule to the principal Act for the words “Eleventh Schedule” there shall be substituted the words “Twelfth Schedule”.

Amendment of the Tenth Schedule to the principal Act.

164. In the title of the Tenth Schedule to the principal Act for the words “Tenth Schedule” there shall be substituted the words “Eleventh Schedule”.

Addition of new Tenth Schedule to the principal Act.

165. Immediately after the Ninth Schedule to the principal Act there shall be added the Tenth Schedule contained in the Second Schedule to this Act.

166. The Eleventh Schedule to the principal Act as renumbered shall be amended as follows:

Amendment of the Eleventh Schedule to the principal Act as renumbered.

(a) for the following paragraphs:

“66(6) Failure of partner vested with administration or representation to deliver a copy of any instrument altering or adding to the deed of partnership of a partnership *en commandite* the capital of which is divided into shares to the Registrar or failure to deliver amended deed of partnership. 200 liri 10 liri

70(6) Trading or carrying on business under certain prohibited names 200 liri None

74(2) Failure of company to deliver report of proposed acquisition of asset from subscriber or major shareholder to Registrar 500 liri None”

there shall be substituted the following:

“66(6) Failure of partner vested with administration or representation to deliver a copy of any instrument altering or adding to the deed of partnership of a partnership *en commandite* or limited partnership the capital of which is divided into shares to the Registrar or failure to deliver amended deed of partnership. 200 liri 10 liri

70(6) Trading or carrying on business under certain prohibited names 200 liri 10 liri

74(2) Failure of company to deliver to Registrar report of proposed acquisition of non-cash asset from subscriber or member 500 liri None”;

(b) immediately after paragraph

“133(5) Officer of company contravening further provisions as to votes by proxy at meetings of the company 200 liri None”

there shall be inserted the following:

“138(8) Failure to appoint a 200 liri 10 liri”;
company secretary

and (c) immediately after paragraph:

“ 397(1) Person responsible for 1000 liri None “
issuing, circulating or distributing a
prospectus etc. for an oversea company
in contravention of articles 391 to 396.

there shall be inserted the following:

“399(A)(1) Liquidator, officer or 200 liri 10 liri
agent of oversea company failing to give
notice to Registrar of winding-up of
oversea company or closure of branch or
place of business

399(A)(2) Liquidator of oversea 200 liri 10 liri.”.
company failing to notify Registrar of
appointment

PART VIII MISCELLANEOUS PROVISIONS

Miscellaneous
provisions.

167. (1) Without prejudice to any other law in any reprint of this Act, Parts II to VII need not be reproduced and it shall be sufficient to reproduce Part I of this Act:

Provided that nothing in this subarticle shall be construed as reducing the validity of anything contained in the Parts not so reproduced.

(2) Upon the coming into force of Parts II to VII of this Act, the long title of this Act shall be “An Act to make provision for the enforceability of set-off and netting on bankruptcy or insolvency.”.

FIRST SCHEDULE

(Article 161)

“ SEVENTH SCHEDULE

(Article 184)

Company No:

CONTENTS AND FORM OF ANNUAL RETURN

Annual Return of

.....

.....(name of company)

Date to which this return is made up:

(being the anniversary of the company's date of registration)

1. Address

(Address of the registered office of the company)

This form must be completed in BOLD TYPED FORM

2. Summary of Share Capital

All Maltese liri amounts are to be preceded by the symbol Lm. Symbols used for other currencies are to be indicated (where applicable).

Currency	Symbol
.....
.....
.....
.....

(a) **Nominal Share Capital**

Nominal Share Capital divided into:

(insert number and class)

.....	shares of	each
.....	shares of	each
.....	shares of	each
.....	shares of	each

(b) **Issued Share Capital**

	Number	Class	
Number of shares of each class taken up to the date of this return (which number must agree with the total shown on the list as held by existing members).	shares
	shares
	shares
	shares
Number of shares of each class issued as partly paid up and extent to which each such share is so paid up.	issued as paid up to the extent of	per share shares
	issued as paid up to the extent of	per share shares
	issued as paid up to the extent of	per share shares
	issued as paid up to the extent of	per share shares
	Number	Class	
Total number of shares of each class forfeited.	shares
	shares

Total amount paid, if any, on shares forfeited.

SECOND SCHEDULE

(Article 165)

“ TENTH SCHEDULE

(Article 66A)

Partnerships *en commandite* or Limited Partnerships

PART I - REGULATIONS FOR PARTNERSHIPS *EN COMMANDITE* OR LIMITED PARTNERSHIPS

Interpretation

1. In this Schedule, unless the context otherwise requires -

“licence holder” means a person who holds an investment services licence under article 6 of the Investment Services Act.

Formation of Partnerships *en commandite* or Limited Partnerships

2. (1) A partnership *en commandite* or limited partnership may be formed by two or more partners, operates under a partnership name and has its obligations guaranteed by the unlimited joint and several liability of one or more partners, called general partners, and by the liability, limited to the amount, if any, unpaid on the contribution of one or more partners, called limited partners.

(2) A partnership *en commandite* or limited partnership shall have a legal personality separate and distinct from that of its partners, and shall accordingly be the subject of rights and obligations, be capable of owning and holding property under any title at law and of suing and being sued, in its own name, and such legal personality shall continue until such time as the name of the partnership shall be struck off the register, whereupon the partnership shall cease to exist.

Constitution of Partnership *en commandite* or Limited Partnership

3. (1) A partnership *en commandite* or limited partnership shall consist of:

(a) one or more general partners who shall be jointly and severally liable for all debts of the partnership *en commandite* or limited partnership without limitation and at least one of whom shall be a licence holder licensed as a manager of a collective investment scheme within the meaning of the Investment Services Act; and

(b) one or more limited partners who are admitted to the partnership as limited partners in accordance with the deed of partnership, who upon entering the

C 1620

partnership, contribute, or agree to contribute to the capital thereof a specified sum; and save for any unpaid portion of their contribution to the partnership shall not be liable for any debts of the partnership.

