

MALTA

**ATT Nru V tal-2020**

ATT maħruġ b'liġi mill-Parlament ta' Malta.

**ATT sabiex jemenda diversi liġijiet dwar servizzi finanzjarji u biex jipprovdi dwar affarijiet anċillari jew inċidentali għalihom.**

**ACT No. V of 2020**

AN ACT enacted by the Parliament of Malta.

**AN ACT to amend various financial services laws and to provide for matters ancillary or incidental thereto.**



Nagħti l-kunsens tiegħi.

(L.S.)

**DOLORES CRISTINA**  
**Aġent President**

3 ta' Marzu, 2020

**ATT Nru V tal-2020**

*ATT sabiex jemenda diversi liġijiet dwar servizzi finanzjarji u biex jipprovdi dwar affarijiet anċillari jew incidentalali għalihom.*

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2020 li jemenda Diversi Liġijiet dwar is-Servizzi Finanzjarji.

Titolu fil-qosor  
u bidu fis-sehħ.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-sehħ f'dik id-data li l-Ministru responsabbli għar-regolamentazzjoni tas-Servizzi Finanzjarji jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu stabbiliti dati differenti għad-dispożizzjonijiet differenti ta' dan l-Att.

**TAQSIMA I**  
**EMENDI GHALL-ATT DWAR L-AWTORITÀ GĦAS-SERVIZZI**  
**FINANZJARJI TA' MALTA**

Emendi għall-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta.  
Kap. 330.

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

Emenda tal-artikolu 16 tal-Att prinċipali.

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

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

"(3) Bla ħsara għal xi poteri oħra li jistgħu jiġu eżerċitati mill-Awtorità taħt dan l-Att jew taħt xi liġi oħra, fejn xi persuna tikser jew tonqos li thares id-dispożizzjonijiet ta' dan l-Att jew xi Att ieħor amministrat mill-Awtorità, ta' xi regolamenti jew Regoli maħruġin taħthom, xi kondizzjonijiet imposti f'licenzja maħruġa mill-Awtorità jew xi direttivi maħruġa mill-Awtorità, l-Awtorità tista' b'avviż bil-miktub u mingħajr il-ħtieġa ta' smiġħ fil-qorti timponi fuq tali persuna penali amministrattiva li ma tkunx ta' iżjed minn mija u ħamsin elf euro (€150,000) għal kull ksur jew nuqqas ta' konformità, skont il-każ."; u

(b) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem "Meta ma jkunx sar appell minn avviż bħal dak imsemmi fis-subartikolu (3)," għandhom jidhlu l-kliem "Meta ma jkunx sar appell minn avviż bħal dak imsemmi fis-subartikolu (3) jew imsemmi f'xi Att ieħor amministrat mill-Awtorità jew f'xi regolamenti jew Regoli maħruġin taħtu"; u

(ii) fit-test Inġliż biss, minflok il-kliem "Upon the service of a copy of the notice of the decision," għandhom jidhlu l-kliem "Upon the service of a copy of the notice or the decision,".

Emenda tal-artikolu 17 tal-Att prinċipali.

**4.** Fis-subartikolu (3) tal-artikolu 17 tal-Att prinċipali, minflok il-kliem "informazzjoni kunfidenzjali lill-Awtorità Ewropea dwar Titoli u Swieq (ESMA)" għandhom jidhlu l-kliem "informazzjoni kunfidenzjali lill-Bank Ċentrali Ewropew (BĊE), lill-Awtorità Ewropea dwar Titoli u Swieq (ESMA)".

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

Emenda tal-artikolu 20A tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "li tkun inħarġet jew li tista' tinħareġ taħtha." għandhom jidhlu l-kliem "li tkun inħarġet jew li tista' tinħareġ taħtha u relatati ma' detenturi ta' liċenzja u lil oħrajn kif jista' jiġi speċifikat fihom; regolamenti magħmulin taħt dan il-paragrafu, u li strettament ikollhom x'jaqsmu mat-traspożizzjoni jew implimentazzjoni kif hawn qabel imsemmi, jistgħu jipprovdu li xi dispożizzjoni ta' dan l-Att jew ta' xi liġi oħra m'għandhiex tkun tapplika għal ħwejjeġ li jaqgħu taħt ir-regolamenti, u li sa fejn xi dispożizzjoni tar-regolamenti tkun inkonsistenti mad-dispożizzjonijiet ta' dan l-Att jew ta' xi liġi oħra, huma dawk id-dispożizzjonijiet f'dawk ir-regolamenti li jipprevalu."; u

(b) minnufih wara s-subartikolu (2) tiegħu għandhom jidhlu s-subartikoli ġodda li ġejjin:

"(3) Meta jkunu ġew magħmula regolamenti kif hawn f'dan l-artikolu, l-Awtorità tista' toħroġ Regoli biex ikunu jistgħu jitwettqu aħjar, u jiġu implimentati aħjar, id-dispożizzjonijiet tar-regolamenti.

(4) Regolamenti magħmula taħt dan l-artikolu jistgħu jimponu:

(a) penali amministrattivi ta' mhux iżjed minn mija u ħamsin elf euro (€150,000) għal kull ksur jew nuqqas ta' konformità, skont il-każ;

(b) pieni jew penalitajiet oħra dwar kull reat, ta' mhux iktar minn multa ta' mija u ħamsin elf euro (€150,000) jew prigunerija għal żmien ta' mhux iżjed minn sena, jew dik il-multa u prigunerija flimkien; u

(ċ) penali amministrattivi u multi ta' aktar minn mija u ħamsin elf euro (€150,000), fejn jitqies neċessarju jew xieraq għal kull ksur jew nuqqas ta' tharis ta' xi Direttiva jew Regolament tal-Unjoni Ewropea jew ta' regolamenti magħmula taħt dan l-artikolu sabiex jittrasponu jew jagħtu effett lil xi Direttiva jew Regolament tal-Unjoni Ewropea."

6. Fl-artikolu 28 tal-Att prinċipali, minflok il-kliem "iżda mhux aktar tard minn erba' xhur wara l-għeluq ta' kull sena finanzjarja" għandhom jidhlu l-kliem "iżda mhux aktar tard minn sitt xhur wara l-għeluq ta' kull sena finanzjarja".

Emenda tal-artikolu 28 tal-Att prinċipali.

Sostituzzjoni tal-artikolu 29 tal-Att prinċipali.

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

"Eżenzjoni minn responsabbiltà.

29. (1) L-Awtorità, inklużi l-membri tal-Bord tal-Gvernaturi meta jkunu qed jaġixxu f'xi funzjoni assenjata lilhom taħt xi provvediment ta' dan l-Att, kull korp jew organu ieħor, inkluż kull kumitat jew sottokumitat, stabbilit taħt dan l-Att, u kull membru jew uffiċjal ta' dak il-korp jew organu, u l-uffiċjali u l-impjegati tal-Awtorità, ma jkunux responsabbli għall-ħlas ta' danni għal xi ħsara li tkun saret jew li naqset milli ssir fil-qadi tagħhom, jew fil-qadi intiż ta' xi funzjoni, jew fil-qadi tad-dmirijiet uffiċjali tagħhom, kemm-il darba l-għemil jew in-nuqqas jintwerew li ma jkunux saru, jew li naqsu milli jsiru, skont il-każ, b'kondotta ħażina intenzjonata.

(2) Għall-finijiet ta' dan l-artikolu, il-frazi "dan l-Att" għandha tinkludi kull Att ieħor amministrat mill-Awtorità u kull regolamenti jew Regoli mahruġin tahtu."

**TAQSIMA II**

**EMENDI GĦALL-ATT DWAR TRUSTS U TRUSTEES**

Emendi għall-Att dwar *Trusts* u *Trustees*. Kap. 331.

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

Emenda tal-artikolu 57 tal-Att prinċipali.

**9.** Minnufih wara l-paragrafu (s) tas-subartikolu (1) tal-artikolu 57 tal-Att prinċipali għandhom jidhlu l-paragrafi ġodda li ġejjin:

"(sA) jirregola l-kondotta, dmirijiet u obbligi oħra tal-amministraturi, *trustees*, diretturi jew funzjonarji bħalhom li jkunu qegħdin jeżerċitaw kontroll fuq il-proprjetà ta' fondazzjoni privata, kif imfisser fl-artikolu 43(12), inklużi l-prospetti, dikjarazzjonijiet u informazzjoni oħra li għandhom jissottomettu lill-Awtorità, u jistabbilixxu l-oġġla ammont li, minkejja kull dispożizzjoni ta' dan l-Att, jista' jiġi mitlub bħala ħlasijiet minn dawn il-funzjonarji;

(sB) jirregola l-kondotta, dmirijiet u obbligi oħra ta' persuni li jaġixxu bħala amministraturi tal-fondazzjonijiet privati għal persuni b'diżabbiltà;"

**TAQSIMA III**

**EMENDI GHALL-ATT DWAR IS-SWIEQ FINANZJARJI**

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

Emendi għall-Att dwar is-Swieq Finanzjarji. Kap. 345.

**11.** Fil-paragrafu (i) tat-tifsira "kumpannija" tas-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, minflok il-kliem "kumpannija pubblika fformata u reġistrata" għandhom jidhlu l-kliem "kumpannija fformata u reġistrata".

Emenda tal-artikolu 2 tal-Att prinċipali.

**12.** L-artikolu 52 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 52 tal-Att prinċipali.

**TAQSIMA IV**

**EMENDI GHALL-ATT DWAR SERVIZZI TA' INVESTIMENT**

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

Emendi għall-Att dwar Servizzi ta' Investiment. Kap. 370.

**14.** Fis-subartikolu (1) tal-artikolu 16A tal-Att prinċipali, minflok il-kliem "skont il-każ." għandhom jidhlu l-kliem "skont il-każ. Id-dispożizzjonijiet tal-artikolu 16(4) tal-Att dwar Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw *mutatis mutandis*."

Emenda tal-artikolu 16A tal-Att prinċipali. Kap. 330.

**15.** Fis-subartikolu (4) tal-artikolu 17F tal-Att prinċipali, minflok il-kliem "fl-artikolu 17(11)" għandhom jidhlu l-kliem "fl-artikolu 17(13)".

Emenda tal-artikolu 17F tal-Att prinċipali.

**16.** Il-paragrafu (b) tas-subartikolu (1) tal-artikolu 26 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 26 tal-Att prinċipali.

"(b) meta t-tagħrif jiġi żvelat mill-awtorità kompetenti sabiex jinbnew, jew xort'ohra għall-finijiet ta' proċedimenti quddiem xi qorti jew tribunal;"

**17.** L-artikolu 27 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 27 tal-Att prinċipali.

**TAQSIMA V**

**EMENDI GHALL-ATT DWAR IL-KUMPANNIJI**

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

Emendi għall-Att dwar il-Kumpanniji. Kap. 386.

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

(a) fis-subartikolu (1) tagħha:

(i) minnufih qabel it-tifsira "approvazzjoni" għandha tiżdied it-tifsira ġdida li ġejja:

" "Aġenzija" tfisser l-aġenzija stabbilita L.S. 595.27. bl-Ordni li jistabbilixxi r-Registru dwar in-Negozju ta' Malta bhala Aġenzija;"

(ii) it-tifsira "approvazzjoni" għandha tiġi sostitwita b'dan li ġej:

" "approvazzjoni", dwar prospett, tfisser l-att pożittiv mar-riżultat tal-iskrutinju tal-kompletezza tal-prospett mill-Awtorità għas-Servizzi Finanzjarji f'Malta jew mill-awtorità regolatorja;"

(iii) it-tifsira "id-Direttiva dwar il-Prospett" għandha tiġi mħassra;

(iv) minnufih wara t-tifsira "l-Ordinanza" għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "pajjiż terz" tfisser pajjiż li mhux Stat Membru jew Stat ŻEE;"

(v) it-tifsira "persuna li tagħmel offerta" għandha tiġi mħassra;

(vi) it-tifsira "programm ta' offerta" għandha tiġi mħassra;

(vii) it-tifsira "qorti" għandha tiġi sostitwita b'dan li ġej:

" "qorti" tfisser il-Qorti Ċivili (Sezzjoni tal-Kummerċ);"

(viii) it-tifsira "sigurtajiet mahruġa b'mod kontinwu u ripetut" għandha tiġi mħassra;

(ix) fit-tifsira "sigurtajiet ta' ekwità" il-kliem ", u l-kliem 'sigurtajiet mingħajr ekwità' għandhom jiftiehm b'hala referenza għas-sigurtajiet kollha li ma humiex sigurtajiet mingħajr ekwità" għandhom jiġu mħassra;

(x) it-tifsira "Stat Membru ospitanti" għandha tiġi mħassra; u

(xi) it-tifsira "Stat Membru tal-pajjiż" għandha tiġi mħassra; u

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

(i) il-paragrafu (a) tas-subartikolu (3) tal-artikolu 2 tal-Att prinċipali għandu jiġi mħassar;

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem "offerti lill-pubbliku:" għandhom jidhlu l-kliem "offerti ta' titoli lill-pubbliku:"; u

(iii) il-paragrafu (e) tiegħu, inklużi s-subparagrafi (i) sa (iii), u l-paragrafu sussegwenti tiegħu għandhom jiġu mħassra.

**20.** L-artikolu 66A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 66A tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "id-dispożizzjonijiet ta' din it-Taqsima ta' dan l-Att, minbarra dan l-artikolu, m'għandhomx ikunu japplikaw għal xi soċjetà bħal dik" għandhom jidhlu l-kliem "id-dispożizzjonijiet ta' din it-Taqsima ta' dan l-Att, minbarra dan l-artikolu, u l-artikoli 13 sa 18, l-artikolu 21 u t-Taqsima III tal-Kodiċi tal-Kummerċ, m'għandhomx ikunu japplikaw għal xi soċjetà bħal dik"; u

Kap. 13.

(b) fil-paragrafu (e) tas-subartikolu (3) tiegħu, minflok il-kliem "jew ta' dan l-Att li kieku kien ikun xort'oħra japplika għalihom," għandhom jidhlu l-kliem "jew ta' dan l-Att jew ta' xi liġi oħra li kieku kienu jkunu xort'oħra japplikaw għalihom,".

**21.** L-artikolu 84A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 84A tal-Att prinċipali.

(a) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem "li jistgħu jkunu speċifikati;" għandhom jidhlu l-kliem "li jistgħu jkunu speċifikati; u li sa fejn xi dispożizzjonijiet ta' dawk ir-regolamenti jkunu inkonsistenti mad-dispożizzjonijiet ta' dan l-Att jew ta' xi liġi oħra, dawk id-dispożizzjonijiet f'xi regolamenti bħal dawk għandhom jipprevalu;" u

(b) minnufih wara l-paragrafu (f) tas-subartikolu (1) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

Kap. 403.

"(1A) Meta jkunu nharġu regolamenti bħal dawk, l-awtorità kompetenti taht l-Att dwar il-Kummerċ tal-Assigurazzjoni tista' toħroġ regoli kif hemm fl-artikolu 4 tal-Att dwar il-Kummerċ tal-Assigurazzjoni hekk kif jistgħu jkunu meħtieġa sabiex jitwettqu u jiġu implimentati aħjar id-dispożizzjonijiet ta' dawk ir-regolamenti."

Emenda tal-artikolu 84Ċ tal-Att prinċipali.

**22.** L-artikolu 84Ċ tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minnufih wara l-paragrafu (b) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

"(bA) jipprovdi dwar l-applikabilità jew inapplicabilità ta' xi dispożizzjoni ta' dan l-Att jew ta' xi liġi oħra għal materji li jaqgħu taht dawk ir-regolamenti, bla ħsara għal dawk il-modifiki, varjazzjonijiet u kundizzjonijiet li jistgħu jiġu speċifikati, u li sa fejn xi dispożizzjonijiet ta' dawk ir-regolamenti jkunu inkonsistenti mad-dispożizzjonijiet ta' dan l-Att jew ta' xi liġi oħra, dawk id-dispożizzjonijiet f'xi regolamenti bħal dawk għandhom jipprevalu;" u

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

Kap. 484.

"(2A) Meta jkunu nharġu regolamenti bħal dawk kif hawn f'dan l-artikolu, l-awtorità kompetenti taht l-Att dwar is-*Securitisatio*n tista' toħroġ regoli kif hemm fl-artikolu 20 tal-Att dwar is-*Securitisatio*n, hekk kif jistgħu jkunu meħtieġa, sabiex jitwettqu u jiġu implimentati aħjar id-dispożizzjonijiet ta' dawk ir-regolamenti."

Żieda ta' artikolu 84E fl-Att prinċipali.

**23.** Minnufih wara l-artikolu 84D tal-Att prinċipali għandu jiġi miżjud dan l-artikolu ġdid li ġej:

"Setgħa għall-ghemil ta' regolamenti dwar kumpanniji ċellulari li jwettqu jew huma involuti fin-negozju marittimu jew tal-avjazzjoni.

84E. (1) (a) Il-Ministru jista' jagħmel regolamenti sabiex:

(i) jipprovdi dwar il-formazzjoni, il-kostituzzjoni, l-awtorizzazzjoni u r-regolamentazzjoni ta' kumpanniji ċellulari li jwettqu jew huma involuti fin-negozju marittimu jew tal-avjazzjoni;

(ii) li jagħmlu possibbli li kumpannija li twettaq jew hi involuta fin-negozju marittimu jew tal-avjazzjoni tikkonverti f'kumpannija ċellulari;

(iii) jipprovdi għall-ħwejjeg l-oħra kollha li jistgħu jinqalgħu f'konnessjoni mal-istess; u

(iv) jipprovdi għall-aħjar twettiq tad-dispożizzjonijiet ta' dan is-subartikolu,

u, mingħajr preġudizzju għall-ġeneralità ta' dak kollu li ntqal qabel, jista', permezz ta' tali regolamenti, b'mod partikolari jirregola l-ħwejjeg imsemmija fl-artikolu 84A(1)(a) sa (f), li għandhom japplikaw ukoll għal dan l-artikolu.

(b) Għall-finijiet ta' dan l-artikolu, il-kliem "negozju marittimu jew tal-avjazzjoni" għandhom ifissru dan kollu li ġej jew uħud minnhom:

(i) is-sjieda, l-operazzjoni (taħt *charter*, kiri jew mod ieħor), l-amministrazzjoni u t-tmexxija (inkluż l-ingaġġar, l-impjieg jew it-tmexxija ta' persunal kemm abbord kif ukoll mod ieħor) ta' kull bastiment jew ta' kull inġenju tal-ajru jew ta' magni ta' inġenji tal-ajru u t-twettiq tal-attivitajiet anċillari kollha ta' natura finanzjarja, ta' sigurtà u kummerċjali kif ukoll attivitajiet oħra konnessi ma' dak hawn imsemmi qabel; jew

(ii) iż-żamma ta' azzjonijiet jew interessi oħra ta' ekwità f'xi impriża, kemm jekk Maltija jew le, stabbilita unikament jew primarjament għat-tmexxija jew twettiq ta' xi waħda jew aktar mill-attivitajiet imsemmija f'din it-tifsira u t-tmexxija tal-attivitajiet anċillari kollha ta' natura finanzjarja, ta' sigurtà u kummerċjali kif ukoll attivitajiet oħra konnessi ma' dak hawn imsemmi qabel; jew

(iii) l-attivitajiet ta' kumpannija *parent* li jkollha azzjonijiet jew interessi oħra ta' ekwità f'imprizi, kemm jekk Maltin jew le, fejn xi waħda jew uħud minn dawn l-imprizi hi stabbilita unikament jew primarjament għat-tmexxija jew twettiq ta' xi waħda jew aktar mill-attivitajiet imsemmija f'din it-tifsira u t-tmexxija tal-attivitajiet anċillari kollha ta' natura finanzjarja, ta' sigurtà u kummerċjali kif ukoll attivitajiet oħra konnessi ma' dak hawn imsemmi qabel; jew

(iv) il-ġbir ta' kapital permezz ta' self, il-ħruġ ta' garanziji jew il-ħruġ ta' sigurtajiet minn impriza meta l-għan ta' tali attività hu li jinkisbu l-oġettivi jew l-attivitajiet imsemmija fis-subparagrafi ta' qabel għall-impriza nnifisha jew għal xi impriza oħra fi ħdan l-istess grupp; jew

(v) it-twettiq ta' tali oġettivi jew attivitajiet oħra fis-settur marittimu jew dak tal-avjazzjoni u ħwejjeg relatati jew konnessi li l-Ministru jista', bil-parir tal-Awtorità, minn żmien għal żmien jippreskrivi b'regolamenti.

Għall-finijiet ta' dan il-paragrafu, it-termini "grupp", "kumpannija parent" u "impriza" għandu jkollhom l-istess tifsira kif mogħtija lilhom fl-artikolu 2.

(ċ) Għall-finijiet ta' dan l-artikolu t-termini "ċellula", "attiv ċellulari" u "kumpannija ċellulari" għandu jkollhom l-istess tifsira, *mutatis mutandis*, kif mogħtija lilhom skont d-dispożizzjonijiet tal-artikolu 84A(2):

Iżda li, għall-finijiet ta' dan l-artikolu referenzi għal "kumpannija" għandhom jinkludu wkoll referenzi għal soċjetà *en commandite* jew korp ġuridiku simili jew ekwivalenti, li l-kapital tiegħu hu maqsum f'azzjonijiet.