(2) Any person may be a partner in a partnership *en commandite* or limited partnership.

(3) The contribution of a limited partner may be satisfied by the provision of cash or other property capable of economic assessment but may not consist of future services or undertakings to perform work or supply services; and where property other than cash is so provided, the value of the property shall be deemed to be its fair market value at the time of its transfer to the partnership.

Partnership name

4. (1) A partnership *en commandite* or limited partnership may be designated by any name, but such name shall end with the words "Limited Partnership" or its abbreviation "LP".

(2) No person carrying on any business in Malta, other than a partnership *en commandite* or limited partnership or a partner therein, shall in any way or manner describe itself or himself or so hold itself or himself out or reasonably be understood to indicate, or use any name which indicates or may reasonably be understood to indicate that it or he is, or is carrying on business as, a partnership *en commandite* or limited partnership or, as the case may be, a partner therein.

(3) The name of a limited partner or a distinctive part thereof may not form part of the partnership name.

(4) A limited partner who knowingly allows his name or a distinctive part thereof to be used as the partnership name or a part of such partnership name shall be liable as a general partner to any person who extends credit to the partnership without knowledge that the limited partner was not a general partner.

(5) A person who contravenes the provisions of sub-paragraph (2) of this paragraph shall be liable to a penalty, and for every day during which the default continues, to a further penalty.

Contents of deed of partnership

5. (1) A partnership *en commandite* or limited partnership shall not be validly constituted unless a deed of partnership is entered into and signed and a certificate of registration is issued under this Schedule in respect thereof.

(2) The deed of partnership shall be in writing and shall set out the agreement of the partners as to the affairs of the partnership and the conduct of its business.

(3) The deed of partnership shall be binding upon the partners and their assigns and upon subsequent partners in the same manner as if those persons had themselves executed it.

(4) The deed of partnership shall state:

(a) the name and residence of each of the first partners specifying the first general and the first limited partners;

(b) the partnership name;

(c) the registered office in Malta of the partnership;

(d) subject to the provisions of subarticle (1) of article 66A of this Act, the objects of the partnership;

(e) the contribution of each of the first partners to the partnership specifying the value of the respective contribution and the amount paid up in respect of such contribution;

(f) the period, if any, fixed for the duration of the partnership.

(5) The deed of partnership shall be delivered for registration to the Registrar who, being satisfied that it complies with the requirements of this Schedule, shall register it.

(6) Where the deed of partnership is a public deed or a private writing enrolled in the records of a notary public, an authentic copy thereof may be delivered in lieu of the original.

(7) The aforesaid delivery shall be made by any one of the partners or his authorised agent.

Duty of Registrar and effects of registration.

6. (1) On the registration of the deed of partnership and the payment of the fees prescribed under paragraph (e) of subarticle (4) of article 66A of this Act, the Registrar shall certify under his hand that the partnership is registered and the partnership shall come into existence and shall be authorised to commence business under the partnership name as from the date of the certificate:

Provided that, if registration is obtained before the date fixed in the deed of partnership for the commencement of the partnership, the certificate shall indicate such date, and the partnership shall come into existence and shall be authorised to commence business as from such later date.

(2) A certificate of registration given in respect of a partnership is conclusive evidence that the requirements of this Schedule in respect of registration and of matters precedent and incidental to it have been complied with and that the partnership is duly registered under this Act.

Where certificate of registration is not issued

7. Unless and until a certificate of registration is issued under this Schedule in respect of a partnership or until the date indicated in a certificate of registration as the date on which a partnership shall come into existence -

(a) any two or more persons carrying on business under a name falsely implying the existence of a partnership shall have, as against one another and limitedly to property acquired from such business, such rights only as are by law conferred on joint owners;

(b) any obligation contracted in favour of third parties in good faith under a name falsely implying the existence of a partnership shall be jointly and severally binding on those persons, who, if a certificate of registration had been issued, would have been partners carrying on business under that name.

Changes in deed of partnership

8. (1) Unless otherwise provided in the deed of partnership, any alteration or addition thereto may only be made with the unanimous consent of the partners.

(2) It shall be the duty of the general partner vested with the administration or representation of a partnership *en commandite* or limited partnership to deliver to the Registrar for registration any instrument or a copy thereof altering or adding to the deed of partnership within fourteen days from the date of the said alteration or addition, together with a printed copy of the deed of partnership, as amended; and any previous amended text of the deed of partnership may be discarded by the Registrar when a subsequent amended text is delivered to him for registration:

Provided that in the event of a discrepancy between the text of any amended deed of partnership and the text of the original registered deed of partnership, the latter text together with any instruments registered in accordance with the provisions of sub-paragraph (3) of this paragraph, shall prevail.

(3) Any alteration or addition to the deed of partnership of a partnership *en commandite* or limited partnership shall not take effect, unless and until it is registered as provided in sub-paragraph (2) of this paragraph.

(4) If default is made in complying with the provisions of sub-paragraph (2) of this paragraph, every general partner who is in default shall be liable to a penalty, and, for every day during which the default continues, to a further penalty.

(5) Where a partnership *en commandite* or limited partnership changes its name, the general partner shall within fourteen days notify the Registrar of such change and the Registrar shall enter the new name on the register and shall issue a certificate of registration altered to meet the circumstances of the case.

(6) If default is made in complying with the provisions of sub-paragraph (5) of this paragraph, every general partner who is in default shall be liable to a penalty, and for every day during which such default continues, to a further penalty.