(2) Il-Ministru jista' wkoll jagħmel regolamenti sabiex jipprovdi għall-formazzjoni, kostituzzjoni, awtorizzazzjoni u regolamentazzjoni ta' kumpanniji ċellulari inkorporati u ċelluli inkorporati bħala kumpanniji ta' responsabbiltà limitata li jkollhom personalità ġuridika separata taħt dan l-Att, u li tagħmilha possibbli għal dawk il-kumpanniji li jmexxu jew ikunu involuti fin-negozju marittimu jew tal-avjazzjoni, u dwar kull haġa oħra relatata, konnessa jew anċillari għal dan jew li tista' toriġina f'konnessjoni ma' dan.

(3) Regolamenti li jsiru taħt id-dispożizzjonijiet ta' dan l-artikolu jistgħu jipprovdu wkoll dwar l-applikabilità jew in-nuqqas ta' applikabilità ta', jew l-eżenzjoni sħiħa jew parzjali minn xi dispożizzjoni ta' dan l-Att jew ta' xi liġi oħra li tkun fis-seħħ għal kumpanniji ċellulari inkorporati u ċelluli inkorporati bla ħsara għal kull tibdil, varjazzjoni jew kondizzjoni hekk kif jistgħu jiġu speċifikati."

**24.** Fl-artikolu 89 tal-Att prinċipali, minflok il-kliem "Ebda formula ta' applikazzjoni għal azzjonijiet jew għal obligazzjonijiet ta' kumpannija pubblika ma tista' tinħareġ kemm-il darba l-kumpannija ma tkunx reġistrata u l-formula ma tinħariġx bi prospett li jħares il-ħtiġiet tal-artikolu 90:" għandhom jidhlu l-kliem:

Emenda tal-artikolu 89 tal-Att prinċipali.

Kap. 345.

"Kumpannija ma tistax tagħmel offerta ta' titoli lill-pubbliku fi Stat Membru jew Stat ŻEE kemm-il darba l-kumpannija ma tkunx kumpanija pubblika u l-offerta jkollha l-forma ta' prospett li jħares il-ħtiġijiet tal-Att dwar is-Swieq Finanzjarji u kull regolament applikabbli magħmul tahtu, u għandhom ikunu japplikaw id-dispożizzjonijiet tal-artikoli 91 sa 96 għal dawk l-offerti:".

**25.** L-artikolu 90 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 90 tal-Att prinċipali.

**26.** Fl-artikolu 91 tal-Att prinċipali, minflok il-kliem "bi ksur ta' xi waħda mid-dispożizzjonijiet tal-artikolu 89 jew tal-artikolu 90(1) tista' tehel penali:" għandhom jidhlu l-kliem "bi ksur tal-artikolu 89 għandha tehel penali:".

Emenda tal-artikolu 91 tal-Att prinċipali.

**27.** L-artikolu 92 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 92 tal-Att prinċipali.

Sostituzzjoni tal-artikolu 93 tal-Att prinċipali.

**28.** L-artikolu 93 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Kap. 345.

"93. (1) Kopja tal-prospett iffirmata skont id-dispożizzjonijiet tal-Att dwar is-Swieq Finanzjarji għandha tiġi kkonsenjata lir-Registatur għar-registrazzjoni fi żmien hamest ijiem mid-data tal-pubblikazzjoni tal-prospett.

(2) Jekk ikun hemm ksur fl-osservanza tad-dispożizzjonijiet ta' dan l-artikolu, kull uffiċjal tal-kumpanija li jkun wettaq il-ksur għandu jehel penali, u, għal kull gurnata li dak il-ksur ikompli, penali oħra."

Żieda tal-artikolu 96A fl-Att prinċipali.

**29.** Minnufih wara l-artikolu 96 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Offerta ta' titoli lill-pubbliku f'pajjiżi terzi.

96A. (1) Meta kumpanija pubblika tagħmel offerta ta' titoli lill-pubbliku f'pajjiżi terzi, id-diretturi tagħha għandhom, fi żmien xahar mir-registrazzjoni tat-titoli mahruġa mal-kumpanija, jagħtu lir-Registatur sabiex jiġi registrat avviz li jkun jispeċifika din l-informazzjoni li ġejja, flimkien ma' kopja tad-dokument tal-offerta, jekk ikun hemm:

(a) il-pajjiż jew pajjiżi fejn issir l-offerta;

(b) l-għan tal-offerta;

(ċ) l-ammont tal-offerta;

(d) it-tip ta' titoli offruti;

(e) l-isem tal-awtorità jew korp ieħor fil-pajjiżi terzi, li kien responsabbli għall-approvazzjoni tad-dokument tal-offerta, jekk ikun hemm.

(2) Jekk ikun hemm xi nuqqas fil-ħarsien tad-dispożizzjonijiet tas-subartikolu (1), kull uffiċjal tal-kumpanija li jkun qed jonqos jista' jehel penali, u, għal kull jum li matulu jibqa' għaddej in-nuqqas, penali oħra.

(3) L-emittent u d-diretturi tal-kumpanija jkollhom ir-responsabbiltà li jikkonformaw mal-liġijiet u regolamenti tal-pajjiżi terzi fejn jiġu offruti t-titoli lill-pubbliku.

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

(a) "offerta ta' titoli lill-pubbliku f'pajjiż terz" għandha tkun tfisser offerta ta' titoli f'dak il-pajjiż terz:

(i) lil aktar minn mija u ħamsin persuna; jew

(ii) meta l-korrispettiv totali tal-offerta jkun jeċċedi l-mitt elf euro (€100,000), kalkolati fuq perjodu ta' tmax-il xahar;

(b) "dokument tal-offerta" jinkludi prospett jew xi stedina oħra biex jiġu akkwistati t-titoli."

**30.** L-artikolu 99 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 99 tal-Att prinċipali.

**31.** L-artikoli 100 sa 102, it-tnejn inkluzi, tal-Att prinċipali għandhom jiġu mħassra.

Thassir tal-artikoli 100 sa 102 tal-Att prinċipali.

**32.** Is-subartikolu (12) tal-artikolu 122 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 122 tal-Att prinċipali.

(a) fil-paragrafu (a) tiegħu:

(i) minflok il-kliem "f'kumpannija pubblika li tkun ikkwotata f'suq regolat Malti" għandhom jidhlu l-kliem "f'kumpannija li jkunu kkwotati f'suq regolat Malti"; u

(ii) fis-subparagrafu (ii) tiegħu, minflok il-kliem "il-kumpannija li s-sigurtajiet ikkwotati tagħha" għandhom jidhlu l-kliem "il-kumpannija li s-sigurtajiet elenkati tagħha"; u

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "f'kumpannija pubblika li huma kkwotati f'suq regolat" għandhom jidhlu l-kliem "f'kumpannija pubblika li huma elenkati f'suq regolat".

**33.** Fis-subartikolu (1) tal-artikolu 225 tal-Att prinċipali, minflok il-kliem "Il-Ministru, li jaġixxi bil-parir tal-Awtorità għas-Servizzi Finanzjarji ta' Malta, għandu jahtar lil xi ufficjal anzjan ta' dik l-Awtorità" għandhom jidhlu l-kliem "Il-Ministru għandu jahtar lil xi ufficjal anzjan tal-Aġenzija".

Emenda tal-artikolu 225 tal-Att prinċipali.

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Thassir tal-artikolu 388 tal-Att prinċipali.

**34.** L-artikolu 388 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikoli 390 sa 398 tal-Att prinċipali.

**35.** L-artikoli 390 sa 398, it-tnejn inklużi, tal-Att prinċipali għandhom jiġu mħassra.

Emenda tal-artikolu 400 tal-Att prinċipali.

**36.** Fis-subartikolu (1) tal-artikolu 400 tal-Att prinċipali, minflok il-kliem "Il-Ministru, filwaqt li jaġixxi fuq il-parir tal-Awtorità għas-Servizzi Finanzjarji ta' Malta, għandu jahtar uffiċjal għoli tal-imsemmija Awtorità" għandhom jidhlu l-kliem "Il-Ministru għandu jahtar lil xi uffiċjal anzjan tal-Aġenzija".

Emenda tal-artikolu 425 tal-Att prinċipali.

**37.** Il-paragrafu (l) tas-subartikolu (1) tal-artikolu 425 tal-Att prinċipali għandu jiġi mħassar.

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

**38.** It-Tieni Skeda li tinsab mal-Att prinċipali għandha tiġi mħassra.

Emenda tal-Hdax-il Skeda li tinsab mal-Att prinċipali.

**39.** Il-Hdax-il Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

(a) il-partita:

"91	Ksur tal-artikolu 89 jew 90(1) dwar l-obbligu li jinħareġ prospett	€2,329.37	xejn"
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għandha tiġi sostitwita b'dan li ġej:

"91	Ksur tal-artikolu 89 dwar l-obbligu li jinħareġ prospett	€2,329.37	xejn";
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(b) il-partita:

"92(2)	Ħruġ ta' prospett bi ksur tal-artikolu 92(1)	€2,329.37	xejn"
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għandha tiġi mħassra;

(ċ) minnufih wara l-partita:

"93(2)	Ħruġ ta' prospett qabel ma dan ikun registrat	€2,329.37	€46.59"
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għandha tiġi miżjuda din il-partita ġdida ġejja:

"96A(2)	Nuqqas tal-uffiċjali li jipprovdu lir-Registatur avviz li l-kumpannija tkun harġet offerta tat-titoli lill-pubbliku f'pajjiż terz	€500	€25"
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; u

(d) il-partita:

"397(1)	Persuna responsabbli għall-ħruġ, ċirkolazzjoni jew tqassim ta' prospett, eċċ., għal kumpannija barranija bi ksur tal-artikoli minn 391 sa 396	€2,329.37	xejn"
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għandha tiġi mhassra.

**TAQSIMA VI  
EMENDI GĦALL-ATT DWAR IL-KUMMERĊ  
TAL-ASSIGURAZZJONI**

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

Emendi għall-Att dwar il-Kummerċ tal-Assigurazzjoni. Kap. 403.

**41.** Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, it-tifsira "rijassigurazzjoni" għandha tiġi sostitwita b'dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

"rijassigurazzjoni" tfisser waħda minn dawn li ġejjin:

(a) l-attività li tikkonsisti f'illi taċċetta riskji li jkunu ġew ċeduti minn impriża tal-assigurazzjoni jew impriża tal-assigurazzjoni ta' pajjiż terz, jew minn impriża oħra tar-rijassigurazzjoni jew minn xi impriża tar-rijassigurazzjoni ta' pajjiż terz; jew

(b) il-provvista ta' kopertura minn impriża tar-rijassigurazzjoni lil xi istituzzjoni li taqa' fil-kamp ta' applikazzjoni tad-Direttiva (UE) 2016/2341 tal-Parlament

Ewropew u tal-Kunsill;"

Emenda tal-artikolu 27 tal-Att prinċipali.

**42.** Fis-subartikolu (6) tal-artikolu 27 tal-Att prinċipali, il-kliem "għandha tavża lill-EIOPA b'kull revoka ta' awtorizzazzjoni kif hemm fl-artikoli 25 u 26" għandhom jiġu sostitwiti bil-kliem "għandha tavża lill-EIOPA b'kull revoka ta' awtorizzazzjoni skont l-Att".

Emenda tal-artikolu 28 tal-Att prinċipali.

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

(a) fil-paragrafu (e) tas-subartikolu (1) tiegħu, il-kliem "jew parti minnu, kif tordna l-awtorità kompetenti;" għandhom jiġu sostitwiti bil-kliem "jew parti minnu, inkluż li tittiehed kull azzjoni meħtieġa biex impriża tiġi xolta jew stralċjata, kif tista' tordna l-awtorità kompetenti;"

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

(i) fil-paragrafu (ċ) tiegħu, il-kliem "jew minn xi persuna oħra, inkluża r-rappreżentanza legali u ġudizzjarja tal-impriża" għandhom jiġu sostitwiti bil-kliem "jew minn xi persuna oħra, inkluż għall-finijiet tax-xoljiment u stralċjar ta' impriża kif ukoll ir-rappreżentanza legali u ġudizzjarja tal-impriża";

(ii) fil-paragrafu (d) tiegħu, il-kliem "b'eskluzjoni ta' kull persuna oħra." għandhom jiġu sostitwiti bil-kliem "bl-eskluzjoni ta' kull persuna oħra:", u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

"Iżda l-persuna kompetenti m'għandha tiegħu l-ebda deċiżjoni għall-fini tax-xoljiment u l-istralċjar tal-impriża kemm-il darba l-awtorità kompetenti ma toħroġ direttiva f'dan is-sens skont l-artikolu 31A, u kull direttiva jista' jkun fiha dawk l-istruzzjonijiet, ħtigijiet u kundizzjonijiet li l-awtorità kompetenti tista' tqis li jkunu meħtieġa, inkluż il-mod kif isir l-istralċjar.";

(ċ) minnufih wara s-subartikolu (2) tiegħu għandu

jizdied dan is-subartikolu ġdid li ġej:

Kap. 386.

"(2A) Mingħajr preġudizzju għas-setgħat tal-awtorità kompetenti kif hawn fis-subartikolu (1), l-awtorità kompetenti tista' wkoll tagħmel rikors biex il-qorti xxolji u tistralċja lill-impriża, meta l-awtorità kompetenti jkun jidhrilha li l-impriża għandha tiġi xolta jew stralċjata mill-qorti għar-raġuni msemmija fl-artikolu 214(2)(b)(iii) tal-Att dwar il-Kumpanniji, u jekk il-qorti tilqa' dak ir-rikors, għandhom japplikaw id-dispożizzjonijiet rilevanti tal-Att dwar il-Kumpanniji dwar ix-xoljiment u l-istralċjar mill-qorti u kull dispożizzjoni oħra li tkun tapplika ta' kull liġi oħra."; u

(d) minnufih wara s-subartikolu (5) tiegħu għandu jizdied dan is-subartikolu ġdid li ġej:

"(6) Kull miżura li tiġi adottata kif hawn fis-subartikolu (1) għandha tibqa' sseħħ minkejja li l-impriża tieqaf għalkollox milli tibqa' awtorizzata għal kwalunkwe raġuni, kemm-il darba l-awtorità kompetenti ma tordnax xort'oħra.".

**44.** Fis-subartikolu (2) tal-artikolu 31 tal-Att prinċipali, il-kliem "kull tagħrif jew dokumenti speċifikati fl-awtorità, liema tagħrif jew dokumenti" għandhom jiġu sostitwiti bil-kliem "kull tagħrif jew dokumenti speċifikati fl-avviż, liema tagħrif jew dokumenti".

Emenda tal-artikolu 31 tal-Att prinċipali.

**45.** Fis-subartikolu (1) tal-artikolu 31A tal-Att prinċipali, il-kliem "jew f'kull direttiva oħra warajha." għandhom jiġu sostitwiti bil-kliem "jew f'kull direttiva oħra sussegwenti:" u minnufih wara għandhom jizdiedu dawn il-provisos ġodda li ġejjin:

Emenda tal-artikolu 31A tal-Att prinċipali.

"Izda l-awtorità kompetenti tista' tagħti xi direttiva bħal dik ukoll meta impriża, għal kwalunkwe raġuni, tieqaf għalkollox milli tibqa' awtorizzata kif hawn f'dan l-Att:

Izda wkoll kull direttiva mogħtija kif hawn f'dan l-artikolu għandha, kemm-il darba l-awtorità kompetenti ma tordnax xort'oħra, tibqa' tapplika wkoll meta l-impriża, għal kwalunkwe raġuni, tieqaf għalkollox milli tibqa' awtorizzata kif hawn f'dan l-Att.".

**46.** L-artikolu 66 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 66 tal-Att prinċipali.

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Emenda tal-artikolu 67 tal-Att prinċipali.

**47.** Fis-subartikolu (6) tal-artikolu 67 tal-Att prinċipali, it-tieni proviso għandu jiġi mħassar.

#### TAQSIMA VII

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

Emendi għall-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji. Kap. 476.

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

Emenda tal-artikolu 2 tal-Att prinċipali.

**49.** Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, it-tifsira "il-Ministru" għandha tiġi sostitwita b'dan li ġej:

" "il-Ministru" tfisser il-Ministru responsabbli għar-regolamentazzjoni tas-servizzi finanzjarji;".

#### TAQSIMA VIII

#### EMENDI GHALL-ATT DWAR IS-SECURITISATION

Emendi għall-Att dwar is-*Securitisatio*n. Kap. 484.

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

Emenda tal-artikolu 2 tal-Att prinċipali.

**51.** Fl-artikolu 2 tal-Att prinċipali, it-tifsira "Ministru" għandha tiġi sostitwita b'dan li ġej:

" "Ministru" tfisser il-Ministru responsabbli għar-regolamentazzjoni tas-servizzi finanzjarji;".

Emenda tal-artikolu 20 tal-Att prinċipali.

**52.** Is-subartikolu (1) tal-artikolu 20 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(1) Sabiex ikunu jistgħu jitwettqu aħjar id-dispożizzjonijiet ta' dan l-Att jew id-dispożizzjonijiet ta' xi regolamenti li għandhom x'jaqsmu ma' mezzi ta' *securitisation* jew operazzjonijiet ta' *securitisation*, l-awtorità kompetenti tista', minn żmien għal żmien, toħroġ u tippubblika regoli kif meħtieġa jew xierqa b'konnessjoni magħhom. Ir-regoli jkunu jorbtu lill-mezzi ta' *securitisation* u lill-kredituri ta' *securitisation* u lil persuni oħra kif jiġi speċifikat fihom.".

**53.** Minnufih wara s-subartikolu (1) tal-artikolu 23 tal-Att prinċipali għandu jidhhol dan is-subartikolu ġdid li ġej:

Emenda tal-artikolu 23 tal-Att prinċipali.

"(1A) Bla hsara għall-ġeneralità ta' dak li ntqal qabel, il-Ministru, li jaġixxi fuq il-parir tal-awtorità kompetenti, jista' jaġmel regolamenti sabiex jipprovdu għal u jirregolaw il-ħlas minn xi persuna, korp jew mezz ta' *securitisation*, skont il-każ, ta' kull dritt u ħlasijiet oħra dwar kull talba, applikazzjoni jew kull haġa oħra li tista' tiġi sottomessa lill-awtorità kompetenti taħt dan l-Att, inklużi kull dritt u ħlasijiet oħra fir-rigward ta' xi permess, awtorizzazzjoni, reġistrazzjoni, rikonossiment, eżenzjoni jew xi benefiċċju ieħor, kif ukoll kull dritt u ħlas fir-rigward tal-funzjonijiet regolatorji, superviżorji jew investigattivi tal-awtorità kompetenti, pagabbli lill-awtorità kompetenti dwar kull haġa provdut għaliha b'dan l-Att jew taħtu jew kull regolament magħmul taħt dan l-artikolu, kif jista' jiġi preskritt."

### **TAQSIMA IX EMENDI GĦALL-ATT DWAR ID-DISTRIBUZZJONI FL- ASSIGURAZZJONI**

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

Emendi għall-Att dwar id-Distribuzzjoni fl-Assigurazzjoni. Kap. 487.

**55.** Fil-paragrafu (a) tas-subartikolu (2A) tal-artikolu 3 tal-Att prinċipali, il-kliem "u f'każ bħal dak, penali imposta taħt dan il-paragrafu, sew jekk tkun somma fissa, penali għal kull ġurnata, jew it-tnejn flimkien, ma tista' fl-ebda każ, tkun iżjed minn mija u ħamsin elf euro (€150,000);" għandhom jiġu mħassra.

Emenda tal-artikolu 3 tal-Att prinċipali.

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

Emenda tal-artikolu 19 tal-Att prinċipali.

(a) fil-paragrafu (d) tas-subartikolu (1) tiegħu, il-kliem "jew parti minnu, hekk kif tista' tordna l-awtorità kompetenti;" għandhom jiġu sostitwiti bil-kliem "jew parti minnu, inkluż li tittiehed kull azzjoni meħtieġa biex l-intermedjarju jiġi xolt jew stralcjat, kif tista' tordna l-awtorità kompetenti;"

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

(i) fil-paragrafu (ċ) tiegħu, il-kliem "minn xi persuna oħra, inkluża r-rappreżentanza legali u ġudizzjarja tal-kumpannija," għandhom jiġu sostitwiti bil-kliem "minn xi persuna oħra, inkluż għall-fini tax-xoljiment u l-istralċjar tal-intermedjarju kif ukoll ir-rappreżentanza

legali u ġudizzjarja tal-intermedjarju,"; u

(ii) fil-paragrafu (d) tiegħu, il-kliem "b'eskluzjoni ta' kull persuna oħra." għandhom jiġu sostitwiti bil-kliem "bl-eskluzjoni ta' kull persuna oħra:" u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

Kap. 403. "Iżda l-persuna kompetenti m'għandha tiegħu l-ebda deċiżjoni għall-fini tax-xoljiment u l-istralċjar tal-intermedjarju, kemm-il darba l-awtorità kompetenti ma toħroġ direttiva f'dan is-sens kif hemm fl-artikolu 31A tal-Att dwar il-Kummerċ tal-Assigurazzjoni, kif applikabbli skont l-artikolu 54 ta' dan l-Att, u kull direttiva bħal dik jista' jkun fiha dawk l-istruzzjonijiet, il-ħtiġijiet u kundizzjonijiet hekk kif l-awtorità kompetenti tista' tqis li jkunu meħtieġa, inkluż dwar il-mod kif isir l-istralċjar.";

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

Kap. 386. "(2A) Mingħajr preġudizzju għas-setgħat tal-awtorità kompetenti kif hawn fis-subartikolu (1), l-awtorità kompetenti tista' wkoll tagħmel rikors biex il-qorti xxolji u tistralċja lill-intermedjarju meta l-awtorità kompetenti jkun jidhrilha li l-intermedjarju għandu jiġi xolt jew stralċjat mill-qorti għar-raġuni msemmija fl-artikolu 214(2)(b)(iii) tal-Att dwar il-Kumpanniji, u jekk il-qorti tilqa' dak ir-rikors, għandhom japplikaw id-dispożizzjonijiet rilevanti tal-Att dwar il-Kumpanniji dwar ix-xoljiment u l-istralċjar mill-qorti u kull dispożizzjoni oħra li tkun tapplika ta' kull liġi oħra u għandhom japplikaw kwalunkwe dispożizzjonijiet oħra ta' xi liġi oħra.";

u

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

"(4) Kull miżura li tiġi adottata kif hawn fis-subartikolu (1) għandha tibqa' fis-seħh minkejja li l-intermedjarju jieqaf għalkollox milli jkun iskritt taħt dan l-Att għal kwalunkwe raġuni, kemm-il darba l-awtorità kompetenti ma tordnax xort'oħra."

**TAQSIMA X**  
**EMENDI GHALL-ATT DWAR PENSJONIJIET TAL-IRTIRAR**

**58.** Din it-Taqsima temenda l-Att dwar Pensjonijiet tal-Irtirar u għandha tinqara u tinftiehem haġa waħda mal-Att dwar Pensjonijiet tal-Irtirar, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi għall-Att dwar Pensjonijiet tal-Irtirar. Kap. 514.

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

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) minnufih wara t-tifsira "Amministratur ta' Skema tal-Irtirar" għandha tiżdied din it-tifsira ġdida li ġejja:

" "amministrazzjoni prinċipali" tfisser il-post, li jkun jinsab f'Malta, fejn isiru d-deċiżjonijiet strateġiċi ewlenin ta' skema tal-irtirar u ta' fond għall-irtirar;"

(b) fit-tifsira "awtorità kompetenti", il-kliem "imwaqqfa bl-artikolu 3 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, u dak il-korp għandu jaġixxi bħala l-awtorità kompetenti għall-finijiet ta' dan l-Att kif ukoll għall-finijiet rilevanti tad-Direttiva dwar Pensjonijiet Okkupazzjonali," għandhom jiġu sostitwiti bil-kliem "imwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;"

Kap. 330.

(ċ) it-tifsira "Direttiva dwar Pensjonijiet Okkupazzjonali" għandha tiġi sostitwita b'dan li ġej:

" "Direttiva dwar Pensjonijiet Okkupazzjonali" tfisser id-Direttiva (UE) 2016/2341 tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Diċembru 2016 dwar l-attivitajiet u s-supervizzjoni ta' istituzzjonijiet għall-provvista ta' rtirar okkupazzjonali (IORPs) (riformulazzjoni), kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kull miżura implimentattiva, *standards* tekniċi implimentattivi, *standards* tekniċi regolatorji u miżuri bħal dawk li nħarġu, jew li jistgħu jinħarġu taħthom;"

(d) fit-tifsira "Direttiva dwar is-Solvibbiltà II", il-kliem "(Solvibbiltà II), kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kull miżura implimentattiva li tista' tinħareġ taħtha;" għandhom jiġu sostitwiti bil-kliem "(Solvibbiltà II) (riformulata), kif tista' tiġi emendata minn żmien għal żmien u tinkludi kull att ta' delega u kull standard tekniku li nħareġ, jew li jista' jinħareġ taħtha;"

(e) minnufih wara t-tifsira "fond għall-irtirar" għandha tiżdied din it-tifsira ġdida li ġejja:

" "funzjoni ewlenija" fi hdan sistema ta' governanza, tfisser il-kapaċità li jitwettqu kompiti prattiċi inklużi l-funzjoni ta' maniġġjar tar-riskji, il-funzjoni tal-verifika interna ta' awditjar u l-funzjoni attwarja;"

(f) fit-tifsira "l-impenji internazzjonali ta' Malta":

(i) il-kliem "li jitnisslu minn shubija fi, jew affiljazzjoni" għandhom jiġu sostitwiti bil-kliem "li jitnisslu minn shubija fl-Unjoni Ewropea, u shubija fi, jew affiljazzjoni"; u

(ii) il-kliem "sew bilaterali sew multilaterali, li Malta tkun parti fih;" għandhom jiġu sostitwiti bil-kliem "sew bilaterali sew multilaterali, inklużi *Memoranda* ta' Ftehim, li Malta tkun parti fihom;"

(g) minnufih wara t-tifsira "l-impenji internazzjonali ta' Malta", kif emendata, għandha tiżdied din it-tifsira ġdida li ġejja:

" "impriza *sponsor*" tfisser kull impriza jew korp ieħor, irrISPettivament minn jekk tinkludix jew tikkonsistix minn persuna waħda jew aktar fiżika jew ġuridika, li taġixxi bħala prinċipal jew bħala persuna li taħdem għal rasha, jew kull konkorenza ta' dawn u li toffri skema tal-irtirar okkupazzjonali jew thallas kontribuzzjonijiet lil xi skema tal-irtirar okkupazzjonali;"

(h) fit-tifsira "il-Ministru" il-kliem "il-Ministru responsabbli għall-finanzi;" għandhom jiġu sostitwiti bil-kliem "il-Ministru responsabbli għar-regolamentazzjoni tas-Servizzi Finanzjarji;"

(i) it-tifsira "persuna rikonoxxuta" għandha tiġi mħassra;

(j) fit-tifsira "preskritt" il-kliem "magħmulin taħt dan l-Att kif hemm fl-artikolu 37;" għandhom jiġu sostitwiti bil-kliem "magħmulin taħt dan l-Att;"

(k) fit-tifsira "provvidur ta' servizz", il-kliem "mis-servizzi elenkati fl-Iskeda u, jew li tkun rikonoxxuta biex tipprovdi xi wieħed jew aktar mill-attivitajiet amministrattivi ta' *back-office* stabbiliti bir-Regoli tal-Pensjonijiet;" għandhom jiġu sostitwiti bil-kliem "mis-servizzi elenkati fl-Iskeda;"

(l) it-tifsira "Regola tal-Pensjoni" għandha tiġi sostitwita b'dan li ġej:

" "Regoli tal-Pensjonijiet" tfisser regoli maħruġa mill-awtorità kompetenti, taħt diversi artikoli ta' dan l-Att u taħt kwalunkwe regolamenti magħmulin taħthom;"

(m) it-tifsira "rikonoxximent" għandha tiġi mħassra;

(n) fit-tifsira "servizz", il-kliem "provdut f'dak li għandu x'jaqsam ma' xi strument; u, jew kull attività amministrattiva sekondarja kif stabbilit bir-Regoli tal-Pensjonijiet;" għandhom jiġu sostitwiti bil-kliem "provdut fir-rigward ta' xi strument;"

(o) it-tifsira "skema tal-irtirar okkupazzjonali" għandha tiġi sostitwita b'dan li ġej:

" "skema tal-irtirar okkupazzjonali" tfisser skema tal-irtirar, irrISPETTIVAMENT mill-forma legali tagħha, li topera fuq bażi ffinanzjata, stabbilita separatament minn kull impriza *sponsor* jew negozju, bil-għan li tipprovdi benefiċċji tal-irtirar fil-kuntest ta' attività okkupazzjonali abbażi ta' ftehim jew kuntratt konkluz:

(a) individwalment jew kollettivament bejn il-prinċipal jew il-prinċipali u l-impjegati jew ir-rappreżentanti rispettivi tagħhom; jew

(b) ma' persuni li jaħdmu għal rashom, individwalment jew kollettivament,

u li twettaq attivitajiet li jirriżultaw direttament minnhom;" u

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

" "uffiċjal", dwar detentur ta' liċenzja, jinkludi direttur, *manager* jew segretarju ta' kumpanija jew kull persuna li tkun effettivament taġixxi f'dik il-kariga, sew jekk tkun ġiet maħtura formalment sew jekk ma tkunx."

**60.** Fl-intestatura tat-Taqsima II tal-Att prinċipali, il-kliem "Għoti ta' Liċenzja u Htiġiet ta' Rikonoxximent" għandhom jiġu sostitwiti bil-kliem "Għoti ta' Liċenzja".

Emenda tat-Taqsima II tal-Att prinċipali.

**61.** Il-paragrafu (b) tas-subartikolu (2) tal-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 3 tal-Att prinċipali.

(a) il-kliem "l-età ta' hamsin sena, jew mhux aktar tard minn dik speċifikata fir-Regoli tal-Pensjonijiet," għandhom jiġu sostitwiti bil-kliem "l-età ta' hamsin sena, jew aktar tard minn dik speċifikata fir-Regoli tal-Pensjonijiet,"; u

(b) il-proviso tiegħu għandu jiġi sostitwit b'dan li ġej:

"Izda skema jew arrangament deskritti fil-paragrafu (a) jistgħu, b'avviż bil-miktub lill-awtorità kompetenti, japplikaw biex jiġu kkunsidrati bħala skema għall-finijiet ta' dan l-Att, u tali skema għandha tħares id-dispożizzjonijiet tal-Artikoli 32 sa 35 tad-Direttiva dwar Pensjonijiet Okkupazzjonali."

Emenda tal-artikolu 4 tal-Att prinċipali.

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

(a) fis-subartikolu (1) tiegħu, il-kliem "kemm-il darba dik l-iskema tal-irtirar ma tkunx tinsab f'Malta u debitament ikollha liċenzja taħt dan l-Att." għandhom jiġu sostitwiti bil-kliem "kemm-il darba l-amministrazzjoni prinċipali ta' dik l-iskema tal-irtirar ma tkunx tinsab f'Malta u ma tkunx debitament liċenzjata taħt dan l-Att.";

(b) fis-subartikolu (3) tiegħu, minflok il-kliem "kemm-il darba dik l-iskema tal-irtirar ma tkunx tinsab f'Malta u debitament ikollha liċenzja taħt dan l-Att." għandhom jiġu sostitwiti bil-kliem "kemm-il darba l-amministrazzjoni prinċipali ta' dik l-iskema tal-irtirar ma tkunx tinsab f'Malta u ma tkunx debitament liċenzjata taħt dan l-Att."; u

(ċ) il-paragrafu (a) tas-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(a) li jkunu jinsabu f'Malta; jew".

Emenda tal-artikolu 5 tal-Att prinċipali.

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

(a) fis-subartikolu (1) tiegħu, il-kliem "skema tal-irtirar barranija, kemm-il darba dak il-fond għall-irtirar ma jkunx jinsab f'Malta u ma jkollux debitament liċenzja taħt dan l-Att." għandhom jiġu sostitwiti bil-kliem "skema tal-irtirar barranija, kemm-il darba l-amministrazzjoni prinċipali ta' dak il-fond tal-irtirar ma jkunx jinsab f'Malta u ma jkollux debitament liċenzja taħt dan l-Att."; u

(b) fit-test Inġliż, il-paragrafu (a) tas-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(a) located in Malta; or".

**64.** L-artikolu 7 tal-Att prinċipali għandu jiġi mhassar.

Thassir tal-artikolu 7 tal-Att prinċipali.

**65.** Fl-intestatura tat-Taqsima III tal-Att prinċipali, il-kliem "Applikazzjoni, Għoti, Thassir, Sospensjoni ta' Liċenzi u Rikonoxximenti" għandhom jiġu sostitwiti bil-kliem "Applikazzjoni, Għoti, Thassir, Sospensjoni ta' Liċenzji".

Emenda tat-Taqsima III tal-Att prinċipali.

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

Emenda tal-artikolu 8 tal-Att prinċipali.

(a) fin-nota marginali tiegħu, il-kliem "Applikazzjoni għal liċenza u, jew rikonoxximent." għandhom jiġu sostitwiti bil-kliem "Applikazzjoni għal liċenzja.";

(b) il-kliem "liċenza jew rikonoxximent, kif jista' jkun il-każ," għandhom jiġu sostitwiti bil-kelma "liċenzja";

(ċ) il-kliem "għandha ssir fl-għamla u bil-mod" għandhom jiġu sostitwiti bil-kliem "għandha ssir bil-miktub f'dik l-għamla u b'dak il-mod";

(d) fil-paragrafu (a) tiegħu, il-kliem "tista' teħtieġ jew kif jista' jkun preskritt;" għandhom jiġu sostitwiti bil-kliem "tista' teħtieġ permezz ta' Regoli tal-Pensjonijiet;"; u

(e) fil-paragrafu (b) tiegħu, il-kliem "mill-awtorità kompetenti, jew hekk kif jista' jiġi preskritt." għandhom jiġu sostitwiti bil-kliem "mill-awtorità kompetenti kif jista' jiġi stabbilit permezz ta' Regoli tal-Pensjonijiet.".

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

Emenda tal-artikolu 9 tal-Att prinċipali.

(a) fin-nota marginali tiegħu, il-kliem "li tiċhad jew tagħti liċenzja jew rikonoxximent." għandhom jiġu sostitwiti bil-kliem "li tiċhad jew tagħti liċenzja.";

(b) fis-subartikolu (1) tiegħu, il-kliem "tagħti, liċenza jew rikonoxximent, kif jista' jkun il-każ, li ssir applikazzjoni għalihom taħt" għandhom jiġu sostitwiti bil-kliem "tagħti liċenzja li ssir applikazzjoni għaliha taħt";

(ċ) fis-subartikolu (2) tiegħu:

(i) il-kliem "tagħti liċenza jew rikonoxximent, kif jista' jkun il-każ, li tkun saret applikazzjoni għalihom taħt" għandhom jiġu sostitwiti bil-kliem "tagħti liċenzja li tkun saret applikazzjoni għaliha taħt";

(ii) fil-paragrafu (a) tiegħu:

(aa) minnufih wara s-subparagrafu (i) tiegħu għandu jiżdied dan is-subparagrafu ġdid li ġej:

"(iA) l-attivitajiet tal-iskema tal-irtirar ikunu limitati għal attivitajiet ta' operazzjonijiet relatati ma' benefiċċju tal-irtirar u l-attivitajiet li johorgu minnhom;"

(bb) fis-subparagrafu (ii) tiegħu, il-kliem "l-iskema tal-irtirar u, jew l-Amministratur ta' Skema tal-Irtirar, kif jista' jkun il-każ, ikun ser jikkonforma ruħu u josserva d-dispożizzjonijiet" għandhom jiġu sostitwiti bil-kliem "din iġġib prova li se tkun f'pożizzjoni li tikkonforma mad-dispożizzjonijiet;"

(cc) fis-subparagrafu (iii) tiegħu, il-kliem "persuni adatti u idoneji" għandhom jiġu sostitwiti bil-kliem "adatti u idoneji";

(dd) fis-subparagrafu (vi) tiegħu, il-kliem "ma jqajjem xi thassib regolatorju;" għandhom jiġu sostitwiti bil-kliem "ma jkunx jagħti lok għal xi thassib regolatorju; u";

(iii) minnufih wara s-subparagrafu (vi) tal-paragrafu (a) għandu jiżdied dan il-paragrafu ġdid li ġej:

"(aA) b'zieda mal-htigijiet tal-paragrafu (a), fil-każ ta' skema tal-irtirar okkupazzjonali:

(i) l-Amministratur ta' Skema tal-Irtirar jagħti prova li ser ikun f'pożizzjoni li jikkonforma mas-sistema ta' governanza li hemm provdut dwarha fl-artikolu 13A;

(ii) l-Amministratur ta' Skema tal-Irtirar jagħti prova li, meta l-impriża *sponsor* tiggarrantixxi l-hlas tal-benefiċċji tal-irtirar, il-prinċipal ikun marbut li jagħmel finanzjament regolari;"

(d) fis-subartikolu (3) tiegħu, il-kliem "liċenza jew rikonoxximent maħruġin mill-awtorità kompetenti" għandhom jiġu sostitwiti bil-kliem "liċenza maħruġa mill-awtorità kompetenti";

(e) fis-subartikolu (4) tiegħu:

(i) il-kliem "Meta tkun qed tqis jekk għandhiex tagħti jew tiċhad milli tagħti liċenza u, jew rikonoxximent kif jista' jkun il-każ, l-awtorità kompetenti għandha," għandhom jiġu sostitwiti bil-kliem "Meta tkun qiegħda twettaq il-funzjonijiet tagħha taħt l-Att, l-awtorità kompetenti għandha,"; u

(ii) fil-paragrafu (ċ) tiegħu, il-kliem "jew fond għall-irtirar, il-persuni responsabbli għal dan," għandhom jiġu sostitwiti bil-kliem "jew fond għall-irtirar, l-Amministratur ta' Skema tal-Irtirar u, jew il-persuni responsabbli għall-istess,";

(f) is-subartikolu (6) tiegħu għandu jiġi mħassar;

(g) fis-subartikolu (7) tiegħu:

(i) il-kliem "ir-Regoli li l-awtorità kompetenti" għandhom jiġu sostitwiti bil-kliem "ir-Regoli tal-Pensjonijiet li l-awtorità kompetenti";

(ii) il-kliem "tassoġġetta liċenza u, jew rikonoxximent għalihom jistgħu jintgħamlu" għandhom jiġu sostitwiti bil-kliem "tissuġġetta liċenzja għalihom, jistgħu"; u

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

"(a) kull liċenzja li tingħata,";

(h) fis-subartikolu (8) tiegħu, il-kliem "ser tagħti liċenza jew rikonoxximent jew le; u fil-każ ta' rifjut l-awtorità għandha tgħarraf lill-applikant bir-raġunijiet" għandhom jiġu sostitwiti bil-kliem "ser tagħti liċenzja; u fil-każ ta' rifjut l-awtorità għandha tgħarraf lill-applikant bil-miktub bir-raġunijiet";

(i) fil-paragrafu (b) tas-subartikolu (10) tiegħu, il-kliem "permezz ta' Regoli tal-Pensjonijiet magħmula" għandhom jiġu sostitwiti bil-kliem "permezz ta' Regoli tal-Pensjonijiet maħruġin"; u

(j) fis-subartikolu (11) tiegħu, il-kliem "reġistru tad-detenturi ta' liċenza u, jew rikonoxximenti kollha. Ir-reġistru, li għandu jkun disponibbli għall-pubbliku, għandu jkun ukoll jindika s-servizzi u, jew l-attivitajiet li dwarhom inħarġet kull

liċenza u, jew rikonoxximent." għandhom jiġu sostitwiti bil-kliem "reġistru tad-detenturi kollha ta' liċenzja. Ir-reġistru, li għandu jkun disponibbli għall-pubbliku, għandu wkoll jindika s-servizzi u, jew l-attivitajiet li fir-rigward tagħhom tkun inħarġet kull liċenzja."

Emenda tal-artikolu 10 tal-Att prinċipali.

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

(a) fin-nota marginali tiegħu, il-kliem "li tħassar jew tissospendi liċenza jew rikonoxximent." għandhom jiġu sostitwiti bil-kliem "li tħassar jew tissospendi liċenzja";

(b) fis-subartikolu (1) tiegħu, il-kliem "tissospendi liċenza u, jew rikonoxximent kif hemm" għandhom jiġu sostitwiti bil-kliem "tissospendi liċenzja kif hemm";

(ċ) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (ċ) tiegħu, il-kliem "falza, mhux eżatta jew qarrieqa, jew jekk l-Amministratur ta' Skema tal-Irtirar" għandhom jiġu sostitwiti bil-kliem "falza, mhix eżatta jew qarrieqa f'xi dettall materjali, jew jekk l-Amministratur ta' Skema tal-Irtirar"; u

(ii) fil-paragrafu (d) tiegħu, il-kliem "li dwarhom ikollhom liċenza biex iwettquhom fiż-żmien provdut b'dik il-liċenza jew ikunu waqfu" għandhom jiġu sostitwiti bil-kliem "li dwarhom ikollhom liċenzja biex iwettquhom fiż-żmien mogħti f'dik il-liċenzja, jew jekk ma jissemma l-ebda żmien, fi żmien tnax-il xahar mill-ħruġ tagħha, jew ikunu waqfu";

(d) fil-paragrafu (d) tas-subartikolu (3) tiegħu, il-kliem "ma jkunux bdew l-attivitajiet li jkollhom liċenza biex iwettqu fiż-żmien provdut fil-liċenza jew ikunu temmew" għandhom jiġu sostitwiti bil-kliem "ma jkunux bdew jipprovdu l-attivitajiet fiż-żmien mogħti f'dik il-liċenzja, jew jekk ma jissemma l-ebda żmien, fi żmien tnax-il xahar mill-ħruġ tagħha, jew ikunu temmew"; u

(e) fis-subartikolu (4) tiegħu:

(i) il-kliem "tħassar jew tissospendi liċenza u, jew rikonoxximent kif jista' jkun il-każ:" għandhom jiġu sostitwiti bil-kliem "tħassar jew tissospendi liċenzja:";

(ii) fil-paragrafu (a) tiegħu, il-kliem "li dwaru jkollu liċenza u, jew li jkun rikonoxxut biex jipprovdi;

jew" għandhom jiġu sostitwiti bil-kliem "li jkollu liċenzja biex jipprovdi; jew";

(iii) fil-paragrafu (d) tiegħu:

(aa) il-kliem "li dwaru jkollu liċenza u, jew li jkun rikonoxxut biex jipprovdi fiż-żmien kif provdut fil-liċenza u, jew rikonoxximent" għandhom jiġu sostitwiti bil-kliem "li dwaru jkollu liċenzja biex jipprovdi fiż-żmien mogħti f'dik il-liċenzja";

(bb) il-kliem "jew ikun waqaf milli jipprovdi dak is-servizz; jew" għandhom jiġu sostitwiti bil-kliem "jew jekk ma jissemma l-ebda żmien, fi żmien tnax-il xahar mill-ħruġ tagħha, jew ikun waqaf milli jipprovdi dak is-servizz; jew";

(iv) fil-paragrafu (e) tiegħu, il-kliem "tissospendi il-liċenza u, jew rikonoxximent għall-protezzjoni tal-benefiċjarji," għandhom jiġu sostitwiti bil-kliem "tissospendi l-liċenzja għall-protezzjoni tal-benefiċjarji,"; u

(v) fil-paragrafu (g) tiegħu, il-kliem "ma kenitx tithalla toħroġ il-liċenza u, jew rikonoxximent kif jista' jkun il-każ, jew meta" għandhom jiġu sostitwiti bil-kliem "ma kinitx tithalla toħroġ il-liċenzja, jew meta".