General partners

9. The administration and representation of the partnership shall vest in the general partners, and unless the deed of partnership otherwise provides, such administration and representation shall vest in each of the general partners severally.

Limited partners

10. (1) A limited partner shall not participate in the conduct or management of any business of the partnership and shall not transact the business of, sign, or execute documents on behalf of the partnership.

(2) A limited partner who acts or purports to act in contravention of the provisions of sub-paragraph (1) of this paragraph, shall be liable as if he were a general partner in respect of all debts incurred while he so acts or purports to act.

(3) A limited partner shall not be deemed to have participated in the conduct or management of the business of the partnership within the meaning of this paragraph by reason only of any one or more of the following circumstances:

(a) he is an employee, agent or contractor of the partnership or of a general partner;

(b) he acts as a general partner, officer, employee or shareholder of a corporate general partner;

(c) he consults with and advises a general partner as to the business of the partnership *en commandite* or limited partnership;

(d) he investigates, reviews, approves or is advised as to the accounts or affairs of the partnership *en commandite* or limited partnership;

(e) he exercises any right or power conferred on limited partners by this Schedule;

(f) he approves or disapproves an amendment to the partnership agreement;

C 1624

(g) he participates in or requests the appointment or removal of an auditor of the partnership;

(h) he votes as a limited partner in any meeting of the partners;

(i) he acts as surety or guarantor of or provides security for the obligations undertaken by the partnership *en commandite* or limited partnership;

(j) he lends money to, borrows money from or enters into transaction with the partnership *en commandite* or limited partnership.

(4) The provisions of the immediately preceding sub-paragraph shall not be construed as meaning that, if a limited partner exercises any other right, power or function, he has necessarily, by reason of that fact alone, participated in the conduct of the business of the partnership *en commandite* or limited partnership within the meaning of this paragraph.

When limited partner ceases to be a partner

11. (1) A person shall cease to be limited partner :

(a) upon the valid and absolute assignment of the whole of his partnership interest;

(b) upon the return of the whole of his contribution (including if appropriate, the discharge of all his obligations to make a contribution); or

(c) at such time or upon the occurrence of such event as may be specified in that behalf in the deed of partnership:

Provided that, in each case his name is removed from the register of partners.

(2) The fact that a person has ceased to be a limited partner shall not relieve him of any liability arising under sub-paragraph (4) of paragraph 4 and sub-paragraph (2) of paragraph (10) of this Schedule.

(3) The fact only that a person ceases to be a limited partner shall not constitute a change or amendment to the deed of partnership.

When general partner ceases to be a partner

12. (1) A person shall cease to be a general partner upon the occurrence of any of the following events:

(a) his resignation, retirement or removal in accordance with the requirements, if any, of the deed of partnership;

- (b) in the case of a natural person his bankruptcy, death or legal incapacity;
- (c) in the case of a corporate general partner, the dissolution thereof.

(2) A general partner shall within fourteen days of his ceasing to be a general partner deliver to the Registrar for registration a notification in writing of such fact and the Registrar shall cause that notification to be registered. A general partner shall not be relieved of any obligation under this Schedule until such time as he delivers to the Registrar for registration a notification in writing of such fact.

Records

13. (1) A partnership *en commandite* or limited partnership shall maintain the following or a copy thereof at the registered office:

(a) the deed of partnership and every amendment thereof;

(b) a register of partners showing their full names and addresses together with an indication of who is a general and who is a limited partner;

(c) the capital account of each limited partner showing whichever of the following is applicable in relation to such limited partner -

(i) the amounts and dates of his contributions;

(ii) the amounts agreed to be contributed and the times at which or events upon which the contributions are to be made;

(iii) the amounts and dates of any payments representing a return of his contributions or any part thereof;

(iv) where an agreement to make a contribution is released in whole or in part, the amount and the date of such release;

(d) its accounting records;

(e) the minutes of all meetings of the general partners;

(f) all documents from time to time filed with the Registrar.

(2) All documents or copies of documents required by sub-paragraph (1) of this paragraph to be kept at the registered office shall, subject to the provisions of the deed of partnership, be available for inspection by any partner during normal business hours.

(3) The documents mentioned in items (b) and (c) of sub-paragraph (1) of this paragraph shall constitute *prima facie* evidence of the matters specified therein.

(4) Notwithstanding the foregoing provisions of this paragraph the documents described in sub-paragraph (1) of this paragraph may, provided that the deed of partnership so permits, instead of being maintained at the registered office, be maintained at such other place as the general partners consider appropriate, without prejudice to the right of all partners to inspect such documents.

(5) In the event that such other place as is mentioned in sub-paragraph (4) of this paragraph is outside Malta, copies of accounts, returns in respect of the business and copies of minutes of meetings of general partners shall be sent to, and kept at, a place in Malta, where they shall, subject to the provisions of the partnership agreement, be available for inspection by any partner during normal business hours.

(6) The copies of accounts and returns mentioned in sub-paragraph (5) of this paragraph which are to be sent to, and kept in Malta shall be such as to disclose with reasonable accuracy the financial position of the business of the partnership at intervals not exceeding six months.

(7) Any accounting records which a partnership *en commandite* or limited partnership is required by this paragraph to keep shall be preserved by it for a period of ten years from the date on which they are made and, if default is made in complying with this sub-paragraph, the partnership and each general partner shall be liable to a penalty.

(8) Any account, record or other document required by this Schedule to be kept by a partnership may be kept either by making entries in books or in any other manner, including without prejudice to the generality of the foregoing, computer or other electronic forms.

(9) If any such account, record or other document is kept by making entries other than in a book -

(a) it shall be deemed for the purposes of this Schedule to be kept at the place where access to it and written copies of it can be obtained; and

(b) if the matters in question are recorded in non-legible form, the recording thereof shall be capable of being reproduced in legible form.