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

Emenda tal-artikolu 11 tal-Att prinċipali.

(a) fin-nota marginali tiegħu, il-kliem "sospensjoni ta' liċenza u, jew rikonoxximent proposti." għandhom jiġu sostitwiti bil-kliem "sospensjoni ta' liċenzja proposta.";

(b) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (a) tiegħu, il-kliem "li xi liċenza u, jew rikonoxximent ikunu assoġġettati għalihom jew li timponi xi kundizzjoni fuqhom;" għandhom jiġu sostitwiti bil-kliem "li xi liċenzja tkun assoġġettata għaliha jew li timponi xi kundizzjoni fuqha;";

(ii) il-paragrafu (b) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(b) li tiċhad applikazzjoni għal liċenzja jew li tħassar jew tissospendi liċenzja,"; u

(iii) fil-paragrafu li jigi minnufih wara l-paragrafu (b) tiegħu:

(aa) il-kliem "lid-detentur ta' liċenza u, jew lil persuna rikonoxxuta, jew fil-każ ta' skema tal-irtirar" għandhom jiġu sostitwiti bil-kliem "lid-detentur ta' liċenzja, jew fil-każ ta' skema tal-irtirar"; u

(bb) il-kliem "għandu jispjega r-raġunijiet għall-azzjoni li tkun qed tipproponi." għandhom jiġu sostitwiti bil-kliem "għandu jispjega fid-dettall ir-raġunijiet għall-azzjoni li tkun qed tipproponi.";

(c) fis-subartikolu (3) tiegħu, il-kliem "L-awtorità kompetenti għandha hekk kif ikun prattikabbli tavża d-deċiżjoni finali tagħha" għandhom jiġu sostitwiti bil-kliem "L-awtorità kompetenti għandha tavża bid-deċiżjoni finali tagħha"; u

(d) is-subartikolu (4) tiegħu għandu jigi sostitwit b'dan li ġej:

"(4) L-awtorità kompetenti għandha tavża lil EIOPA bi kwalunkwe restrizzjoni, sospensjoni jew tħassir ta' liċenzja ta' skema tal-irtirar okkupazzjonali skont l-artikolu 10.".

Emenda tal-artikolu 13 tal-Att prinċipali.

**70.** Fis-subartikolu (1) tal-artikolu 13 tal-Att prinċipali, il-kliem "fl-aħjar interess tal-iskema tal-irtirar, u ma jistax juża l-attiv" għandhom jiġu sostitwiti bil-kliem "fl-aħjar interess tal-iskema tal-irtirar, tal-membri u l-benefiċjarji tagħha, u ma jistax juża l-attiv".

Zieda tal-artikolu 13A fl-Att prinċipali.

**71.** Minnufih wara l-artikolu 13 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Sistema ta' governanza għal skemi tal-irtirar okkupazzjonali.

13A. (1) L-Amministratur ta' Skema tal-Irtirar għandu jkollu stabbilit sistema ta' governanza effettiva li tkun tipprovdi għal ġestjoni soda u prudenti tal-attivitajiet tagħha, f'dak li għandu x'jaqsam mat-tħaddim u l-amministrazzjoni globali ta' skema tal-irtirar okkupazzjonali. Il-htigijiet tas-sistema ta' governanza għandhom jitnizzlu fir-Regoli tal-Pensjonijiet.

(2) L-Amministratur ta' Skema tal-Irtirar għandu:

(a) jiżgura li persuni li jkunu qegħdin imexxu xi funzjoni ewlenija, u fejn ikun japplika, persuni jew korpi li lilhom tkun giet esternalizzata xi funzjoni ewlenija, ikunu adatti u idoneji, skont il-kriterji stipulati fir-Regoli tal-Pensjonijiet;

(b) ikollu stabbilit il-funzjonijiet ewlenin li ġejjin:

(i) sistema effettiva ta' maniġġjar tar-riskji, inkluża funzjoni ta' maniġġjar tar-riskji;

(ii) funzjoni effettiva ta' verifika interna ta' awditjar; u

(iii) meta jkun japplika, funzjoni attwarja effettiva;

(ċ) bħala parti mis-sistema ta' maniġġjar tar-riskji, imexxi l-valutazzjoni tar-riskju tiegħu u l-valutazzjoni tar-riskju tal-iskema tal-irtirar okkupazzjonali;

(d) ikollu stabbilit sistema effettiva ta' kontroll intern;

(e) jekk dan ikun jesternalizza xi funzjonijiet jew attivitajiet tagħha, għandu jibqa' għalkollox responsabbli biex iwettaq l-obbligi kollha tiegħu taħt dan l-Att u r-regolamenti u r-Regoli tal-Pensjonijiet maħruġa taħthom.

(3) Is-sistemi u l-funzjonijiet msemmija fis-subartikolu (2) għandhom jiġu stabbiliti permezz ta' Regoli tal-Pensjonijiet.

(4) Is-sistema ta' governanza għandha tkun proporzjonata max-xorta, mad-daqs u l-kumplessità tal-operat tal-iskema tal-irtirar okkupazzjonali."

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

Emenda tal-artikolu 16 tal-Att prinċipali.

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

"16. (1) Kull skema tal-irtirar jew fond għall-irtirar għandhom jaħtru awditur biex iwettaq dawk id-dmirijiet li jistgħu jiġu speċifikati fir-Regoli tal-Pensjonijiet.

(1A) Kull skema tal-irtirar li tkun tkopri riskji bijometriċi jew tigarantixxi prestazzjoni ta' investiment jew grad stabbilit ta' benefiċċji, għandha wkoll taħtar attwarju biex iwettaq id-dmirijiet, kif jista' jiġi speċifikat fir-regolamenti u fir-Regoli tal-Pensjonijiet."; u

(b) fis-subartikolu (2) tiegħu:

(i) il-kliem "detentur ta' liċenza jew persuna

rikonoxxuta, kif jista' jkun il-każ, għandu jkollu l-jedd" għandhom jiġu sostitwiti bil-kliem "detentur ta' liċenzja għandu jkollu l-jedd"; u

(ii) il-kliem "detentur ta' liċenza jew persuna rikonoxxuta, jew minn persuna li tkun giet appuntata minnhom kif jista' jkun il-każ." għandhom jiġu sostitwiti bil-kliem "detentur ta' liċenzja."

Emenda tal-intestatura tat-Taqsima V tal-Att prinċipali.

**73.** Fl-intestatura tat-Taqsima V tal-Att prinċipali, il-kliem "Ħtiġiet oħra u Dispożizzjonijiet Ġenerali" għandhom jiġu sostitwiti bil-kliem "Ħtiġijiet Oħra".

Emenda tal-artikolu 18 tal-Att prinċipali.

**74.** Il-paragrafu (a) tal-artikolu 18 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(a) ir-rati tal-kontribuzzjonijiet li għandhom jiġihallu fl-iskema tal-irtirar, kif jista' jiġi preskritt;"

Sostituzzjoni tal-artikolu 20 tal-Att prinċipali.

**75.** L-artikolu 20 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"20. Kull skema tal-irtirar u Amministratur ta' Skema tal-Irtirar għandhom jgħaddu lill-awtorità kompetenti kopja tar-rendikont finanzjarju verifikat tagħhom fil-perjodi stipulati fir-Regoli tal-Pensjonijiet u għandhom iħarsu kull htieġa ta' rappurtar, kif jista' jinhtieġ mir-Regoli tal-Pensjonijiet."

Sostituzzjoni tal-intestatura "Skemi tal-Irtirar mix-Xogħol ta' Benefiċċju Definit" fl-Att prinċipali.

**76.** Minnufih qabel l-artikolu 26 tal-Att prinċipali, l-intestatura "Skemi tal-Irtirar mix-Xogħol ta' Benefiċċju Definit" għandha tiġi sostitwita bl-intestatura "Ħtiġijiet Kwantitattivi".

Sostituzzjoni tal-artikolu 26 tal-Att prinċipali.

**77.** L-artikolu 26 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Provvedimenti tekniċi.

**26.** (1) Kull skema tal-irtirar għandha:

(a) tistabbilixxi f'kull waqt ammont adegwat ta' obligazzjonijiet li jikkorrispondu mal-irbit finanzjarju li jitnissel mill-portafoll ta' kuntratti tal-pensjoni eżistenti li jkollha; u

(b) meta tkun tkopri riskji bijometriċi jew tiggarrantixxi jew prestazzjoni ta' investiment jew grad stabbilit ta' benefiċċji, tistabbilixxi provvedimenti tekniċi suffiċjenti.

(2) Il-mod kif ikunu japplikaw provvedimenti tekniċi għall-iskemi tal-irtirar li jkollhom liċenzja taht l-Att jista' jiġi stabbilit b'regolamenti preskritti għal dan l-għan."

**78.** Fl-artikolu 28 tal-Att prinċipali, il-kliem "kif jista' jkun il-każ, għandhom juru dawk il-kontijiet annwali," għandhom jiġu sostitwiti bil-kliem "kif jista' jkun il-każ, u għandhom iħarsu kull hteġa ta' rappurtar bħalma huma l-kontijiet annwali,".

Emenda tal-artikolu 28 tal-Att prinċipali.

**79.** Fl-artikolu 30 tal-Att prinċipali, il-kliem "Kull detentur ta' liċenza u persuna rikonoxxuta taht dan l-Att" għandhom jiġu sostitwiti bil-kliem "Kull detentur ta' liċenzja taht dan l-Att".

Emenda tal-artikolu 30 tal-Att prinċipali.

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

Emenda tal-artikolu 31 tal-Att prinċipali.

(a) il-kliem "Detentur ta' liċenza, jew persuna rikonoxxuta, jew persuna li tkun responsabbli" għandhom jiġu sostitwiti bil-kliem "Detentur ta' liċenzja jew persuna li tkun responsabbli"; u

(b) il-kliem "fl-informazzjoni provduti taht dan l-Att malli dik il-persuna jew delegat tagħha" għandhom jiġu sostitwiti bil-kliem "fl-informazzjoni provduta taht dan l-Att, u kull regolament jew Regoli tal-Pensjonijiet magħmulin tahtom, malli dik il-persuna jew delegat tagħha".

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

Emenda tal-artikolu 32 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "Ebda persuna m'għandha takkwista," għandhom jiġu sostitwiti bil-kliem "Minkejja kull haġa oħra li jista' jkun hemm fi kwalunkwe liġi oħra, l-ebda persuna m'għandha takkwista,";

(b) fis-subartikolu (4) tiegħu, il-kliem "msemmi fis-subartikolu (1)(b) għandu jagħti r-raġunijiet" għandhom jiġu sostitwiti bil-kliem "msemmi fis-subartikolu (1)(c) għandu jagħti r-raġunijiet";

(c) is-subartikolu (10) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(10) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikoli 46 u 48, meta tiġi akkwistata parteċipazzjoni azzjonarja fi provdutor ta' servizz, minkejja l-oġġezzjoni tal-awtorità kompetenti, l-awtorità kompetenti għandu jkollha s-setgħa li toħroġ ordni:

(a) li żzomm lil dik il-persuna jew lil

provditur ta' servizz milli jieħu, jew ikompli għaddej b'tali azzjoni;

(b) li tiddikjara tali azzjoni nulla u mingħajr ebda effett;

(ċ) li teħtieġ lil dik il-persuna jew provditur ta' servizz li jieħu dawk il-passi li jistgħu jkunu meħtieġa, biex il-pożizzjoni titregġa' lura għal dak li kienet minnufih qabel ma ttieħdet l-azzjoni;

(d) li żżomm lil dik il-persuna jew provditur ta' servizz milli jeżerċita drittijiet li tali azzjoni kienet tagħtihom, kieku kienet waħda legittima, inkluż id-dritt li jirċievu xi hlas jew li jeżerċitaw xi jeddijiet ta' votazzjoni marbutin mal-azzjonijiet akkwistati;

(e) li iżżomm lil dik il-persuna jew il-provditur ta' servizz milli jieħu xi azzjoni simili jew kwalunkwe azzjoni oħra fil-kategoriji msemmija fis-subartikoli (1) u (6)."; u

(d) minnufih wara s-subartikolu (11) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

"(12) Il-ħtiġijiet stipulati f'dan l-artikolu għandhom japplikaw għal skema tal-irtirar stabbilita bħala kumpannija ta' investiment b'kapital azzjonarju varjabbli ("SICAV") taħt l-Att dwar il-Kumpanniji."

Kap. 386.

Emenda tal-artikolu 33 tal-Att prinċipali.

**82.** Fl-artikolu 33 tal-Att prinċipali, il-kliem "minn żmien għal żmien mill-Kummissarju tat-Taxxi Interni" għandhom jiġu sostitwiti bil-kliem "minn żmien għal żmien mill-Kummissarju tat-Taxxi".

Emenda tal-artikolu 34 tal-Att prinċipali.

**83.** Fl-artikolu 34 tal-Att prinċipali, il-kliem "L-awtorità kompetenti tista', b'Regola tal-Pensjonijiet magħmula" għandhom jiġu sostitwiti bil-kliem "L-awtorità kompetenti tista', b'Regoli tal-Pensjonijiet magħmula".

Emenda tal-artikolu 35 tal-Att prinċipali.

**84.** L-artikolu 35 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem "detentur ta' liċenza jew persuna rikonoxxuta, hekk kif japplika, ikollu d-dmir" għandhom jiġu sostitwiti bil-kliem "detentur ta' liċenzja jkollu d-dmir";

(ii) il-kliem "kull fatt jew deċiżjoni li jsir jaf bihom" għandhom jiġu sostitwiti bil-kliem "kull fatt jew deċiżjoni li jirrigwardaw lil dak id-detentur ta' liċenzja li jsir jaf bihom";

(iii) il-kliem "dak id-detentur ta' liċenza jew persuna rikonoxxuta" għandhom jiġu sostitwiti bil-kliem "dak id-detentur ta' liċenzja";

(iv) il-kelma "li -" għandha tiġi sostitwita bil-kliem "li hi relatata ma' kwalunkwe kwistjoni li tista' tiġi preskritta jew li x'aktarx tikkawża jew li kkawżat dan li ġej:"

(v) il-paragrafi (a), (b) u (ċ) tiegħu għandhom jiġu sostitwiti b'dan li ġej:

"(a) kwalifika gravi, jew ċaħda tar-rapport tal-awditur jew tal-attwarju fuq il-kontijiet ta' detentur ta' liċenzja bħal dak;

(b) ksur materjali tad-dispożizzjonijiet ta' dan l-Att u r-regolamenti jew xi Regoli tal-Pensjonijiet li jstipulaw il-htigijiet legali jew regulatorji applikabbli għad-detentur ta' liċenzja f'dan l-Att jew tahtu; jew

(ċ) tfixkil serju fil-kapaċità tad-detentur ta' liċenzja li jħares l-obbligazzjonijiet kurrenti jew futuri attribwibbli lilu; jew";

(b) fis-subartikolu (2) tiegħu:

(i) il-kliem "detentur ta' liċenza jew persuna rikonoxxuta, hekk kif japplika, għandhom jirrappurtaw" għandhom jiġu sostitwiti bil-kliem "detentur ta' liċenzja għandu jirrapporta";

(ii) il-kliem "kull fatt jew deċiżjoni kif speċifikati fis-subartikolu (1)" għandhom jiġu sostitwiti bil-kliem "kull fatt jew deċiżjoni li jsir jaf bihom fit-twettiq ta' dmirijietu, li jkollhom x'jaqsmu jew li jkollhom effett kuntrarju serju, fuq il-membri jew benefiċjarji, kif imsemmi fis-subartikolu (1),"; u

(iii) il-kliem "tad-detentur ta' liċenza jew persuna rikonoxxuta jew tal-persuna li jkollha dawk ir-rabtiet mill-qrib." għandhom jiġu sostitwiti bil-kliem "tad-detentur ta'

liċenzja jew tal-persuna li jkollha dawk ir-rabtiet mill-qrib.";

(ċ) fis-subartikolu (3) tiegħu, il-kliem "mis-servizzi elenkati fl-Iskeda u, jew attivitajiet amministrattivi ta' *back-office* kif stabbiliti bir-Regoli tal-Pensjonijiet." għandhom jiġu sostitwiti bil-kliem "mis-servizzi elenkati fl-Iskeda.";

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

"(3A) Mingħajr preġudizzju għal xi dispożizzjoni li tinsab f'dan l-Att, l-awtorità kompetenti tista' titlob lill-awditur jew lill-attwarju, kif jista' jkun il-każ, biex jipprovdiha dik l-informazzjoni u d-dokumentazzjoni li jkollha x'taqsam ma' xi fatt jew deċiżjoni kif imsemmi fis-subartikoli (1) jew (2) li jkun relatat mad-detentur ta' liċenzja."; u

(e) fis-subartikolu (4) tiegħu, il-kliem "detentur ta' liċenza jew lil persuna rikonoxxuta, hekk kif ikun japplika, jibdel lill-awditur" għandhom jiġu sostitwiti bil-kliem "detentur ta' liċenzja jibdel lill-awditur".

Emenda tal-artikolu 37 tal-Att prinċipali.

**85.** L-artikolu 37 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (b) tiegħu, minflok il-kliem "jipprovdi dwar iż-żamma fis-sikur u l-kustodja tal-proprjetà ta' skemi tal-irtirar;" għandhom jidhru l-kliem "jipprovdi dwar iż-żamma fis-sikur u dmirijiet ta' sorveljanza, u l-kustodja tal-proprjetà ta' skemi tal-irtirar;"

(ii) fil-paragrafu (f) tiegħu, il-kliem "detenturi oħra ta' liċenza jew persuni rikonoxxuti, jew reklam minn" għandhom jiġu sostitwiti bil-kliem "detenturi ta' liċenzja oħra jew reklam minn";

(iii) minnufih wara l-paragrafu (h) tiegħu, għandu jiġi miżjud dan il-paragrafu ġdid li ġej:

"(ha) tirregola r-restrizzjoni jew projbizzjoni tat-tneħħija libera tal-attiv ta' skema tal-irtirar li jinkwadra f'dik id-deskrizzjoni hekk kif jista' jiġi ordnat, partikolarment meta:

(i) dik l-iskema tal-irtirar tkun naqset milli tistabbilixxi dispożizzjonijiet tekniċi suffiċjenti dwar il-kummerċ kollu jew ikollha attiv insuffiċjenti biex dan ikopri d-dispożizzjonijiet tekniċi;

(ii) dik l-iskema tal-irtirar tkun naqset milli żżomm xi fondi regolatorji tagħha nnifisha hekk kif jista' jkun japplika.";

(iv) fil-paragrafu (i) tiegħu, il-kliem "l-mod li bih skema tal-irtirar li tħallas benefiċċju fiss tkun tittratta ma' fondi eċċessivi" għandhom jiġu sostitwiti bil-kliem "l-mod li bih skema tal-irtirar li tkun tkopri riskji bijometriċi jew li tiggarantixxi jew xi prestazzjoni ta' investment jew grad stabbilit ta' benefiċċji, tittratta fondi eċċessivi";

(v) fil-paragrafu (k) tiegħu, il-kliem "kif jista' jkun il-każ, ta' drittijiet għal liċenza jew rikonoxximent jew kull dritt ieħor" għandhom jiġu sostitwiti bil-kliem "kif jista' jkun il-każ, ta' drittijiet għal liċenzja jew drittijiet oħra";

(vi) fil-paragrafu (l) tiegħu, il-kliem "kif ukoll kull miżura legiżlattiva oħra tal-Unjoni Ewropea li tkun teħtieġ li tiġi trasportata u, jew implimentata kif din tista' tiġi emendata minn żmien għal żmien, u inkluża kull miżura li timplimenta maħruġa taħtha hekk kif dan jista' jkun japplika għal skemi tal-irtirar;" għandhom jiġu sostitwiti bil-kliem "kif ukoll kull miżura li timplimenta, *standards* tekniċi li jimplementaw, *standards* tekniċi regolatorji u miżuri simili maħruġa taħtha, kif jista' jkun applikabbli għal skemi tal-irtirar li jkunu nħarġu jew jistgħu jinħarġu taħthom;"

(vii) il-paragrafu (n) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(n) jittrasponi, jimplementa u, jew jagħti effett lid-dispożizzjonijiet u l-htigijiet ta' Direttivi, regolamenti u kwalunkwe miżura legiżlattiva oħra tal-Unjoni Ewropea li tkun teħtieġ li tiġi trasportata u, jew implimentata, kif jistgħu jiġu emendati minn żmien għal żmien, inklużi l-miżuri kollha li jimplementaw, jinħarġu jew li jistgħu jinħarġu taħthom, u li jkollhom x'jaqsmu mad-detenturi ta' liċenzja u oħrajn, kif jista' jiġi speċifikat fihom; kwalunkwe tali regolamenti li jkollhom x'jaqsmu

strettament mat-traspożizzjoni jew l-implimentazzjoni kif imsemmi preċedentement, jista' jkun fihom dispożizzjonijiet li jkunu inkonsistenti mad-dispożizzjonijiet ta' dan l-Att jew ma' kull liġi oħra, u għal dan l-għan jista' jiġi provdut li l-ebda dispożizzjoni f'dan l-Att jew f'xi liġi oħra m'għandha tkun tapplika għal materji li jkunu jaqgħu taħt ir-regolamenti, u f'każ ta' tali inkonsistenza, għandhom jipprevalu dawk id-dispożizzjonijiet f'tali regolamenti;"

(viii) il-paragrafu (o) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(o) jipprovdi dwar l-applikazzjoni ta' dispożizzjonijiet speċifiċi tad-Direttiva dwar Pensjonijiet Okkupazzjonali għall-kummerċ ta' provvista ta' pensjonijiet okkupazzjonali ġestiti minn imprizi tal-assigurazzjoni awtorizzati taħt l-Att dwar il-Kummerċ tal-Assigurazzjoni li jkunu qegħdin imexxu kummerċ fit-tul;" u

Kap. 403.

(b) is-subartikolu (2) tiegħu għandu jiġi mħassar.

Emenda tal-artikolu 38 tal-Att prinċipali.

**86.** Is-subartikolu (2) tal-artikolu 38 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-kliem "li jkunu jimpjenjaw lil detenturi ta' liċenzja u, jew persuni rikonoxxuti taħt dan l-Att", għandhom jiġu sostitwiti bil-kliem "li jkunu jorbtu lil detenturi ta' liċenzja taħt dan l-Att";

(b) il-kliem "jkollhom x'jaqsmu ma' xi klassi partikolari ta' skema tal-irtirar u, jew fond għall-irtirar" għandhom jiġu sostitwiti bil-kliem "lil xi kategorija partikolari ta' skema tal-irtirar u, jew fond għall-irtirar";

(ċ) il-kliem "attivitajiet ta' dak id-detentur ta' liċenzja jew persuna rikonoxxuta, it-tmexxija" għandhom jiġu sostitwiti bil-kliem "attivitajiet ta' dak id-detentur ta' liċenzja, it-tmexxija";

(d) fil-paragrafu (b) tiegħu, il-kliem "manigġar tal-iskema tal-irtirar u, jew fond;" għandhom jiġu sostitwiti bil-kliem "manigġjar tal-fond għall-irtirar;"

(e) fil-paragrafu (ċ) tiegħu, il-kliem "manigġar tal-iskema tal-irtirar u, jew fond għall-irtirar" għandhom jiġu

sostitwiti bil-kliem "manigġjar tal-fond għall-irtirar";

(f) fis-subparagrafu (ii) tal-paragrafu (e) tiegħu, minflok il-kliem "dik l-iskema tal-irtirar tkun naqset milli żżomm xi fondi regolatorji tagħha nnifisha hekk kif jista' jkun japplika, kif hemm fil-proċedura stabbilita taħt l-artikolu 17B tal-Att dwar Awtorità għas-Servizzi Finanzjarji ta' Malta, rigward l-iffriżar ta' attiv;" għandhom jidhlu l-kliem "dik l-iskema tal-irtirar tkun naqset milli żżomm xi fondi regolatorji tagħha nnifisha hekk kif jista' jkun japplika;"

(g) il-paragrafu (g) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(g) li jiġu provduti htigijiet speċifiċi għal skemi tal-irtirar personali;"

(h) fil-paragrafu (h) tiegħu, il-kliem "għall-għoti ta' liċenza jew rikonoxximent jew għal finijiet oħra" għandhom jiġu sostitwiti bil-kliem "għall-għoti ta' liċenzja jew għal finijiet oħra";

(i) il-paragrafu (i) tiegħu għandu jiġi mħassar;

(j) fil-paragrafu (j) tiegħu, il-kliem "li japplikaw għal detenturi ta' liċenza u, jew persuni rikonoxxuti kif jista' jkun il-każ;" għandhom jiġu sostitwiti bil-kliem "li japplikaw għal detenturi ta' liċenzja;"

(k) il-paragrafu (o) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(o) li jiġu stabbiliti l-kundizzjonijiet u l-htigijiet li jirrigwardaw il-ħlas lil xi membru, f'każ li dak il-membri ma jibqax impjegat mill-prinċipal;"

(l) fil-paragrafu (p) tiegħu:

(i) il-kliem "detenturi ta' liċenza u, jew persuni rikonoxxuti jew il-provdiment li l-persuni" għandhom jiġu sostitwiti bil-kliem "detenturi ta' liċenzja jew li jkunu jipprovdu li l-persuni"; u

(ii) il-kliem "detenturi ta' liċenza u, jew persuni rikonoxxuti hekk kif japplika u d-dmir ta' detentur ta' liċenza jew persuna rikonoxxuta li tagħmel dokumenti disponibbli lill-awdituri ta' dak id-detentur ta' liċenza jew persuna rikonoxxuta hekk kif japplika;" għandhom jiġu

sostitwiti bil-kliem "detenturi ta' liċenzja u d-dmir ta' detentur ta' liċenzja li jagħmel dokumenti disponibbli lill-awdituri ta' dak id-detentur ta' liċenzja;"

(m) fil-paragrafu (t) tiegħu, il-kliem "skemi tal-irtirar." għandhom jiġu sostitwiti bil-kliem "skemi tal-irtirar;" u

(n) minnufih wara paragrafu (t) tiegħu, kif emendat, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(u) li jinħarġu Regoli tal-Pensjonijiet dwar skemi tal-irtirar okkupazzjonali fejn jiġu trasferiti kull jew parti mill-obbligazzjonijiet, dispożizzjonijiet tekniċi u obbligi u drittijiet oħra, kif ukoll attiv korrispondenti jew ekwivalenti ta' flus lil xi skema tal-irtirar oħra;

(v) li jinħarġu Regoli tal-Pensjonijiet li jippermettu lil membru, benefiċjarju, kontributor u lil ġeneralment kull min ikun daħal, jew ġie offrut li jidhol fi skema tal-irtirar, li jirrevoka l-ftehim jew jirtira l-offerta f'dak iż-żmien u b'dak il-mod kif stipulat fir-Regoli msemmija."

Emenda tal-  
artikolu 39 tal-  
Att prinċipali.

**87.** L-artikolu 39 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem "L-awtorità kompetenti tista'," għandhom jiġu sostitwiti bil-kliem "Mingħajr preġudizzju għal kwalunkwe haġa oħra li tista' tinsab f'xi dispożizzjoni oħra ta' dan l-Att, li teħtieġ lil Amministratur ta' skema tal-irtirar, skema tal-irtirar u fond għall-irtirar li jissupplixxu lill-awtorità kompetenti kull informazzjoni jew dokumentazzjoni, l-awtorità kompetenti tista',";

(ii) fis-subparagrafu (i) tiegħu, il-kliem "li din tista' tenħtieġ, dwar xi servizz," għandhom jiġu sostitwiti bil-kliem "li din tista' teħtieġ, inklużi *records* eżistenti tat-telefon u tat-traffiku ta' *data* dwar xi servizz,"; u

(iii) fis-subparagrafu (ii) tiegħu, il-kliem "verifikata b'dak il-mod li tista' tispeċifika; jew" għandhom jiġu sostitwiti bil-kliem "verifikata b'dak il-mod u b'dik il-lingwa li tista' tispeċifika; jew";

(b) fis-subartikolu (2) tiegħu, il-kliem "taħt dan l-artikolu." għandhom jiġu sostitwiti bil-kliem "taħt dan l-artikolu jew estratti minnhom.";

(ċ) fis-subartikolu (8) tiegħu, il-kliem "detentur ta' liċenza jew rikonoxximent jista' jkun meħtieġ jippreżenta" għandhom jiġu sostitwiti bil-kliem "detentur ta' liċenzja jista' jkun meħtieġ jippreżenta"; u

(d) minnufih wara s-subartikolu (8) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

"(9) Is-setgħa li tinkiseb informazzjoni li tkun disponibbli għall-awtorità skont dan l-artikolu dwar il-persuni elenkati fis-subartikolu (1), għandhom ikunu wkoll disponibbli għall-provdituri ta' servizzi ta' funzjonijiet ewlenin esternalizzati jew ta' attivitajiet oħra f'kull waqt."

**88.** Fis-subartikolu (1) tal-artikolu 40 tal-Att prinċipali, il-kliem "msemija fl-artikolu 39(1)(a) sa (ċ)." għandhom jiġu sostitwiti bil-kliem "msemija fl-artikolu 39(1)(a) sa (ċ) u biex jirrappurtawha dwarhom."

Emenda tal-artikolu 40 tal-Att prinċipali.

**89.** L-artikolu 41 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 41 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "jew f'xi direttiva ulterjuri." għandhom jiġu sostitwiti bil-kliem "jew f'xi direttiva ulterjuri:" u minnufih wara għandhom jiżdiedu dawn il-provisos godda li ġejjin:

"Izda l-awtorità kompetenti tista' tagħti tali direttiva anke meta d-detentur ta' liċenzja, għal kwalunkwe raġuni, ma jibqax iżomm liċenzja maħruġa skont dan l-Att:

Izda wkoll kull direttiva mogħtija (kif hawn f') skont dan l-artikolu għandha, kemm-il darba l-awtorità kompetenti ma tordnax xort'oħra, tibqa' tapplika wkoll meta d-detentur ta' liċenzja, għal kwalunkwe raġuni, ma jibqax iżomm liċenzja maħruġa skont dan l-Att.";

(b) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) tiegħu, il-kliem "jew xi hteġa oħra, u tagħti setgħat," għandhom jiġu sostitwiti bil-kliem "jew xi hteġa oħra, inkluż kull hteġa li toħroġ mil-liġijiet tal-Unjoni Ewropea, u li tagħti setgħat,";

(ii) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) teħtieġ li kull uffiċjal jew kull min ikollu xi funzjoni li jkollha x'taqsam mad-detentur ta'

licenzja jiġi projibit, temporanjament jew xort'oħra, sospiż milli jwettaq attivitajiet li tingħatalhom licenzja taħt l-Att, jew li jitneħħa, jew li jitneħħa u jiġi sostitwit minn persuna oħra li tkun aċċettata mill-awtorità kompetenti;"; u

(iii) fil-paragrafu (d) tiegħu, il-kliem "maniġġar tal-iskema tal-irtirar jew fond;" għandhom jiġu sostitwiti bil-kliem "maniġġjar tal-fond għall-irtirar;".

Żieda tal-artikoli 41A u 41B fl-Att prinċipali.

**90.** Minnufih wara l-artikolu 41 tal-Att prinċipali, kif emendat, għandhom jiżdiedu dawn l-artikoli ġodda li ġejjin:

"Proċess ta' rieżami superviżorju ta' skemi tal-irtirar okkupazzjonali.

41A. (1) L-awtorità kompetenti għandha teżamina mill-ġdid l-istrateġiji, il-proċessi u l-proċeduri ta' rappurta li jkunu stabbiliti minn Amministratur ta' Skema tal-Irtirar, jew skema tal-irtirar okkupazzjonali biex ikunu konformi mal-provvedimenti ta' dan l-Att, u mar-regolamenti u r-Regoli tal-Pensjonijiet maħruġa taħthom filwaqt li titqies id-daqs, ix-xorta, l-iskala u l-kumplessità tal-attivitajiet tal-iskema.

(2) Ir-rieżami li jsir mill-awtorità kompetenti b'mod konformi mas-subartikolu (1) għandu jikkunsidra ċ-ċirkostanzi li fihom l-iskema tal-irtirar okkupazzjonali tkun qiegħda topera, u fejn ikun rilevanti, il-partijiet li jwettqu l-funzjonijiet ewlenin esternalizzati jew attivitajiet oħrajn għalihom. Ir-rieżami għandu jinkludi l-valutazzjoni tal-elementi li ġejjin:

(a) valutazzjoni tal-ħtiġijiet kwalitattivi li jirrigwardaw is-sistema ta' governanza;

(b) valutazzjoni tar-riskji li tħabbat wiċċha magħhom l-iskema tal-irtirar okkupazzjonali;

(ċ) valutazzjoni tal-kapaċità tal-iskema tal-irtirar okkupazzjonali li tivvaluta u timmaniġġja dawk ir-riskji.

(3) Fejn l-awtorità kompetenti tidentifika xi dgħufija jew nuqqas bħala konsegwenza tal-proċess tar-rieżami superviżorju, hija għandha titlob lill-Amministratur ta' Skema tal-Irtirar okkupazzjonali, jew skema tal-irtirar jirrimedja dik id-dgħufija jew in-nuqqas f'dak iż-żmien u b'dak il-mod, hekk kif jista' jitqies li jkun meħtieġ jew addattat fiċ-ċirkostanzi.

(4) Ir-rieżamijiet, il-valutazzjonijiet u l-apprezzamenti msemmija fis-subartikoli (1) u (2), għandhom isiru regolarment u l-awtorità kompetenti għandha tistabbilixxi l-frekwenza minima u l-iskop tar-rieżami msemmi fis-subartikolu (1) filwaqt li tikkunsidra x-xorta, id-daqs u l-kumplessità tal-attivitajiet tal-Amministratur tal-Iskema tal-Irtirar jew tal-iskema tal-irtirar okkupazzjonali.

Informazzjoni li għandha tiġi provvduta għal finijiet superviżorji.

41B. Mingħajr preġudizzju għad-dispożizzjonijiet tal-Att, skema tal-irtirar okkupazzjonali għandha tippreżenta lill-awtorità kompetenti dik l-informazzjoni li tkun meħtieġa għall-finijiet ta' superviżjoni, kif jista' jiġi speċifikat permezz ta' regolamenti jew Regoli tal-Pensjonijiet li għandhom ukoll jispeċifikaw iż-żmien sa meta għandha tiġi ppreżentata tali informazzjoni."

**91.** L-artikolu 42 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 42 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "Kull ufficjal, impjegat jew aġent" għandhom jiġu sostitwiti bil-kliem "Mingħajr preġudizzju għad-dispożizzjonijiet tal-Att dwar il-Kumpanniji, dwar id-dhul u tfittxija f'xi fond, kull ufficjal, impjegat jew aġent";

Kap. 386.

(b) fis-subartikolu (2) tiegħu, il-kliem "wara li ġġib prova, jekk tkun meħtieġa tagħmel dan, tidhol f'kull fond imsemmi fis-subartikolu (1) għall-fini li minn hemm tikseb kull informazzjoni jew dokument, li jkunu informazzjoni jew dokumenti" għandhom jiġu sostitwiti bil-kliem "wara li ġġib prova, jekk tkun meħtieġa, tal-awtorità li jkollha, tidhol f'kull fond imsemmi fis-subartikolu (1) għall-fini li minn hemm tikseb kwalunkwe informazzjoni jew dokumenti speċifikati fl-avviż, li jkunu informazzjoni jew dokumenti"; u

(ċ) fis-subartikolu (3) tiegħu, il-kliem "l-infurzar tad-dritt u l-ordni." għandhom jiġu sostitwiti bil-kliem "l-infurzar tad-dritt u tal-ordni:", u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

"Iżda, meta dhul kif imsemmi f'dan l-artikolu jkun jinvolvi xi fond li jkun okkupat għall-iskop ta' abitazzjoni, tali dhul għandu jsir fil-preżenza ta' ufficjal tal-Pulizija ta' grad mhux inqas minn dak ta' spettur u barra minn hekk m'għandux isir bejn id-disgħa ta' filgħaxija u l-hamsa ta' filgħodu."

Emenda tal-artikolu 43 tal-Att prinċipali.

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

(a) fil-paragrafu (a) tiegħu, il-kliem "dwar il-liċenza jew rikonoxximent mogħtijin" għandhom jiġu sostitwiti bil-kliem "dwar il-liċenzja mogħtija"; u

(b) fil-paragrafu (b) tiegħu, il-kliem "tissospendi liċenza jew rikonoxximent taħt l-artikolu 10(1);" għandhom jiġu sostitwiti bil-kliem "tissospendi liċenzja taħt l-artikolu 10(1);".

Emenda tal-artikolu 44 tal-Att prinċipali.

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

(a) fis-subartikolu (1) tiegħu:

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

"(aA) kull kundizzjoni imposta f'liċenzja fit-termini tal-artikolu 9(3);";

(ii) fil-paragrafu (ċ) tiegħu, il-kliem "sospensjoni ta' liċenza jew rikonoxximent taħt l-artikoli" għandhom jiġu sostitwiti bil-kliem "sospensjoni ta' liċenzja taħt l-artikoli";

(b) fil-proviso li hemm mas-subartikolu (2) tiegħu, il-kliem "liċenza jew rikonoxximent ma jkunux operattivi" għandhom jiġu sostitwiti bil-kliem "liċenzja ma tkunx operattiva"; u

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

"(4) It-Tribunal tas-Servizzi Finanzjarji għandu jkollu l-guriżdizzjoni esklussiva li jisma' appelli fuq l-affarijiet elenkati fis-subartikolu (1).".

Emenda tal-artikolu 46 tal-Att prinċipali.

**94.** L-artikolu 46 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem "meta detentur ta' liċenza jew persuna rikonoxxuta" għandhom jiġu sostitwiti bil-kliem "meta detentur ta' liċenzja";

(ii) il-kliem "jew *manager*, segretarju, direttur jew xi persuna oħra responsabbli" għandhom jiġu sostitwiti bil-kliem "jew uffiċjal, jew xi persuna oħra responsabbli";

(iii) il-kliem "responsabbli għal detentur ta' liċenza jew persuna rikonoxxuta jiksru jew jonqsu milli jharsu xi waħda mill-kundizzjonijiet imposti f'liċenza jew rikonoxximent, u, jew meta l-awtorità kompetenti" għandhom jiġu sostitwiti bil-kliem "responsabbli għal detentur ta' liċenzja jikser jew jonqos milli jharsu xi kundizzjoni imposta f'liċenzja u, jew meta l-awtorità kompetenti";

(iv) il-kliem "timponi fuq id-detentur ta' liċenza, jew persuna rikonoxxuta," għandhom jiġu sostitwiti bil-kliem "timponi fuq id-detentur ta' liċenzja,";

(v) il-kliem "*manager*, segretarju, direttur, u, jew xi persuna oħra kif jista' jkun il-każ, piena amministrattiva ta' mhux iżjed minn tlieta u disgħin elf u mitejn euro." għandhom jiġu sostitwiti bil-kliem "uffiċjal u, jew persuna oħra kif jista' jkun il-każ, piena amministrattiva ta' mhux iżjed minn mija u ħamsin elf euro (€150,000) għal kull ksur jew nuqqas ta' ħarsien, kif jista' jkun il-każ u, fejn dak il-ksur jew nuqqas ta' konformità jissussisti, piena ulterjuri ta' mhux iżjed minn mija u sittax-il euro (€116) għal kull ġurnata li matulha l-ksur jew nuqqas ta' konformità jissussisti.";

(b) fis-subartikolu (2) tiegħu:

(i) il-kliem "fuq detenturi ta' liċenza, persuni rikonoxxuti jew oħrajn, hekk kif jista' jiġi speċifikat," għandhom jiġu sostitwiti bil-kliem "fuq detenturi ta' liċenzja jew oħrajn, hekk kif jista' jiġi speċifikat,"; u

(ii) il-kliem "sew fl-għamla ta' piena fissa, piena ta' kull jum, jew it-tnejn flimkien, għal kull ksur tar-regoli." għandhom jiġu sostitwiti bil-kliem "sew fl-għamla ta' piena fissa, piena għal kull jum, jew it-tnejn flimkien, għal kull ksur tal-imsemmija Regoli tal-Pensjonijiet.";

(ċ) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(4) L-awtorità kompetenti għandha, mingħajr l-ebda dewmien, tippubblika f'dak il-mezz u b'dak il-mod u għal dak it-tul ta' żmien li tista' tistabbilixxi, kull piena amministrattiva jew miżura oħra li tiġi imposta għall-ksur tad-dispożizzjonijiet ta' dan l-Att u kull regolament jew Regoli tal-Pensjonijiet maħruġin taħthom, u li ma jkun sar

l-ebda appell minnhom skont it-termini stipulati. Tali pubblikazzjoni għandha tinkludi informazzjoni fuq it-tip u n-natura tal-ksur u l-identità tal-persuna fiżika jew ġuridika responsabbli għall-ksur."; u

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

"(4A) Minkejja s-subartikolu (1), l-awtorità kompetenti tista' tiddeċiedi li tiddiferixxi l-pubblikazzjoni, ma tippubblika xejn, jew tippubblika fuq bażi anonima, kwalunkwe piena amministrattiva jew mizura oħra imposta, f'xi ċirkostanza minn dawn li ġejjin:

(a) fejn il-pubblikazzjoni tal-identità ta' persuni ġuridiċi, jew l-identità jew id-*data* personali ta' persuni fiżiċi, titqies bħala sproporzjonata mill-awtorità kompetenti, wara apprezzament li jsir f'kull każ, imwettaq dwar il-proporzjonalità tal-pubblikazzjoni ta' dik id-*data*; jew

(b) fejn il-pubblikazzjoni tkun tipperikola l-istabbiltà tas-swieq finanzjarji jew ta' xi investigazzjoni li tkun għaddejja."