(10) If in respect of a partnership *en commandite* or limited partnership there is a contravention of any of the provisions of sub-paragraphs (1), (2), (5) or (6) of this paragraph, the partnership and each general partner shall be liable to a penalty and for any day during which the default continues, to a further penalty.

(11) Any duty imposed by this Schedule to allow inspection of documents to be kept by the partnership shall, irrespective of the medium in which such documents are maintained, be construed as a duty to allow inspection of such documents in legible form.

Accounts of a partnership *en commandite* or limited partnership

14. (1) Every partnership *en commandite* or limited partnership shall maintain proper accounting records which shall be :

(a) sufficient to show and explain the partnership's transactions;

(b) disclose with reasonable accuracy, at any time, the partnership's financial position at that time;

(c) such as to enable the general partners to ensure that the partnership's balance sheet and profit and loss account are prepared properly and in accordance with generally accepted accounting principles and practice and in accordance with any relevant enactment for the time being in force in Malta;

(d) such as to contain day to day entries of all sums of money received and expended by the partnership and the matters in respect of which the receipt and expenditure takes place; and

(e) a record of the assets and liabilities of the partnership.

(2) The general partners of every partnership *en commandite* or limited partnership shall prepare for each accounting period individual accounts comprising the balance sheet as at the last day of the accounting period to which they refer, the profit and loss account for that period, the notes to the accounts and any other financial statements which may be required by generally accepted accounting principles and practice. These documents shall constitute a composite whole.

(3) The individual accounts shall be drawn up clearly and in accordance with the provisions of this Act and with generally accepted accounting principles and practice.

(4) The individual accounts shall give a true and fair view of the partnership's assets, liabilities, financial position and profit or loss.

(5) The individual accounts shall comply with the requirements of this Act and with generally accepted accounting principles and practice as to the form and content of the balance sheet and profit and loss account and as to additional information to be provided by way of notes to the accounts.

(6) Where the application of the provisions of this Act would not be sufficient to give a true and fair view within the meaning of sub-paragraph (4) of this paragraph, additional information shall be given.

(7) Where in exceptional cases the application of a provision of this Act is incompatible with the obligation for the individual accounts to give a true and fair view,

that provision shall be departed from in order to give a true and fair view. Any such departure shall be disclosed in the notes to the accounts together with an explanation of the reasons for it and a statement of its effect on the assets, liabilities, financial position and profit or loss.

Application of Chapters IX and X of Part V of this Act

15. Save for what is stated in this Schedule, the provisions of Chapter IX and Chapter X of Part V of this Act shall, so far as applicable and so far as they are not inconsistent with the provisions of this Schedule, apply to partnership *en commandite* or limited partnerships, with reference to "company" therein being construed as a reference to partnership *en commandite* or limited partnership and reference to "directors" being construed as a reference to general partners.

Accounts to be sent to limited partners

16. At the end of each accounting period the balance sheet and profit and loss account of the partnership together with the report of the general partners and the report of the auditors shall be communicated to the limited partners.

Return of limited partner's contribution

17. (1) A limited partner shall not, on dissolution or otherwise, receive from the capital of the partnership any payment representing a return of any part of his contribution to the partnership unless, at the time of and immediately following the making of the payment, the partnership *en commandite* or limited partnership is solvent.

(2) Where the partnership is insolvent at the time of or immediately following the making of such payment, or in the event of insolvency of the partnership within a period of six months immediately following the time of making such payment, the payment shall, for a period of one year from the date of its receipt by the limited partner, be repayable by him to the extent necessary to discharge any debt of the partnership incurred at a time when his contribution formed part of the partnership assets.

(3) Subject to the provisions of sub-paragraphs (1) and (2) of this paragraph, a limited partner may demand the return of his contribution -

- (a) on the dissolution of the partnership; or
- (b) at such time or upon the occurrence of such event or events as may be specified in the deed of partnership.

(4) A limited partner may, notwithstanding the nature of his contribution, and subject to the provisions of the deed of partnership, demand and receive either money or, where the assets of the partnership are capable of division, such divided part of the assets of the partnership as is equivalent to the value of his contribution.

(5) Any reference in this paragraph, however expressed, to the receipt by a partner of a payment shall include a reference to the release of any debt owed by him and forming part of the partnership assets (including any obligation on his part to make a contribution to the capital of the partnership); and accordingly any reference in sub-paragraph (2) to the making of a repayment by a partner shall be deemed to include a reference to the due performance or discharge by him of the debt or obligation.

(6) For the purposes of this Schedule the expression "solvent" means that the partnership *en commandite* or limited partnership is able, to pay its debts in full, other than payment of the contributions to the partners, on a distribution of assets on a dissolution of the partnership, as they fall due, out of the partnership assets without recourse to the separate assets of the general partners not contributed to the partnership; and the expression "insolvent" shall be construed accordingly.

(7) A distribution of any assets of a partnership *en commandite* or limited partnership to a limited partner shall be deemed to be a return of contribution for the purposes of the provisions of sub-paragraph (1) of this paragraph, to the extent that the distribution reduces the value of his share and interest in the partnership's assets, calculated on the basis of the value of the partnership's net assets, below the value of the amount contributed or agreed to be contributed by him.

Admission of additional limited partners

18. Subject to the provisions of the deed of partnership a partnership *en commandite* or limited partnership shall allow any number of partners to become limited partners in the partnership, provided that any such admission shall be made by the execution of an agreement in writing and shall be evidenced by the entry of the particulars of the new limited partners in the register of partners.

Assignment of interest of limited partner

19. (1) Subject to the provisions of the deed of partnership the interest of a limited partner is assignable in whole or in part.