Sostituzzjoni tal-artikolu 48 tal-Att prinċipali.

**95.** L-artikolu 48 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Reati.

**48.** Kull persuna li:

(a) għall-fini li tikseb xi liċenzja taħt dan l-Att, jew konformament ma' xi dispozizzjoni ta' dan l-Att, ta' xi regolamenti jew Regoli tal-Pensjonijiet magħmulin taħthom, jew ta' xi kundizzjoni, obbligazzjoni, htieġa jew Regoli tal-Pensjonijiet jew direttiva magħmula jew mogħtija kif imsemmi preċedentement, tagħti informazzjoni jew tagħmel stqarrija jew dikjarazzjoni li tkun taf li mhix eżatta, falza jew qarrieqa f'xi partikular materjali, jew bi traskuraġni tagħti informazzjoni jew tagħmel stqarrija jew dikjarazzjoni li mhux eżatta, jew li tkun falza jew qarrieqa f'xi partikular materjali;

(b) xjentement tkun parti mit-tmexxija ta' xi skema tal-irtirar jew fond għall-irtirar jew attività li teħtieġ liċenzja bil-ħsieb li twettaq frodi jew għal għan frawdolenti;

(ċ) permezz ta' xi dikjarazzjoni, wegħda jew tbassir li tkun taf li jkunu qarrieqa, foloz jew li jingannaw, jew permezz ta' ħabi diżonest ta' xi fatti materjali, jew b'għemil traskurat (kemm jekk diżonest jew xort'oħra) ta' xi dikjarazzjoni, wegħda jew tbassir li jkunu qarrieqa, foloz jew li jingannaw, tħajjar jew tittanta tħajjar lil xi persuna oħra tidħol jew toffri li tidħol fl-iskema tal-irtirar jew fond għall-irtirar;

(d) bil-ħsieb li tevita l-kxif tal-għemil ta' reat taħt dan l-Att, kull regolamenti jew Regoli tal-Pensjonijiet maħruġin taħthom, tneħħi, teqred, taħbi jew b'mod frawdolenti tibdel xi ktieb, dokument jew karta oħra; jew

(e) bil-ħsieb tfixxkel lil xi persuna fit-twettiq tad-dmirijiet li jkollha taħt dan l-Att jew kull regolamenti jew Regoli tal-Pensjonijiet magħmulin taħthom,

tkun ħatja ta' reat."

**96.** Fl-artikolu 49 tal-Att prinċipali, il-kliem "tal-artikolu 48, hija tehel, kemm-il darba ma jkunx hemm stabbilita xi piena oħra u meta tinsab ħatja tar-reat, multa ta' mhux iżjed minn erba' mija u sitta u sittin elf euro jew" għandhom jiġu sostitwiti bil-kliem "tal-artikolu 48, hija tehel meta tinsab ħatja tar-reat, multa ta' mhux iżjed minn erba' mija u sitta u sittin elf euro (€466,000) jew".

Emenda tal-artikolu 49 tal-Att prinċipali.

**97.** L-artikolu 50 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 50 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "taħt dan l-Att mingħajr il-kunsens" għandhom jiġu sostitwiti bil-kliem "taħt dan l-Att u kull regolamenti magħmulin taħtu, għandhom jibdedw mingħajr il-kunsens ta' "; u

(b) fis-subartikolu (2) tiegħu, il-kliem "dan l-Att m'għandhom jaffettwaw l-ebda responsabbiltà kriminali li persuna jista' jkollha taħt xi liġi oħra." għandhom jiġu sostitwiti bil-kliem "dan l-Att u kull regolamenti magħmulin taħtu m'għandhom jaffettwaw l-ebda proċeduri kriminali li jistgħu jtitressqu taħt xi liġi oħra."

**98.** L-artikolu 51 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 51 tal-Att prinċipali.

**99.** L-artikolu 52 tal-Att prinċipali għandu jiġi sostitwit b'dan li

Sostituzzjoni tal-artikolu 52 tal-Att prinċipali.

gej:

"Kunfidenzjalità.

52. (1) L-informazzjoni li tinkiseb mill-awtorità kompetenti jew mill-uffiċjali, l-impjegati, l-aġenti, inklużi l-uffiċjali, l-impjegati jew l-aġenti preċedenti, kif ukoll mill-ispetturi, l-awdituri, l-attwarji u l-esperti li jaġixxu għan-nom tal-awtorità kompetenti għall-finijiet ta', jew skont xi dispożizzjoni ta' dan l-Att, jew ta' xi regolament jew Regoli tal-Pensjonijiet magħmulin taħthom, jew fl-eżekuzzjoni ta' xi funzjonijiet taħt xi waħda mill-imsemmija dispożizzjonijiet, għandha titqies bħala kunfidenzjali u għandha tithares bid-dmir tas-segretezza professjonali.

(2) Mingħajr preġudizzju għall-każijiet li jaqgħu taħt il-liġi kriminali, il-persuni msemmija fis-subartikolu (1) m'għandhomx jiżvelaw informazzjoni miksuba minn skema tal-irtirar, fond għall-irtirar, jew provditur ta' servizz li jkollhom liċenzja taħt l-Att, kemm-il darba dak l-iżvelar ta' informazzjoni ma jsirx f'forma sommarja jew aggregata, biex hekk ma tkunx tista' tiġi aċċertata l-identità ta' tali skema, li għaliha tkun tirreferi dik l-informazzjoni:

Iżda dawk il-persuni jistgħu jiżvelaw informazzjoni kunfidenzjali fi proċeduri ċivili jew kummerċjali fejn skema tal-irtirar, fond għall-irtirar jew provditur ta' servizz jkunu qegħdin jiġu stralċjati b'mod obbligatorju.

(3) Meta l-awtorità kompetenti tkun qiegħda tipproċessa *data* personali għall-finijiet tal-Att u ta' xi regolamenti u Regoli tal-Pensjonijiet maħruġin taħtu, għandha tagħmel dan skont ir-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' *data* personali u dwar il-moviment liberu ta' tali *data*, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data), kif emendat minn żmien għal żmien."

Żieda tal-artikoli 52A, 52B, 52Ċ, 52D u 52E fl-Att prinċipali.

**100.** Minnufih wara l-artikolu 52 tal-Att prinċipali, kif sostitwit, għandhom jiżdiedu l-artikoli ġodda li ġejjin:

"Użu ta' informazzjoni kunfidenzjali.

52A. (1) Fejn l-awtorità kompetenti tirċievi informazzjoni kunfidenzjali taħt dan l-Att u regolamenti jew Regoli tal-Pensjonijiet maħruġin taħthom, din tista' biss tuża tali informazzjoni kunfidenzjali fil-kors ta' dmirijietha u għall-għanijiet li ġejjin:

(a) biex tivverifika li l-kundizzjonijiet biex tinbeda l-attività għall-ghoti ta' benefiċċji tal-irtirar jiġiharsu mill-iskema tal-irtirar qabel ma tibda l-attivitàjiet tagħha;

(b) biex tiffaċilita s-sorveljanza tal-attivitàjiet tal-iskema tal-irtirar, inkluża s-sorveljanza ta' dispożizzjonijiet tekniċi, is-solvenza, is-sistema ta' governanza u l-informazzjoni provduta lil membri u lil benefiċjarji, kif applikabbli;

(c) biex timponi miżuri korrettivi, inklużi sanzjonijiet amministrattivi;

(d) biex tippubblika indikaturi ewlenin ta' prestazzjoni għall-iskemi individwali kollha tal-irtirar okkupazzjonali, li jistgħu jassistu lil membri u lil benefiċjarji meta jieħdu deċiżjonijiet finanzjarji dwar il-pensjoni tagħhom, fejn dan ikun permess li jsir mid-dritt nazzjonali;

(e) f'appelli minn deċiżjonijiet tal-awtorità kompetenti skont l-artikolu 44;

(f) fi proċedimenti fil-qorti relatati ma' dispożizzjonijiet tal-Att, regolamenti u, jew Regoli tal-Pensjonijiet maħrugħin taħthom.

(2) L-artikoli 52 u 52A tal-Att għandhom ikunu mingħajr preġudizzju għad-dritt ta' inkjesta mogħti lill-Parlament Ewropew bl-Artikolu 226 tat-Trattat fuq il-Funzjonament tal-Unjoni Ewropea, b'mod konformi mal-Artikolu 54 tad-Direttiva dwar Pensjonijiet Okkupazzjonali.

Kooperazzjoni fid-dmirijiet superviżorji u skambju ta' informazzjoni.

52B. (1) Minkejja d-dispożizzjonijiet tal-artikoli 52 u 52A, l-awtorità kompetenti:

(a) fit-twettiq tal-funzjonijiet superviżorji tagħha, għandha tiskambja informazzjoni ma':

(i) awtoritajiet regolatorji barranin;

(ii) awtoritajiet responsabbli għas-superviżjoni ta' korpi fis-settur finanzjarju u organizzazzjonijiet finanzjarji oħra u ma' awtoritajiet responsabbli għas-superviżjoni ta' swieq finanzjarji;

(iii) awtoritajiet jew korpi li jkollhom responsabbiltà biex iżommu l-istabbiltà tas-sistema finanzjarja fi Stati Membri bl-użu ta' regoli makroprudenzjali;

(iv) korpi involuti fl-istralċ tal-iskemi tal-irtirar u fi proċeduri oħra simili;

(v) korpi ta' rijorganizzazzjoni jew awtoritajiet li jkollhom l-għan li jħarsu l-istabbiltà tas-sistema finanzjarja;

(vi) persuni responsabbli biex jagħmlu verifiki statutorji tal-kontijiet tal-iskemi tal-irtirar, impriži tal-assigurazzjoni u ta' istituzzjonijiet finanzjarji oħra;

(vii) awtoritajiet responsabbli biex jissorveljaw il-korpi involuti fl-istralċ tal-iskemi tal-irtirar u proċeduri oħra simili;

(viii) awtoritajiet responsabbli biex jissorveljaw lill-persuni inkarigati li jagħmlu verifiki statutorji tal-kontijiet tal-iskemi tal-irtirar, impriži tal-assigurazzjoni u istituzzjonijiet finanzjarji oħra;

(ix) attwarji indipendenti tal-iskemi tal-irtirar li jkunu qegħdin jagħmlu superviżjoni fuq dawk l-iskemi u l-korpi responsabbli biex jissorveljaw lil dawk l-attwarji;

(b) għandha tiżvela lil korpi li jamministraw l-istralċ ta' skema tal-irtirar, dik l-informazzjoni li tkun meħtieġa għat-twettiq ta' dmirijiethom.

(2) Kull informazzjoni provduta mill-awtorità kompetenti lill-awtoritajiet, korpi jew persuni msemmija fis-subartikolu (1)(a)(i) sa (vi), għandha tkun soġġetta għad-dmir tas-segretezza professjonali.

(3) Minkejja d-dispożizzjonijiet tal-artikoli 52 u 52A, l-awtorità kompetenti tista' tgħaddi informazzjoni għall-finijiet tal-eżerċizzju tal-kompiti rispettivi tagħhom lil dawn li ġejjin:

(a) lill-Bank Ċentrali ta' Malta, lill-banek ċentrali tas-Sistema Ewropea ta' Banek Ċentrali (inkluż il-Bank Ċentrali Ewropew) u korpi oħra li jkollhom funzjoni simili fil-kapaċità tagħhom bħala awtoritajiet monetarji;

(b) fejn ikun xieraq, awtoritajiet pubbliċi nazzjonali oħra responsabbli biex jissorveljaw sistemi ta' pagament; u

(ċ) il-Bord Ewropew dwar ir-Riskju Sistemiku, l-EIOPA, l-Awtorità Superviżorja Ewropea (Awtorità Bankarja Ewropea) stabbiliti bir-Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill u l-Awtorità Superviżorja Ewropea (Awtorità Ewropea dwar Titoli u Swieq) stabbiliti bir-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill.

(4) Mingħajr preġudizzju għad-dispożizzjonijiet ta' dan l-artikolu u tal-artikoli 52Ċ u 52D, l-awtoritajiet jew il-korpi msemmija fis-subartikolu (4), għandhom jikkomunikaw lill-awtorità kompetenti kull informazzjoni li l-awtorità kompetenti teħtieġ għall-finijiet tal-artikolu 52A.

(5) Kull informazzjoni provduta mill-awtorità kompetenti skont is-subartikolu (4) jew li tiġi riċevuta mill-awtorità kompetenti skont is-subartikolu (5), għandha tkun soġġetta għad-dmir tas-segretezza professjonali.

Żvelar ta' informazzjoni kunfidenzjali relatata ma' skemi tal-irtirar okkupazzjonali.

52Ċ. (1) Minkejja d-dispożizzjonijiet tal-artikoli 52(1), 52(2), 52A u 52D(1), l-awtorità kompetenti tista' tiskambja informazzjoni ma' dipartimenti oħra tal-amministrazzjoni tal-gvern ċentrali responsabbli għall-infurzar ta' liġijiet dwar is-superviżjoni ta' skemi tal-irtirar okkupazzjonali, istituzzjonijiet ta' kreditu, istituzzjonijiet finanzjarji, servizzi ta' investiment u impriżi tal-assigurazzjoni, jew spetturi li jaġixxu għan-nom ta' dawk id-dipartimenti, iżda:

(a) tali żvelar għandu jsir biss fejn ikun meħtieġ għal raġunijiet ta' kontroll prudenzjali u l-prevenzjoni u r-risoluzzjoni ta' skemi tal-irtirar okkupazzjonali li jfallu; u

(b) mingħajr preġudizzju għas-subartikolu (3), persuni li jkollhom aċċess għal tali informazzjoni jkunu soġġetti għad-dmir tas-segretezza professjonali.

(2) Kull informazzjoni miksuba permezz ta' xi verifika fuq il-post għandha tiġi żvelata lid-dipartimenti msemmija fis-subartikolu (1), unikament bil-kunsens espress tal-awtorità kompetenti li minnha tkun oriġinat l-informazzjoni, jew tal-awtorità regolatorja barranija tal-pajjiż fejn tkun saret il-verifika fuq il-post.

(3) L-awtorità kompetenti tista' tiżvela informazzjoni kunfidenzjali li jkollha x'taqsam mas-superviżjoni prudenzjali ta' skema tal-irtirar okkupazzjonali lil kumitati ta' inkjesta parlamentari nazzjonali jew lil qrati ta' awdituri nazzjonali u korpi nazzjonali ohra inkarigati mill-inkjesti, fejn ikunu ġew sodisfatti l-kundizzjonijiet kollha li ġejjin:

(a) il-korpi jkunu kompetenti taħt id-dritt nazzjonali li jinvestigaw jew jiflu bir-reqqa l-azzjonijiet ta' awtoritajiet responsabbli għas-superviżjoni ta' skemi tal-irtirar okkupazzjonali jew ta' liġijiet dwar tali superviżjoni;

(b) l-informazzjoni tkun strettament meħtieġa sabiex tiġi sodisfatta l-kompetenza msemmija fil-paragrafu (a);

(ċ) il-persuni li jkollhom aċċess għall-informazzjoni jkunu soġġetti għall-ħtiġijiet tas-segretezza professjonali;

(d) jekk l-informazzjoni toriġina minn xi Stat Membru ieħor, dik l-informazzjoni għandha tiġi żvelata bil-ftehim esplicitu tal-awtoritajiet regolatorji barranin li ttrasmettewha u dan unikament għall-finijiet li dwarhom dik l-Awtorità' tkun tat il-kunsens tagħha.

Kundizzjonijiet għall-iskambju ta' informazzjoni.

52D. (1) Għall-iskambju ta' informazzjoni taħt is-subartikoli (1) sa (3) tal-artikolu 52B tal-Att, it-trasmissjoni ta' informazzjoni taħt is-subartikoli (4), (5) u (6) tal-artikolu 52B, u l-iżvelar ta' informazzjoni taħt l-artikolu 52Ċ, għandhom jiġu sodisfatti dawn il-kundizzjonijiet li ġejjin:

(a) l-informazzjoni għandha tiġi skambjata, trasmessa jew żvelata bil-għan li ssir sorveljanza jew superviżjoni;

(b) l-informazzjoni riċevuta għandha tkun soġġetta għad-dmir tas-segretezza professjonali;

(ċ) meta l-informazzjoni toriġina minn xi Stat Membru ieħor, din m'għandhiex tiġi żvelata mingħajr il-ftehim esplicitu tal-awtorità regolatorja barranija minn fejn din toriġina u, fejn ikun xieraq, dan għandu jsir unikament għall-finijiet li dik l-awtorità tkun tat il-kunsens tagħha.

(2) Minkejja d-dispożizzjonijiet tal-artikolu 52A, l-awtorità kompetenti tista' tiskambja informazzjoni mal-awtoritajiet jew il-korpi responsabbli għall-iżvelar u l-investigazzjoni ta' ksur tal-liġi dwar il-kumpanniji applikabbli għal impriži *sponsor*, għall-finijiet li tissahħaħ l-istabbiltà u l-integrità tas-sistema finanzjarji, iżda:

(a) l-informazzjoni għandha tkun intiża għall-għan ta' identifikazzjoni, investigazzjoni u skrutinju kif imsemmija fl-artikolu 52Ċ(3)(a);

(b) l-informazzjoni riċevuta għandha tkun soġġetta għad-dmir tas-segretezza professjonali;

(ċ) meta l-informazzjoni toriġina minn xi Stat Membru iehor, din m'għandhiex tiġi żvelata mingħajr il-ftehim esplicitu tal-awtorità regolatorja barranija minn fejn din toriġina u, fejn ikun xieraq, unikament għall-finijiet li l-awtorità tkun qablet magħhom.

(3) Meta l-awtoritajiet jew korpi msemmija fis-subartikolu (2) iwettqu l-kompiti ta' skoperta jew ta' investigazzjoni tagħhom bl-għajnuna ta' persuni maħtura, minhabba fil-kompetenza speċifika tagħhom u għal dak il-għan speċifiku, u li ma jkunux impjegati fis-settur pubbliku, għandha tapplika l-possibbiltà ta' skambju ta' informazzjoni kif provdut fl-artikolu 52Ċ(3).

Kooperazzjoni mal-EIOPA u mal-Kummissjoni Ewropea.

52E. (1) L-awtorità kompetenti għandha tikkoopera mal-EIOPA skont ir-Regolament (UE) Nru 1094/2010 u mal-Kummissjoni Ewropea għall-finijiet tad-Direttiva dwar Pensjonijiet Okkupazzjonali u biex tiġi faċilitata s-supervizzjoni tal-operat tal-iskemi tal-irtirar.

(2) L-awtorità kompetenti għandha tipprovdi lill-EIOPA b'kull informazzjoni li tkun meħtieġa biex din twettaq dmirijietha taħt id-Direttiva dwar Pensjonijiet Okkupazzjonali u r-Regolament (UE) Nru 1094/2010, skont l-Artikolu 35 tar-Regolament (UE) Nru 1094/2010.

(3) L-awtorità kompetenti għandha tgħarraf lill-EIOPA u lill-Kummissjoni Ewropea b'kull diffikultà magħguri li tirriżulta mill-applikazzjoni tad-Direttiva dwar Pensjonijiet Okkupazzjonali u l-Kummissjoni Ewropea, l-EIOPA u l-awtorità kompetenti għandhom jeżaminaw tali diffikultajiet kemm jista' jkun malajr, biex tkun tista' tinstab soluzzjoni xierqa."

**101.** L-artikolu 53 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 53 tal-Att prinċipali.

Emenda tal-artikolu 54 tal-Att prinċipali.

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

(a) fin-nota marginali tiegħu, il-kelma "Avviżi." għandha tiġi sostitwita bil-kliem "Notifiki ta' avviżi.";

(b) fit-test Inġliż, fil-paragrafu (a) tiegħu, il-kliem "delivered to it;" għandhom jiġu sostitwiti bil-kliem "delivered to him;"

(ċ) fit-test Inġliż, fil-paragrafu (b) tiegħu, il-kliem "address furnished by it to the competent authority, or to its last known address," għandhom jiġu sostitwiti bil-kliem "address furnished by him to the competent authority, or to his last known address,"; u

(d) fil-paragrafu (ċ) tiegħu, il-kliem "ikun intbagħatilha bil-posta, *e-mail* jew *telefax* f'xi" għandhom jiġu sostitwiti bil-kliem "ikun intbagħatilha bil-posta jew *e-mail* f'xi".

Emenda tal-artikolu 56 tal-Att prinċipali.