(2) An assignment by a limited partner of his interest in the partnership or any part thereof:

(a) shall not dissolve the partnership;

(b) shall not be valid unless made in writing and in accordance with other requirements, if any, of the deed of partnership;

(c) shall not, unless and until the assignee is admitted to the partnership in accordance with the provisions of paragraph 18 of this Schedule, entitle the assignee to become or to exercise any right or power of a limited partner;

C 1630

(d) shall upon the assignee being admitted to the partnership as a limited partner in accordance with the provisions of paragraph 15 of this Schedule, entitle the assignee to the rights and powers and, subject to item (e) hereunder, render him subject to the restrictions and obligations (including any obligation to make contributions to the capital of the partnership) to which the assignor was entitled or subject in respect of the interest assigned immediately before the assignment;

(e) shall not relieve the assignor of any liability arising under sub-paragraph (5) of paragraph 4 and sub-paragraph (2) of paragraph 10 of this Schedule.

(3) A limited partner, upon the valid and absolute assignment of the whole of his interest in the partnership and his removal from the register of partners, shall cease to be a limited partner and to be entitled to exercise any right or power of a limited partner.

Causes of dissolution of partnerships *en commandite* or limited partnerships

20. (1) A partnership *en commandite* or limited partnership shall be dissolved upon the occurrence of any of the following events:

(a) upon the happening of any event specified in the deed of partnership;

(b) upon the date fixed for its duration in the deed of partnership, if any;

(c) upon the written agreement of all partners that the partnership shall be dissolved and notice of that fact is given to the Registrar in accordance with sub-paragraph (8) of paragraph 22 of this Schedule;

(d) if there is no general partner for a period of six months;

(e) if there is no limited partner for a period of six months.

(2) Where no general partner remains, the limited partners may, for the said period of six months, appoint one of their number or any other person for the performance of acts of ordinary administration and any limited partner or other person appointed pursuant to the provisions of this sub-paragraph shall not incur any liability which would otherwise be incurred under this Schedule for performing acts of ordinary administration during the said six month period.

(3) Subject to the provisions of the deed of partnership a partnership *en commandite* or limited partnership shall not be dissolved by any change in the limited partners, or by the bankruptcy, insolvency, death, retirement, removal, resignation, incapacity or dissolution of any limited partner whether an individual, partnership, company or other body corporate.

Dissolution by the Court

21. (1) The Court may order the dissolution of a partnership *en commandite* or limited partnership on the application of any partner or creditor or on the application of the Registrar if in its opinion:

(a) the partnership is insolvent;

(b) the business of the partnership has been suspended for an uninterrupted period of twelve months;

(c) the affairs of the partnership are being conducted in a manner which is oppressive to any of the limited partners or prejudicial to their interests as limited partners or is calculated to affect adversely the carrying on of the partnership business;

(d) the limited partners are not being provided with the information relating to the affairs of the partnership as they might reasonably expect;

(e) the affairs of the partnership are being conducted in such manner as to defraud creditors or in an unlawful manner;

(f) there has been persistent default by the partnership or by any general partner thereof in complying with the requirements of this Schedule or any regulation made under this Act ;

(g) there are grounds of sufficient gravity to warrant the dissolution.

(2) Upon the making of an order under sub-paragraph (1) of this paragraph for the dissolution of the partnership or at any time thereafter, the Court may make such other orders in relation to the dissolution as it thinks fit and proper in the circumstances, including an order for the appointment of one or more liquidators to wind up the partnership's affairs and distribute its assets.

General provisions applicable to dissolutions

22. (1) Upon the dissolution of a partnership *en commandite* or limited partnership its affairs shall, unless a liquidator has been appointed by the Court under sub-paragraph (2) of paragraph 21 of this Schedule or under sub-paragraph (3) of this paragraph, be wound up by the general partners.

(2) Upon the dissolution of a partnership *en commandite* or limited partnership no limited partner may, except in accordance with the provisions of paragraphs 17 and 24 of this Schedule, withdraw any part of his contribution, or otherwise claim as a creditor of the partnership.

(3) Upon the dissolution of a partnership *en commandite* or limited partnership or at any time thereafter, the Court may, on application of any partner (including an assignee thereof) or any creditor, make such orders in relation to the dissolution as it thinks fit and proper, including one for the appointment of one or more liquidators to wind up the partnership's affairs and distribute its assets.

(4) On the appointment of a liquidator, whether under this paragraph or under paragraph 21, all powers of the general partners shall cease; and any person who purports to exercise any power of a general partner at a time when, pursuant to this sub-paragraph those powers have ceased, shall be liable to a penalty.

(5) Upon the dissolution of a partnership *en commandite* or limited partnership the partnership shall cease to carry on business except to the extent necessary for its beneficial winding up; and where in relation to a partnership there is a contravention of the provisions of this sub-paragraph, the partnership and each general partner shall be liable to a penalty.

(6) All expenses properly incurred in the dissolution of a partnership *en commandite* or limited partnership, including the liquidator's remuneration, are payable from the partnership's assets in priority to all other debts.

(7) Upon the dissolution of a partnership *en commandite* or limited partnership, notwithstanding the provisions of sub-paragraph (8) hereunder pursuant to which the certificate of registration ceases to be valid, the persons winding up the partnership's affairs, in the name of and on behalf of the partnership:

(a) may, to the extent necessary for the beneficial winding up of the partnership, prosecute, defend or settle any civil or criminal action;

(b) shall dispose of the partnership's property and realise its assets; and

(c) shall, in accordance with the provisions of paragraph 24 discharge the partnership's debts and distribute to the partners any remaining assets of the partnership;

the whole without prejudice to the personal liability of the partners.

(8) Upon dissolution of a partnership *en commandite* or limited partnership, notice of the fact shall, within a period of fourteen days from the date of dissolution, be filed by the general partners with the Registrar who shall cause a notice of that fact to be published in the Gazette.