**103.** Minnufih wara s-subartikolu (3) tal-artikolu 56 tal-Att prinċipali għandu jiżdied dan is-subartikolu ġdid li ġej:

Kap. 514. "(4) Il-Ministru, li jaġixxi fuq il-parir tal-awtorità kompetenti, jista, b'regolamenti jaġmel dispożizzjonijiet transitorji rigward dawk il-persuni li jkunu ngħataw rikonoxximent mill-awtorità kompetenti taht l-artikolu 7 tal-Att dwar Pensjonijiet tal-Irtirar u, mingħajr preġudizzju għall-ġeneralità ta' dak imsemmi preċedentement, jista' permezz ta' tali regolamenti, b'mod partikolari jippreskrivi perjodu li fih amministraturi ta' *back-office* għandhom iċedu r-rikonoxximent tagħhom, bla ħsara għal dawk il-kundizzjonijiet u l-htigijiet, kif jista' jiġi preskritt."

## TAQSIMA XI EMENDI GĦALL-ATT DWAR PROVDITURI TA' SERVIZZ LIL KUMPANNIJI

Emendi għall-Att dwar Provdituri ta' Servizz lil Kumpanniji. Kap. 529.

**104.** Din it-Taqsima temenda l-Att dwar Provdituri ta' Servizz lil Kumpanniji u għandha tinqara u tinftiehem haġa waħda mal-Att dwar Provdituri ta' Servizz lil Kumpanniji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 5 tal-Att prinċipali.

**105.** Fis-subartikolu (5) tal-artikolu 5 tal-Att prinċipali, minflok il-kliem "hekk kif jista' jiġi preskritt, li jithallas ta' kull sena fl-anniversarju tad-data ta' dik ir-registrazzjoni." għandhom jidhlu l-kliem "hekk kif jista' jiġi preskritt."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 302 tas-26 ta' Frar, 2020.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**DOLORES CRISTINA**  
**Acting President**

3rd March, 2020

**ACT No. V of 2020**

*AN ACT to amend various financial services laws and to provide for matters ancillary or incidental thereto.*

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

Short title and commencement.

**1.** (1) The short title of this Act is the Various Financial Services Laws (Amendment) Act, 2020.

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

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

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

Amendments to the Malta Financial Services Authority Act. Cap. 330.

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

Amendment of article 16 of the principal Act.

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

"(3) Without prejudice to any other powers that may be exercised by the Authority in terms of this Act or of any other law, where any person contravenes or fails to comply with any provision of this Act or any other Act administered by the Authority, with any regulations or Rules issued thereunder, with any of the conditions imposed in a licence issued by the Authority or with any directives issued by the Authority, the Authority may by notice in writing and without recourse to a court hearing impose on any such person an administrative penalty which may not exceed one hundred and fifty thousand euro (€150,000) for each infringement or failure to comply, as the case may be."; and

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

(i) for the words "Where a notice as referred to in sub-article (3) has not been appealed," there shall be substituted the words "Where a notice as referred to in sub-article (3) or as referred to in any other Act administered by the Authority or in any regulations or Rules issued thereunder, has not been appealed,"; and

(ii) for the words "Upon the service of a copy of the notice of the decision," there shall be substituted the words "Upon the service of a copy of the notice or the decision,".

4. In sub-article (3) of article 17 of the principal Act, for the words "confidential information to the European Securities and Markets Authority (ESMA)," there shall be substituted the words "confidential information to the European Central Bank (ECB), the European Securities and Markets Authority (ESMA),".

Amendment of article 17 of the principal Act.

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Amendment of  
article 20A of  
the principal  
Act.

5. Article 20A of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "that have been or may be issued thereunder" there shall be substituted the words "that have been or may be issued thereunder and relating to licence holders and others as may be specified therein; regulations made under this paragraph, and strictly related to transposition or implementation as aforesaid, may provide that any provision of this Act or of any other law shall not apply to matters falling under the regulations, and that in so far as any of the provisions of the regulations are inconsistent with the provisions of this Act or of any other law, said provisions in any such regulations shall prevail";

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

"(3) Where regulations have been made in terms of this article, the Authority may issue Rules for the better carrying out of, and to better implement, the provisions of the regulations.

(4) Regulations made under this article may impose:

(a) administrative penalties which may not exceed one hundred and fifty thousand euro (€150,000) for each infringement or failure to comply, as the case may be;

(b) punishments or other penalties in respect of any offence, not exceeding a fine (*multa*) of one hundred and fifty thousand euro (€150,000) or imprisonment for a term not exceeding one year, or both such fine and imprisonment; and

(c) administrative penalties and fines higher than one hundred and fifty thousand euro (€150,000), where deemed necessary or appropriate for any contravention of or failure of compliance with any EU Directive or EU Regulation or of any regulations made under this article to transpose or to give effect to any EU Directive or EU Regulation."

Amendment of  
article 28 of the  
principal Act.

6. In article 28 of the principal Act, for the words "but not later than four months after the close of each financial year," there shall be substituted the words "but not later than six months after the close of each financial year,".

7. Article 29 of the principal Act shall be substituted by the following:

Substitution of article 29 of the principal Act.

"Exemption from liability.

29. (1) The Authority, including the members of the Board of Governors when acting in any function assigned to the Board under any provision of this Act, any body or other organ, including any committee or sub-committee, established under this Act, and any member or officer of that body or organ, and the officers and employees of the Authority, shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any such function or otherwise in the exercise of their official duties, unless the act or omission is shown to have been done or omitted to be done, as the case may be, through wilful misconduct.

(2) For the purposes of this provision, the phrase "this Act" shall include any other Act administered by the Authority and any regulations or Rules made thereunder."

## PART II

### AMENDMENTS TO THE TRUSTS AND TRUSTEES ACT

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

Amendments to the Trusts and Trustees Act. Cap. 331.

9. Immediately after paragraph (s) of sub-article (1) of article 57 of the principal Act there shall be added the following new paragraphs:

Amendment of article 57 of the principal Act.

"(sA) regulate the conduct, duties and other obligations of administrators, trustees, directors or similar functionaries exercising control over the assets of a private foundation, as defined in article 43(12), including the returns, statements and other information they are to submit to the Authority, and establish the maximum amount which, notwithstanding any provision of this Act, may be charged as fees by such functionaries;

(sB) regulate the conduct, duties and other obligations of persons acting as administrators of private foundations for persons with disability;"

## PART III

### AMENDMENTS TO THE FINANCIAL MARKETS ACT

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Amendments to the Financial Markets Act. Cap. 345.

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

Amendment of article 2 of the principal Act.

**11.** In paragraph (i) of the definition "company" of sub-article (1) of article 2 of the principal Act, for the words "a public company formed and registered" there shall be substituted the words "a company formed and registered".

Deletion of article 52 of the principal Act.

**12.** Article 52 of the principal Act shall be deleted.

#### **PART IV**

##### **AMENDMENTS TO THE INVESTMENT SERVICES ACT**

Amendments to the Investment Services Act. Cap. 370.

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

Amendment of article 16A of the principal Act. Cap. 330.

**14.** In sub-article (1) of article 16A of the principal Act, for the words "as the case may be." there shall be substituted the words "as the case may be. The provisions of article 16 (4) of the Malta Financial Services Authority Act shall apply *mutatis mutandis*".

Amendment of article 17F of the principal Act.

**15.** In sub-article (4) of article 17F of the principal Act, for the words "article 17(11)" there shall be substituted the words "article 17(13)".

Amendment of article 26 of the principal Act.

**16.** Paragraph (b) of sub-article (1) of article 26 of the principal Act shall be substituted by the following:

"(b) where the information is disclosed by the competent authority with a view to the institution of, or otherwise for the purposes of any proceedings before any court or tribunal;"

Deletion of article 27 of the principal Act.

**17.** Article 27 of the principal Act shall be deleted.

#### **PART V**

##### **AMENDMENTS TO THE COMPANIES ACT**

Amendments to the Companies Act. Cap. 386.

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

Amendment of article 2 of the principal Act.

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

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

(i) immediately before the definition "annual accounts" there shall be added the following new

definition:

" "Agency" means the agency established by the Malta Business Registry (Establishment as an Agency) S.L. 595.27. Order;"

(ii) the definition "approval" shall be substituted by the following:

" "approval", in relation to a prospectus, means the positive act at the outcome of the scrutiny of the completeness of the prospectus by the Malta Financial Services Authority or the regulatory authority;"

(iii) the definition "court" shall be substituted by the following:

" "court" means the Civil Court (Commercial Section);"

(iv) in the definition "equity securities" the words ", and the term 'non-equity securities' shall be construed as referring to all securities that are not equity securities" shall be deleted;

(v) the definition "home Member State" shall be deleted;

(vi) the definition "host Member State" shall be deleted;

(vii) the definition "offering programme" shall be deleted;

(viii) the definition "person making an offer" shall be deleted;

(ix) the definition "the Prospectus Directive" shall be deleted; and

(x) the definition "securities issued in a continuous or repeated manner" shall be deleted;

(xi) immediately after the definition "system of interconnection of registers" there shall be added the following new definition:

" "third country" means a country that is not a Member State or an EEA State;"; and

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

(i) paragraph (a) of sub-article (3) of article 2 of the principal Act shall be deleted;

(ii) in paragraph (b) thereof, for the words "offers made to the public:" there shall be substituted the words "offers of securities made to the public:"; and

(iii) paragraph (e) thereof, including sub-paragraphs (i) to (iii) and the paragraph following sub-paragraph (iii), shall be deleted.

Amendment of article 66A of the principal Act.

**20.** Article 66A of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof, for the words "the provisions of this Part of this Act, other than this article, shall not apply to any such partnership" there shall be substituted the words "the provisions of this Part of this Act, other than this article, and articles 13 to 18, article 21 and Part III of the Commercial Code, shall not apply to any such partnership"; and

(b) in paragraph (e) of sub-article (3) thereof, for the words "or of this Act which may otherwise be applicable thereto," there shall be substituted the words "or of this Act or of any other law which may otherwise be applicable thereto,".

Cap. 13.

Amendment of article 84A of the principal Act.

**21.** Article 84A of the principal Act shall be amended as follows:

(a) in paragraph (b) of sub-article (1) thereof, for the words "as may be specified;" there shall be substituted the words "as may be specified; and that in so far as any of the provisions of such regulations are inconsistent with the provisions of this Act or of any other law, such provisions in any such regulations shall prevail;"; and

(b) immediately after paragraph (f) of sub-article (1)

thereof there shall be added the following new sub-article:

Cap. 403. "(1A)Where any such regulations have been issued, the competent authority as defined in the Insurance Business Act may issue rules in terms of article 4 of the Insurance Business Act as may be required for the better carrying out and to better implement the provisions of any such regulations."

22. Article 84C of the principal Act shall be amended as follows: Amendment of article 84C of the principal Act.

(a) in sub-article (2) thereof, immediately after paragraph (b) thereof there shall be added the following new paragraph:

"(bA) provide for the applicability or inapplicability of any provision of this Act or of any other law to matters falling under such regulations, subject to such modifications, variations and conditions as may be specified, and that in so far as any of the provisions of such regulations are inconsistent with the provisions of this Act or of any other law, such provisions in any such regulations shall prevail;"; and

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

Cap. 484. "(2A)Where any such regulations have been issued in terms of this article, the competent authority as defined in the Securitisation Act may issue rules in terms of article 20 of the Securitisation Act as may be required for the better carrying out and to better implement the provisions of any such regulations."

23. Immediately after article 84D of the principal Act there shall be added the following new article: Addition of article 84E to the principal Act.

"Power to make regulations regarding cell companies carrying on or engaged in shipping or aviation business.

84E. (1) (a) The Minister may make regulations in order to:

(i) provide for the formation, constitution, authorisation and regulation of cell companies carrying on or engaged in shipping or aviation business;

(ii) make it possible for a company carrying on or engaged in shipping or aviation business to convert into a cell company;

(iii) provide for all other matters that may arise in connection therewith; and

(iv) provide for the better carrying out of the provisions of this sub-article,

and, without prejudice to the generality of the foregoing, may, by such regulations, in particular regulate the matters referred to in article 84A(1)(a) to (f), which shall apply also to this article.

(b) For the purposes of this article, the term "shipping or aviation business" shall mean all or any of the following:

(i) the ownership, operation (under charter, lease or otherwise), administration and management (including personnel engagement, employment or management whether on board or otherwise) of any ship or of any aircraft or aircraft engine and the carrying on of all ancillary financial, security, commercial and other activities in connection therewith; or

(ii) the holding of shares or other equity interests in any undertaking, whether Maltese or otherwise, established solely or mainly for the carrying on or carrying out of any one or more of the activities referred to in this definition and the carrying on of all ancillary financial, security, commercial and other activities in connection therewith; or

(iii) the activities of a parent company which holds shares or other equity interests in undertakings, whether Maltese or otherwise, where any one or some of these undertakings is established solely or mainly for the carrying on or carrying out of any one or more of the activities referred to in this definition and the carrying on of all ancillary financial, security, commercial and other activities in connection therewith; or

(iv) the raising of capital through loans, the issue of guarantees or the issue of securities by an undertaking when the purpose of such activity is to achieve the objects or activities stated in the preceding sub-paragraphs for the undertaking itself or for any other undertaking within the same group; or

(v) the carrying on of such other objects or activities within the maritime or the aviation sector and related or connected matters which the Minister may, on the advice of the Authority, from time to time prescribe by regulations.

For the purposes of this paragraph the terms "group", "parent company" and "undertaking" shall have the same meaning as is given to them in article 2.

(c) For the purposes of this article the terms "cell", "cellular assets" and "cell company" shall have the same meaning, *mutatis mutandis*, as is given to them in terms of article 84A(2):

Provided that for the purposes of this article references to a "company" shall also include references to a partnership *en commandite* or similar or equivalent body corporate, the capital of which is divided into shares.

(2) The Minister may furthermore make regulations which provide for the formation, constitution, authorisation and regulation of incorporated cell companies and incorporated cells as limited liability companies with separate legal personality under this Act, and which make it possible for such companies to carry on or be engaged in shipping or aviation business, and for all other matters related, connected or ancillary thereto or that may arise in connection therewith.

(3) Regulations made in terms of this article may also provide for the applicability or inapplicability of, or the total or partial exemption from, any of the provisions of this Act or of any other law in force to incorporated cell companies and incorporated cells subject to any modifications, variations or conditions as may be specified."

24. In article 89 of the principal Act, for the words "It shall not be lawful for a public company to issue any form of application for its

Amendment of article 89 of the principal Act.

shares or debentures unless the company is registered and the form is issued with a prospectus which complies with the requirements of article 90:" there shall be substituted the words

"It shall not be lawful for a company to make an offer of securities to the public in a Member State or EEA State unless the company is a public company and the offer is made in the form of a prospectus which complies with the requirements of the Financial Markets Act and any applicable regulations made thereunder, and the provisions of articles 91 to 96 shall apply to such offers:".

Cap. 345.

Deletion of article 90 of the principal Act.

**25.** Article 90 of the principal Act shall be deleted.

Amendment of article 91 of the principal Act.

**26.** In article 91 of the principal Act, for the words "in contravention of any of the provisions of article 89 or of article 90(1) shall be liable to a penalty:" there shall be substituted the words "in contravention of article 89 shall be liable to a penalty:".

Deletion of article 92 of the principal Act.

**27.** Article 92 of the principal Act shall be deleted.

Substitution of article 93 of the principal Act.

**28.** Article 93 of the principal Act shall be substituted by the following:

"93. (1) A copy of the prospectus signed in accordance with the provisions of the Financial Markets Act shall be delivered to the Registrar for registration within five days from the date of its publication.

Cap. 345.

(2) 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.".

Addition of article 96A to the principal Act.

**29.** Immediately after article 96 of the principal Act there shall be added the following new article:

"Offer of securities to the public in third countries.

**96A.** (1) Where a public company makes an offer of securities to the public in a third country, its directors shall, within one month of the registration of the issued securities with the company, deliver to the Registrar for registration a notice specifying the following information, together with a copy of the offering document, if any:

- (a) the country or countries where the offer is made;
- (b) the purpose of the offer;
- (c) the amount of the offer;
- (d) the type of securities offered;
- (e) the name of the authority or other body in the third country which was responsible for the approval of the offering document, if any.

(2) In default of complying with the provisions of sub-article (1), 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.

(3) It shall be the responsibility of the issuer and the directors of the company to comply with the laws and regulations of the third country in which the securities are offered to the public.

(4) For the purpose of this article:

(a) "an offer of securities to the public in a third country" shall mean an offer of securities in such third country:

(i) to more than one hundred and fifty persons; or

(ii) where the total consideration of the offer exceeds one hundred thousand euro (€100,000), calculated over a period of twelve months;

(b) "offering document" includes a prospectus or other invitation to acquire securities."

**30.** Article 99 of the principal Act shall be deleted.

Deletion of article 99 of the principal Act.

**31.** Articles 100 to 102, both inclusive, of the principal Act shall be deleted.

Deletion of articles 100 to 102 of the principal Act.

**32.** Sub-article (12) of article 122 of the principal Act shall be amended as follows:

Amendment of article 122 of the principal Act.

(a) in paragraph (a) thereof:

(i) for the words "in a public company which are quoted on a Maltese regulated market" there shall be substituted the words "in a company which are listed on a Maltese regulated market"; and

(ii) in sub-paragraph (ii) thereof, for the words "the company whose quoted securities" there shall be substituted the words "the company whose listed securities"; and

(b) in paragraph (b) thereof, for the words "in a public company which are quoted on a regulated market" there shall be substituted the words "in a public company which are listed on a regulated market".

Amendment of article 225 of the principal Act.

**33.** In sub-article (1) of article 225 of the principal Act, for the words "The Minister, acting on the advice of the Malta Financial Services Authority, shall appoint a senior official of the said Authority" there shall be substituted the words "The Minister shall appoint a senior official of the Agency".

Deletion of article 388 of the principal Act.

**34.** Article 388 of the principal Act shall be deleted.

Deletion of articles 390 to 398 of the principal Act.

**35.** Articles 390 to 398, both inclusive, of the principal Act shall be deleted.

Amendment of article 400 of the principal Act.

**36.** In sub-article (1) of article 400 of the principal Act, for the words "The Minister, acting on the advice of the Malta Financial Services Authority, shall appoint a senior official of the said Authority" there shall be substituted the words "The Minister shall appoint a senior official of the Agency".

Amendment of article 425 of the principal Act.

**37.** Paragraph (1) of sub-article (1) of article 425 of the principal Act shall be deleted.

Deletion of the Second Schedule to the principal Act.

**38.** The Second Schedule to the principal Act shall be deleted.

Amendment of the Eleventh Schedule to the principal Act.

**39.** The Eleventh Schedule to the principal Act shall be amended as follows:

(a) the item:

"91	Contravention of articles 89 or 90(1) in respect of the obligation to issue a prospectus	€2,329.37	None"
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shall be substituted by the following:

"91	Contravention of article 89 in respect of the obligation to issue a prospectus	€2,329.37	None";
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(b) the item:

"92(2)	Issue of prospectus in contravention of article 92(1)	€2,329.37	None"
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shall be deleted;

(c) immediately after the item:

"93(2)	Issue of a prospectus before registration thereof	€2,329.37	€46.59"
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there shall be added the following new item:

"96A(2)	Failure of officers to provide Registrar with notice that the company issued an offer of securities to the public in a third country	€500	€25"
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; and

(d) the item:

"397(1)	Person responsible for issuing, circulating or distributing a prospectus, etc., for an overseas company in contravention of articles 391 to 396	€2,329.37	None"
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shall be deleted.

**PART VI  
AMENDMENTS TO THE INSURANCE BUSINESS ACT**

Amendments to the Insurance Business Act. Cap. 403.

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

Amendment of article 2 of the principal Act.

**41.** In sub-article (1) of article 2 of the principal Act, the definition "reinsurance" shall be substituted by the following:

" "reinsurance" means one of the following:

(a) the activity consisting in accepting risks ceded by an insurance undertaking or third-country insurance undertaking, or by another reinsurance undertaking or third-country reinsurance undertaking; or

(b) the provision of cover by a reinsurance undertaking to an institution that falls within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council;"

Amendment of article 27 of the principal Act.

**42.** In sub-article (6) of article 27 of the principal Act, for the words "shall notify EIOPA of any revocation of authorisation in terms of articles 25 and 26." there shall be substituted the words "shall notify EIOPA of any revocation of authorisation in terms of the Act.".

Amendment of article 28 of the principal Act.

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

(a) in paragraph (e) of sub-article (1) thereof, for the words "or part thereof, as the competent authority may direct;" there shall be substituted the words "or part thereof, including to take the necessary action for the undertaking to be dissolved and wound up, as the competent authority may direct;"

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

(i) in paragraph (c) thereof, for the words "or by any other person, including the legal and judicial representation of the undertaking" there shall be substituted the words "or by any other person, including for the purposes of the dissolution and winding up of the undertaking as well as the legal and judicial representation of the undertaking";

(ii) in paragraph (d) thereof, for the words "to the exclusion of any other person." there shall be substituted

the words "to the exclusion of any other person:" and immediately thereafter there shall be added the following new proviso:

"Provided that the competent person shall not take any decision for the purpose of the dissolution and winding up of the undertaking, unless the competent authority issues a directive to that effect in terms of article 31A of the Act, and any such directive may contain such instructions, requirements and conditions as the competent authority may consider necessary, including with regard to the mode of winding up.";

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

Cap. 386. "(2A) Without prejudice to the powers of the competent authority in terms of sub-article (1), the competent authority may also submit an application to the court for the dissolution and winding up by the court of an undertaking, where it appears to the competent authority that an undertaking should be dissolved and wound up by the court for the reason set out in article 214(2)(b)(iii) of the Companies Act, and where the court accedes to the application, the relevant provisions of the Companies Act in relation to the dissolution and winding up by the court and any other applicable provisions of any other law shall apply."; and

(d) immediately after sub-article (5) thereof there shall be added the following new sub-article:

"(6) Any measure adopted in terms of sub-article (1) shall remain in force notwithstanding that an undertaking ceases to hold an authorisation licence for whatever reason, unless the competent authority otherwise directs.".