(9) Where the general partners fail to give the notice of dissolution required by the provisions of sub-paragraph (8) of this paragraph, the general partners shall be liable to a penalty and shall continue to incur liability as if they were the general partners of a partnership *en commandite* or limited partnership which had not been dissolved.

(10) The dissolution of a partnership shall be deemed to have occurred upon the earlier of the following :

(a) the date of the occurrence of the event upon which, under the provisions of this Schedule, the partnership is dissolved; or

(b) the date of the order by the Court under this Schedule for its dissolution.

(11) As soon as a partnership *en commandite* or limited partnership's affairs are fully wound up, the persons who conducted the winding up shall:

(a) prepare an account of the winding up, giving details of the conduct thereof and the disposal of the partnership's property, and stating whether or not any state of affairs described in paragraph 23 of this Schedule has come to their attention; and

(b) provide all partners with a copy of the said account; and

(c) deliver to the Registrar a copy of the said account for registration.

(12) The persons conducting the winding up of a partnership *en commandite* or limited partnership may, by application, seek the Court's directions as to any matter in relation to the winding up; and upon such application the Court may make such order as it thinks fit and proper.

(13) Upon the delivery to the Registrar of the winding-up account, the Registrar shall thereupon register it and strike the name of the partnership off the register, whereupon the partnership's certificate of registration shall cease to be valid. The Registrar shall forthwith publish a notice of completion of the winding up and of such striking off.

Personal liability for certain defaults

23. (1) In any case where -

(a) a partnership *en commandite* or limited partnership has been dissolved and is unable to pay its debts; and

(b) there has been in relation to the partnership a contravention of any relevant provision which-

(i) has contributed to the inability of the partnership to pay its debts;

(ii) has materially misled or deceived any partner or creditor as to, or has resulted in substantial uncertainty as to, the assets, liabilities, client money or investment instruments of the partnership; or

(iii) has substantially impeded the orderly winding up of the partnership's affairs;

the Court may, on the application of any creditor or partner or of any person conducting the winding up of the partnership, declare that any officer or former officer of any general partner in the partnership who is responsible for the contravention shall be personally liable, without limitation of liability, for the debts of the partnership or such part thereof as may be specified by the Court.

(2) Where the Court makes a declaration under sub-paragraph (1) of this paragraph in relation to any person, it may-

(a) give such directions as it thinks fit and proper for the purpose of giving effect to the declaration; and

(b) direct that the liability of that person under the declaration shall be a charge on-

(i) any debt due from the partnership to him, to any person on his behalf, to any person claiming as assignee from or through him or to any person acting on behalf of such an assignee; or

(ii) any charge on any partnership assets or any interest in any such charge held by or vested in him or any such person;

and the Court may also from time to time make such further orders as it thinks fit for the purpose of giving effect to any charge imposed under this sub-paragraph.

(3) In sub-paragraph (2) of this paragraph the expression "assignee" includes any person to whom or in whose favour, by the directions of the person liable, the debt, charge or interest was created, issued or transferred but does not include an assignee for valuable consideration (other than consideration by way of marriage) given in good faith and without notice of any of the grounds upon which the declaration might have been made.

(4) The Court shall not make a declaration under sub-paragraph (1) of this paragraph in respect of a person if it considers that -

(a) he took all reasonable steps to secure compliance by the partnership *en commandite* or limited partnership with the relevant provisions; or

(b) he had reasonable grounds for believing and did believe that a competent and reliable person, acting under the supervision or control of or appointed by the general partners-

(i) was charged with the duty of ensuring that those provisions were complied with; and

(ii) was in a position to discharge that duty.

(5) The foregoing provisions of this paragraph are without prejudice to any other penalty, remedy or proceedings, whether civil or criminal, in respect of the contravention.

(6) In any case where-

(a) a partnership *en commandite* or limited partnership has been dissolved and is unable to pay its debts; and

(b) there has been in relation to the partnership a contravention of any relevant provision which-

(i) has contributed to the inability of the partnership to pay its debts;

(ii) has materially misled or deceived any partner or creditor as to, or has resulted in substantial uncertainty as to, the assets, liabilities, client money or investment instruments of the partnership; or

(iii) has substantially impeded the orderly winding up of the partnership's affairs;

any officer or former officer of any general partner in the partnership who is responsible for the contravention shall, without prejudice to any civil liability, be guilty of an offence.

(7) In a prosecution for an offence under this paragraph, it shall be a defence for the person charged to show that-

(a) he took all reasonable steps to secure compliance by the partnership *en commandite* or limited partnership with the relevant provisions; or

(b) he had reasonable grounds for believing and did believe that a competent and reliable person, acting under the supervision or control of or appointed by the general partners-

(i) was charged with the duty of ensuring that those provisions were complied with; and

(ii) was in a position to discharge that duty.

(8) For the purposes of this paragraph -

(a) the expression “officer”, in relation to a general partner, means any director, manager, member of any committee of management or other controlling authority, secretary or other similar officer of the general partner, any person in accordance with whose directions or instructions any of the aforesaid are accustomed to act;

(b) the expression “relevant provision” means any relevant provision of this Schedule and any other provision for the time being prescribed by regulations under this Act; and

(c) a person shall be considered to be responsible for a contravention of a relevant provision if the contravention -

(i) was committed with his consent or connivance; or

(ii) was attributable to or facilitated by any neglect on his part.

Distribution of assets upon dissolution

24. Upon the dissolution of a partnership *en commandite* or limited partnership, the assets shall be distributed in the following order-

(a) firstly, to creditors other than partners, to the extent otherwise permitted by law, in satisfaction of partnership debts;

(b) secondly to limited partners who are creditors and who are not also general partners, to the extent otherwise permitted by law, in satisfaction of partnership debts other than debts described in sub-paragraph (c) of this paragraph;

(c) finally, subject to the provisions of the deed of partnership, to partners as follows-

(i) firstly, to limited partners for the return of their contributions or, where appropriate, for the release of their obligations to make contributions;

(ii) secondly, to limited partners other than for capital and profits;

(iii) thirdly, to general partners in respect of capital;

(iv) finally, to general partners in respect of profits.

Division of capital into shares

25. (1) Without prejudice to the foregoing provisions of this Schedule, the capital of a partnership *en commandite* or limited partnership may be divided into shares.

(2) The provisions of this Act relating to shares in a company other than the provisions of article 72 thereof shall apply to the shares in a partnership *en commandite*

or limited partnership in so far as they are not inconsistent with the foregoing provisions of this Schedule.

(3) The provisions of article 78, subarticles (4), (5) and (6) of article 137 and of subarticle (2) of article 142 of this Act shall apply to a partnership *en commandite* or limited partnership, the capital of which is divided into shares, with the substitution of references to general partners vested with administration or representation for references to directors, officials or the board of directors; with the substitution of references to partnership *en commandite* or limited partnership, the capital of which is divided into shares, for references to company; with the substitution of references to deed of partnership for references to memorandum or memorandum and articles; with the substitution of references to partners for references to shareholders; and, with regard to subarticle (5) of article 137 of this Act, with the substitution of the term "a decision of the partners" for the term "any resolution of the general meeting or from a decision of the board of directors".

(4) A partnership *en commandite* or limited partnership, the capital of which is not divided into shares, may change its status to a partnership *en commandite* or limited partnership the capital of which is divided into shares, by a decision taken in accordance with the provisions of the deed of partnership, or, in the absence of any such provision, with the consent of all the partners, both general and limited:

Provided that where one or more limited partners, holding in the aggregate not more than one-fourth of the total contribution of the limited partners, have not given their consent the partnership *en commandite* or limited partnership may nevertheless proceed with the change of its status, but it shall be required, for the purpose of such change, to liquidate and re-imburse to every partner who has not given his consent, if he so requests, his interest in the partnership *en commandite* or limited partnership on such terms as may be agreed, or as the Court, on a demand of either the partnership or the limited partner, may deem fit to order.

(5) A partnership *en commandite* or limited partnership, the capital of which is divided into shares, may change its status to a partnership *en commandite* or limited partnership the capital of which is not divided into shares, by a decision taken in accordance with the provisions of the deed of partnership or, in the absence of any such provision, with the consent of all the partners, both general and limited:

Provided that where one or more limited partners, holding in the aggregate not more than one-tenth of the share capital of the partnership, have not given their consent, the partnership *en commandite* or limited partnership may nevertheless proceed with the change of its status, but it shall be required, for the purpose of such change, to redeem the shares held by every partner in the partnership *en commandite* or limited partnership who has not given his consent, if he so requests, on such terms as may be agreed or as the court on a demand of either the partnership or of the limited partner may deem fit to order.

(6) It shall be the duty of the general partner vested with the administration or representation of a partnership *en commandite* or limited partnership, which has decided to change its status in accordance with sub-paragraph (4) or sub-paragraph (5) of this paragraph, to deliver to the Registrar for registration the instrument or a copy thereof altering or adding to the deed of partnership together with a printed copy of the deed of partnership as amended in accordance with the provisions of sub-paragraph (2) of paragraph 8 of this Schedule.

(7) The change of status referred to in sub-paragraph (4) or in sub-paragraph (5) of this paragraph shall not take effect unless and until it is registered as required by sub-paragraph (6) of this paragraph.

(8) (a) The provisions of this paragraph shall only apply to a partnership *en commandite* or limited partnership which qualifies as a collective investment scheme duly licensed in terms of the Investment Services Act, 1994.

(b) For the purposes of this paragraph and unless the context otherwise requires:

“base currency” means the currency in which a sub-class is denominated;

“competent authority” means the competent authority under the Investment Services Act, 1994;

“currency” means, in addition to the Maltese lira, any convertible currency in terms of section 186 of this Act;

“fractional share” means a fraction of a whole share in any class of shares issued by a partnership *en commandite* or limited partnership with variable share capital;

“sub-class” means a distinct class of shares in a partnership *en commandite* or limited partnership to which are allocated assets and liabilities distinct from other assets and liabilities allocated to other classes of shares in the same partnership and which may pursue investment objectives and adhere to investment policies different from those of other classes of shares in the same partnership.

(c) A deed of partnership of a partnership *en commandite* or limited partnership the capital of which is divided into shares may provide for the constitution of the partnership as a partnership *en commandite* or limited partnership with variable share capital and the provisions of sub-articles (2) to (7) and subarticle (9) of article 84 of this Act shall, in so far as applicable, apply *mutatis mutandis* and reference to the term “memorandum or articles” shall be deemed to be a reference to a “deed of partnership” and reference to the terms “company” and “investment company” shall be deemed to be references to a

“partnership *en commandite* or limited partnership” and reference to paragraph (f) of article 69 of this Act shall be deemed to be a reference to paragraph (e) of subarticle (1) of article 14 of this Act.

(d) A deed of partnership of a partnership *en commandite* or limited partnership the capital of which is divided into shares may provide for the constitution of the partnership as a partnership *en commandite* or limited partnership in the form of an umbrella or multi-class partnership, and provide for the constitution of sub-classes, and the different classes of shares that may be issued by such partnership, where each class of shares represents a distinct sub-class of the partnership and denominated in such currency or currencies as may be provided in the deed.

(e) A partnership *en commandite* or limited partnership may only be validly constituted as an umbrella or multi-class partnership if it is so licensed by the competent authority.

(f) A partnership *en commandite* or limited partnership duly licensed to be constituted as an umbrella or multi-class partnership may, with the approval of the competent authority, establish new sub-classes by the creation and issue of new classes of shares.

(g) Each class of shares representing a sub-class in any umbrella or multi-class partnership may be designated in a different currency provided that a class of shares may be designated only in one currency.

(h) An umbrella or multi-class partnership having its share capital denominated in different currencies shall draw up its annual accounts in any one of such currencies, as may be approved by the competent authority.

(i) The general partner of an umbrella or multi-class partnership shall maintain proper accounting records of the assets and liabilities of each sub-class in the base currency of that sub-class.

(j) The provisions of sub-paragraph (h) shall *mutatis mutandis* apply to the drawing up of any other reports or financial statements which may be required under this Act or by the competent authority.

(k) For the purposes of sub-paragraphs (h) and (j) hereof, the conversion from the base currency of a sub-class into the currency in which the annual accounts of the umbrella or multi-class partnership are to be drawn up shall be made by using the exchange rate between the former and latter currencies on the balance sheet date, and such rate shall be the official closing middle rate issued by the Central Bank of Malta. This note shall be disclosed in the notes to the accounts.

(l) A partnership *en commandite* or limited partnership constituted as an umbrella or multi-class partnership may in its deed of partnership elect to have

the assets and liabilities of each sub-class comprised in that partnership treated for all intents and purposes of law as a patrimony separate from the assets and liabilities of each other sub-class of such partnership. Where a partnership *en commandite* or limited partnership constituted as an umbrella or multi-class partnership makes the election aforementioned, the assets and liabilities of each sub-class of that partnership shall, for all intents and purposes of law be deemed to constitute a patrimony separate from the assets and liabilities of each other sub-class of such a partnership.

(m) Save for such proportion of the liabilities of a partnership *en commandite* or limited partnership constituted as an umbrella or multi-class partnership which by virtue of the deed of partnership or by virtue of the terms of issue of the shares constituting a sub-class are, or are to be attributable to, one or more sub-classes in the proportion established therein, the liabilities incurred in respect of each sub-class shall be paid out of the assets forming part of its patrimony and in the event that such assets are insufficient to discharge the liabilities so incurred, the creditors in respect thereof shall have no claim or right of action against the other assets of the partnership, and the provisions of any law or regulation in force regulating the insolvency of partnerships shall not apply.

(n) The general partner of a partnership *en commandite* or limited partnership constituted as an umbrella or multi-class partnership shall hold or cause to be held such separate records, accounts, statements and other documents as may be necessary to evidence the liabilities and assets of each sub-class as distinct and separate from the assets and liabilities of other sub-classes in the same partnership.

(o) The provisions of the Fifth Schedule to the Act shall apply *mutatis mutandis* to a partnership *en commandite* or limited partnership with variable share capital.

(p) (i) A partnership *en commandite* or limited partnership may, if so authorised by its deed of partnership, issue fractional shares up to such number of decimal places, not being less than three, as shall be specified in the deed of partnership, and under such terms and conditions as may be stipulated therein.

(ii) Fractional shares shall be automatically consolidated into a whole share of the same class when the fractional shares held by one shareholder become equal to a whole share.

Administrative penalties in respect of partnerships *en commandite* or limited partnerships

26. (1) Where any provision of this Schedule provides for the imposition of a penalty, the amount of such penalty shall be determined by reference to Part II of this Schedule, which specifies the maximum penalty that may be imposed by the Registrar under any of the provisions of this Schedule.

(2) In Part II of this Schedule, the first column indicates the paragraph and sub-paragraph of this Schedule which prescribes that a penalty shall be imposed, the second column gives a general description of the infringement, which description shall not be relied on in interpreting any provision of this Schedule, the third column prescribes the maximum penalty and the fourth column prescribes the maximum daily default penalty, if any. The penalty shall become due on the day on which the default occurs and the daily default penalty shall be due for every day during which the default continues and shall accrue from the day following that on which the default occurs.

(3) Action by the Registrar for the recovery of a penalty under this Schedule shall be prescribed by the lapse of five years from the day on which the default occurs.

(4) In relation to penalties raised under this Schedule, the provisions of article 401 of this Act shall apply *mutatis mutandis*.

PART II - PENALTIES

Paragraph	Default	Penalty	Daily Penalty
4(5)	Person other than a partnership <i>en commandite</i> or limited partnership or a partner therein falsely indicating existence of partnership	200 liri	10 liri
8(4)	Failure of any general partner, vested with administration or representation, to deliver to the Registrar for registration the instrument or a copy thereof altering or adding to the deed of partnership, within 14 days from the alteration or addition.	200 liri	10 liri
8(6)	Failure of any general partner, to notify the Registrar of a change in the name, in any general partner, in the registered office, in the objects or in the period fixed for the duration of, the partnership, within 14 days of such change.	200 liri	10 liri
13(10)	Failure by the partnership <i>en commandite</i> or limited partnership to maintain the documents at registered office, make them available for inspection, and failure in respect of documents which are to be sent and kept in Malta .	200 liri	10 liri
13(7)	Failure to keep any of the accounting records mentioned for a period of ten years from the date when they were made.	500 liri	None
22(4)	Exercise by any person of the powers pertaining to the general partners after the appointment of the liquidator.	500 liri	None
22(5)	Exercise by any person of the business of the partnership following its dissolution.	500 liri	None
22(9)	Failure of the general partners to give notice of dissolution as required by article 22(8)	200 liri	10 liri "

Objects and Reasons

The main object of this Bill is to provide for provisions relating to set-off and netting on bankruptcy or insolvency and for the enforcement thereof.

This Bill will also update and improve existing provisions of the Companies Act and introduce new provisions regulating limited liability companies and other commercial partnerships.

The Bill also provides for amendments to various other laws.