44. In sub-article (2) of article 31 of the principal Act, for the words "any information or documents specified in the authority, being information or documents" there shall be substituted the words "any information or documents specified in the notice, being information or documents".

Amendment of article 31 of the principal Act.

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Amendment of article 31A of the principal Act.

**45.** In sub-article (1) of article 31A of the principal Act, for the words "or any further directive." there shall be substituted the words "or any further directive:" and immediately thereafter there shall be added the following new provisos:

"Provided that the competent authority may give any such directive even where an undertaking, for whatever reason, ceases to hold an authorisation granted in terms of this Act:

Provided further that any directive given in terms of this article shall, unless the competent authority otherwise directs, continue to apply even when an undertaking, for whatever reason, ceases to hold an authorisation granted in terms of this Act."

Deletion of article 66 of the principal Act.

**46.** Article 66 of the principal Act shall be deleted.

Amendment of article 67 of the principal Act.

**47.** In sub-article (6) of article 67 of the principal Act the second proviso shall be deleted.

## **PART VII AMENDMENTS TO THE PREVENTION OF FINANCIAL MARKETS ABUSE ACT**

Amendments to the Prevention of Financial Markets Abuse Act. Cap. 476.

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

Amendment of article 2 of the principal Act.

**49.** In sub-article (1) of article 2 of the principal Act, the definition "the Minister" shall be substituted as follows:

" "the Minister" means the Minister responsible for the regulation of financial services;"

## **PART VIII AMENDMENTS TO THE SECURITISATION ACT**

Amendments to the Securitisation Act. Cap. 484.

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

Amendment of article 2 of the principal Act.

**51.** In article 2 of the principal Act, the definition "the Minister" shall be substituted as follows:

" "the Minister" means the Minister responsible for the regulation of financial services;"

**52.** Sub-article (1) of article 20 of the principal Act shall be substituted by the following: Amendment of article 20 of the principal Act.

"(1) For the better carrying out of the provisions of this Act or of the provisions of any regulations relating to securitisation vehicles or securitisation transactions, the competent authority may, from time to time, issue and publish rules as may be necessary or appropriate in connection therewith. The rules shall be binding on securitisation vehicles and securitisation creditors and other persons as may be specified therein."

**53.** Immediately after sub-article (1) of article 23 of the principal Act there shall be added the following new sub-article: Amendment of article 23 of the principal Act.

"(1A) Without prejudice to the generality of the foregoing, the Minister, acting on the advice of the competent authority, may make regulations to provide for and regulate the payment by any person, body, company or securitisation vehicle, as the case may be, of fees and such other charges in respect of any request, application or other matter that may be submitted to the competent authority under this Act including the fees and charges in respect of any permission, licence, authorisation, registration, recognition, exemption or other benefit, as well as fees and charges in respect of the competent authority's regulatory, supervisory or investigative functions, payable to the competent authority in respect of any matter provided for, by or under this Act or any regulations made under this article, as may be prescribed."

## PART IX

### AMENDMENTS TO THE INSURANCE DISTRIBUTION ACT

**54.** This Part amends the Insurance Distribution Act and it shall be read and construed as one with the Insurance Distribution Act, hereinafter in this Part referred to as "the principal Act". Amendments to the Insurance Distribution Act. Cap. 487.

**55.** In paragraph (a) of sub-article (2A) of article 3 of the principal Act, the words "and in such a case, a penalty imposed under this paragraph, whether in the form of a fixed amount, a daily penalty, or both, may in no case, exceed one hundred and fifty thousand euro (€150,000);" shall be deleted. Amendment of article 3 of the principal Act.

**56.** Article 19 of the principal Act shall be amended as follows: Amendment of article 19 of the principal Act.

(a) in paragraph (d) of sub-article (1) thereof, for the words "or part thereof, as the competent authority may direct;" there shall be substituted the words "or part thereof, including to

take the necessary action for the intermediary to be dissolved and wound up, as the competent authority may direct;"

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

(i) in paragraph (c) thereof, for the words "or by any other person, including the legal and judicial representation of the intermediary" there shall be substituted the words "or by any other person, including for the purposes of the dissolution and winding up of the intermediary as well as the legal and judicial representation of the intermediary";

(ii) in paragraph (d) thereof, for the words "to the exclusion of any other person." there shall be substituted the words "to the exclusion of any other person:" and immediately thereafter there shall be added the following new proviso:

Cap. 403. "Provided that the competent person shall not take any decision for the purpose of the dissolution and winding up of the intermediary, unless the competent authority issues a directive to that effect in terms of article 31A of the Insurance Business Act, made applicable by article 54 of the Act, and any such directive may contain such instructions, requirements and conditions as the competent authority may consider necessary, including with regard to the mode of winding up.";

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

Cap. 386. "(2A) Without prejudice to the powers of the competent authority in terms of sub-article (1), the competent authority may also make an application to the court for the dissolution and winding up by the court of an intermediary, where it appears to the competent authority that an intermediary should be dissolved and wound up by the court for the reason set out in article 214(2)(b)(iii) of the Companies Act, and where the court accedes to the application, the relevant provisions of the Companies Act in relation to the

dissolution and winding up by the court and any other applicable provisions of any other law shall apply."; and

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

"(4) Any measure adopted in terms of sub-article (1) shall remain in force notwithstanding that an intermediary ceases to be enrolled for whatever reason, unless the competent authority otherwise directs."

57. Article 51 of the principal Act shall be deleted.

Deletion of article 51 of the principal Act.

**PART X  
AMENDMENTS TO THE RETIREMENT PENSIONS ACT**

58. This Part amends the Retirement Pensions Act and it shall be read and construed as one with the Retirement Pensions Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Retirement Pensions Act. Cap. 514.

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

Amendment of article 2 of the principal Act.

(a) in the definition "competent authority", for the words "established by article 3 of the Malta Financial Services Authority Act, which body shall act as the competent authority for the purposes of this Act and also for relevant purposes of the Occupational Pensions Directive;" there shall be substituted the words "established by the Malta Financial Services Authority Act;"

Cap. 330.

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

" "key function" within a system of governance, means a capacity to undertake practical tasks comprising the risk management function, the internal audit function, and the actuarial function;"

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

" "main administration" means the place, located in Malta, where the main strategic decisions of a retirement scheme and a retirement fund are made;"

(d) in the definition "Malta's international

commitments":

(i) for the words "arising out of membership of, or affiliation" there shall be substituted the words "arising out of membership of the European Union and membership of, or affiliation"; and

(ii) for the words "whether bilateral or multilateral, to which Malta is a party;" there shall be substituted the words "whether bilateral or multilateral, including Memoranda of Understanding, to which Malta is a party;"

(e) in the definition "the Minister", for the words "Minister responsible for finance;" there shall be substituted the words "Minister responsible for the regulation of financial services;"

(f) the definition "Occupational Pensions Directive" shall be substituted by the following:

" "Occupational Pensions Directive" means Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast), as may be amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards and similar measures that have been or may be issued thereunder;"

(g) the definition "occupational retirement scheme" shall be substituted by the following:

" "occupational retirement scheme" means a retirement scheme, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade, for the purposes of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed:

(a) individually or collectively between the employer or employers and the employees or their respective representatives; or

(b) with self-employed persons, individually or collectively,

and which carries out activities directly arising therefrom;";

(h) immediately after the definition "occupational retirement scheme" there shall be added the following new definition:

" "officer", in relation to a licence holder, includes a director, manager or company secretary or any person effectively acting in such capacity, whether formally appointed or not;";

(i) the definition "Pension Rule" shall be substituted by the following:

" "Pension Rules" means rules issued by the competent authority, under various articles of this Act and under any regulations made thereunder;";

(j) in the definition "prescribed" for the words "made under this Act in accordance with article 37;" there shall be substituted the words "made under this Act;";

(k) the definition "recognition" shall be deleted;

(l) the definition "recognised person" shall be deleted;

(m) in the definition "service", for the words "provided in relation to an instrument; and, or any back-office administrative activity as established by Pension Rules;" there shall be substituted the words "provided in relation to an instrument;";

(n) in the definition "service provider", for the words "the services listed in the Schedule and, or recognised to provide any one or more of the back-office administrative activities established by Pension Rules;" there shall be substituted the words "the services listed in the Schedule;";

(o) in the definition "Solvency II Directive", for the words "(Solvency II), as may be amended from time to time, and includes any implementing measures that may be issued thereunder;" there shall be substituted the words "(Solvency II) (recast), as may be amended from time to time and includes any delegated acts and any technical standards that have been, or may be issued thereunder;"; and

(p) immediately after the definition "Solvency II Directive" there shall be added the following new definition:

"sponsoring undertaking" means any undertaking or other body, regardless of whether it includes or consists of one or more legal or natural persons, which acts as an employer or in a self-employed capacity or any combination thereof and which offers an occupational retirement scheme or pays contributions to an occupational retirement scheme;"

Amendment of Part II of the principal Act.

**60.** In the heading of Part II of the principal Act, for the words "Licensing and Recognition Requirements" there shall be substituted the words "Licensing Requirements".

Amendment of article 3 of the principal Act.

**61.** Paragraph (b) of sub-article (2) of article 3 of the principal Act shall be amended as follows:

(a) for the words "age of fifty, or not later than that specified in Pension Rules," there shall be substituted the words "age of fifty, or later than that specified in Pension Rules,;" and

(b) the proviso thereof shall be substituted by the following:

"Provided that a scheme or arrangement described in paragraph (a) may, by written notice to the competent authority, apply to be considered as a scheme for the purposes of this Act, and such a scheme shall comply with the provisions of Articles 32 to 35 of the Occupational Pensions Directive."

Amendment of article 4 of the principal Act.

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

(a) in sub-article (1) thereof, for the words "unless such retirement scheme is situated in Malta and is duly licensed under this Act." there shall be substituted the words "unless the main administration of such retirement scheme is located in Malta and is duly licensed under this Act.";

(b) in sub-article (3) thereof, for the words "unless such retirement scheme is situated in Malta and is duly licensed under this Act." there shall be substituted the words "unless the main administration of such retirement scheme is located in Malta and is duly licensed under this Act."; and

(c) paragraph (a) of sub-article (4) thereof shall be substituted by the following:

"(a) located in Malta; or".

- 63.** Article 5 of the principal Act shall be amended as follows: Amendment of article 5 of the principal Act.
- (a) in sub-article (1) thereof, for the words "an overseas retirement scheme unless such retirement fund is situated in Malta and is duly licensed under this Act." there shall be substituted the words "an overseas retirement scheme unless the main administration of such retirement fund is located in Malta and is duly licensed under this Act."; and
- (b) paragraph (a) of sub-article (3) thereof shall be substituted by the following:
- "(a) located in Malta; or".
- 64.** Article 7 of the principal Act shall be deleted. Deletion of article 7 of the principal Act.
- 65.** In the heading of Part III of the principal Act, for the words "Application, Grant, Cancellation, Suspension, of Licences and Recognitions" there shall be substituted the words "Application, Grant, Cancellation and Suspension of Licences". Amendment of Part III of the principal Act.
- 66.** Article 8 of the principal Act shall be amended as follows: Amendment of article 8 of the principal Act.
- (a) in the marginal note thereto, for the words "Application for a licence and, or recognition." there shall be substituted the words "Application for a licence.";
- (b) for the words "a licence or recognition, as the case may be," there shall be substituted the words "a licence";
- (c) for the words "shall be made in the form and manner" there shall be substituted the words "shall be made in writing in such form and manner";
- (d) in paragraph (a) thereof, for the words "may require or as may be prescribed;" there shall be substituted the words "may require by means of Pension Rules;"; and
- (e) in paragraph (b) thereof, for the words "by the competent authority or as may be prescribed." there shall be substituted the words "by the competent authority as may be established by means of Pension Rules.".
- 67.** Article 9 of the principal Act shall be amended as follows: Amendment of article 9 of the principal Act.
- (a) in the marginal note thereto, for the words "to refuse or grant a licence or recognition." there shall be substituted the words "to refuse or grant a licence.";

(b) in sub-article (1) thereof, for the words "grant a licence or recognition, as the case may be, applied for under" there shall be substituted the words "grant a licence applied for under";

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

(i) for the words "grant a licence or recognition, as the case may be, applied for under" there shall be substituted the words "grant a licence applied for under";

(ii) in paragraph (a) thereof:

(aa) immediately after sub-paragraph (i) thereof, there shall be added the following new sub-paragraph:

"(iA) the activities of the retirement scheme are limited to retirement benefit related operations and activities arising therefrom;";

(bb) in sub-paragraph (ii) thereof, for the words "the retirement scheme and, or Retirement Scheme Administrator, as the case may be, will comply with and observe the provisions" there shall be substituted the words "it submits evidence that it shall be in a position to comply with and observe the provisions;";

(cc) in sub-paragraph (iii) thereof, for the words "fit and proper persons" there shall be substituted the words "fit and proper";

(dd) in sub-paragraph (vi) thereof, for the words "does not raise any regulatory concerns;" there shall be substituted the words "does not raise any regulatory concerns; and";

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

"(aA) in addition to the requirements in paragraph (a), in the case of an occupational retirement scheme:

(i) the Retirement Scheme Administrator shows evidence that it will be in

a position to comply with the system of governance provided for in article 13A;

(ii) the Retirement Scheme Administrator shows evidence that, where the sponsoring undertaking guarantees the payment of the retirement benefits, the employer is committed to regular financing;"

(d) in sub-article (3) thereof, for the words "a licence or recognition granted by the competent authority" there shall be substituted the words "a licence granted by the competent authority";

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

(i) for the words "When considering whether to grant or refuse to grant a licence and, or recognition as the case may be, the competent authority shall," there shall be substituted the words "When carrying out its functions under the Act, the competent authority shall,"; and

(ii) in paragraph (c) thereof, for the words "or retirement fund, the persons responsible thereof," there shall be substituted the words "or retirement fund, the Retirement Scheme Administrator and, or the persons responsible thereof,";

(f) sub-article (6) thereof shall be deleted;

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

(i) for the words "the Rules to which the competent authority" there shall be substituted the words "the Pension Rules to which the competent authority";

(ii) for the words "shall subject a licence and, or recognition may be made" there shall be substituted the words "shall subject a licence, may be made"; and

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

"(a) all licences granted;"

(h) in sub-article (8) thereof, for the words "grant a licence or recognition; and in the case of a refusal it shall inform the applicant of the reasons" there shall be substituted the words

"grant a licence; and in the case of a refusal it shall inform the applicant in writing of the reasons";

(i) in paragraph (b) of sub-article (10) thereof, for the words "by means of a Pension Rule issued" there shall be substituted the words "by means of Pension Rules issued"; and

(j) in sub-article (11) thereof, for the words "a register of all holders of a licence and, or recognition. The register, which shall be publicly available, shall also indicate the services and, or activities in relation to which each licence and, or recognition was issued." there shall be substituted the words "a register of all holders of a licence. The register, which shall be publicly available, shall also indicate the services and, or activities in relation to which each licence was issued."

Amendment of article 10 of the principal Act.

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

(a) in the marginal note thereof, for the words "to cancel or suspend a licence or recognition." there shall be substituted the words "to cancel or suspend a licence.";

(b) in sub-article (1) thereof, for the words "suspend a licence and, or recognition in accordance with" there shall be substituted the words "suspend a licence in accordance with";

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

(i) in paragraph (c) thereof, for the words "false, inaccurate or misleading, or if the Retirement Scheme Administrator" there shall be substituted the words "false, inaccurate or misleading in any material particular, or if the Retirement Scheme Administrator"; and

(ii) in paragraph (d) thereof, for the words "licensed to carry on within the time provided for in the licence or has ceased to" there shall be substituted the words "licensed to carry on within the time provided for in the licence or if no such time is specified, within twelve months of its issue, or has ceased to";

(d) in paragraph (d) of sub-article (3) thereof, for the words "not commenced the activities it has been licensed to carry on within the time provided for in the licence or has ceased to" there shall be substituted the words "not commenced to provide the activities within the time provided for in the licence or if no such time is specified, within twelve months of its issue, or has ceased to"; and

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

(i) for the words "cancel or suspend a licence and, or recognition as the case may be:" there shall be substituted the words "cancel or suspend a licence:";

(ii) in paragraph (a) thereof, for the words "he is licensed and, or recognised to provide; or" there shall be substituted the words "he is licensed to provide; or";

(iii) in paragraph (d) thereof:

(aa) for the words "has been licensed and, or recognised to provide within the time provided for in the licence and, or recognition" there shall be substituted the words "has been licensed to provide within the time provided for in the licence";

(bb) for the words "or has ceased to provide such service; or" there shall be substituted the words "or if no such time is specified, within twelve months of its issue, or has ceased to provide such service; or";

(iv) in paragraph (e) thereof, for the words "suspend the licence and, or recognition for the protection of beneficiaries," there shall be substituted the words "suspend the licence for the protection of beneficiaries,"; and

(v) in paragraph (g) thereof, for the words "precluded from issuing the licence and, or recognition as the case may be, or where" there shall be substituted the words "precluded from issuing the licence, or where".

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

Amendment of article 11 of the principal Act.

(a) in the marginal note thereof, for the words "suspension of a licence and, or recognition." there shall be substituted the words "suspension of a licence.";

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

(i) in paragraph (a) thereof, for the words "to which a licence and, or recognition is subject or to impose a condition thereon;" there shall be substituted the words "to which a licence is subject or to impose a condition thereon;";

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

"(b) to refuse an application for a licence or to cancel or to suspend a licence,"; and

(iii) in the paragraph immediately following paragraph (b) thereof:

(aa) for the words "to the licence holder and, or recognised person, or in the case of a retirement scheme" there shall be substituted the words "to the licence holder, or in the case of a retirement scheme"; and

(bb) for the words "setting out the reasons for its proposed action." there shall be substituted the words "setting out detailed reasons for its proposed action.";

(c) in sub-article (3) thereof, for the words "The competent authority shall as soon as practicable notify its final decision" there shall be substituted the words "The competent authority shall notify its final decision"; and

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

"(4) The competent authority shall notify EIOPA of any restriction, suspension or cancellation of a licence of an occupational retirement scheme under article 10."

Amendment of article 13 of the principal Act.

**70.** In sub-article (1) of article 13 of the principal Act, for the words "the best interests of the retirement scheme and may not use the assets" there shall be substituted the words "the best interests of the retirement scheme, its members and beneficiaries, and may not use the assets".

Addition of article 13A to the principal Act.

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

"System of governance for occupational retirement schemes.

13A. (1) A Retirement Scheme Administrator shall be required to have in place an effective system of governance which provides for sound and prudent management of its activities in connection with the overall operation and administration of an occupational retirement scheme. The system of governance requirements shall be laid down in Pension Rules.

- (2) A Retirement Scheme Administrator shall:
- (a) ensure that persons carrying out a key function, and where applicable, persons or entities to which a key function has been outsourced, are fit and proper, in accordance with criteria set out in the Pension Rules;
  - (b) have in place the following key functions:
    - (i) an effective risk management system, including a risk management function;
    - (ii) an effective internal audit function;
    - and
    - (iii) where applicable, an effective actuarial function;
  - (c) as part of the risk management system, conduct its own risk assessment and the risk assessment of the occupational retirement scheme;
  - (d) have in place an effective internal control system;
  - (e) if it outsources any of its functions or activities, remain fully responsible for discharging all of its obligations under this Act and the regulations and Pension Rules issued thereunder.
- (3) The systems and functions referred to in sub-article (2) shall be determined by Pension Rules.
- (4) The system of governance shall be proportionate to the nature, scale and complexity of the operations of the occupational retirement scheme."

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

Amendment of article 16 of the principal Act.

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

"16. (1) Every retirement scheme or retirement fund shall appoint an auditor to carry out the duties as may be specified by Pension Rules.

(1A) Every retirement scheme which provides cover against biometric risks or guarantees an investment performance or a given level of benefits, shall also appoint an actuary to carry out the duties, as may be specified by regulations and Pension Rules."; and

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

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(i) for the words "a licence holder or recognised person, as the case may be, shall have the right" there shall be substituted the words "a licence holder shall have the right"; and

(ii) for the words "from that licence holder or recognised person as the case may be." there shall be substituted the words "from that licence holder."

Amendment of the heading of Part V of the principal Act.

**73.** In the heading of Part V of the principal Act, the words "Other Requirements and General Provisions" shall be substituted by the words "Other Requirements".

Amendment of article 18 of the principal Act.

**74.** Paragraph (a) of article 18 of the principal Act shall be substituted by the following:

"(a) the rates of contributions payable towards the retirement scheme, as may be prescribed;"

Substitution of article 20 of the principal Act.

**75.** Article 20 of the principal Act shall be substituted by the following:

"20. Every retirement scheme and Retirement Scheme Administrator shall forward to the competent authority a copy of its audited financial statements within the periods stipulated in the Pension Rules and shall comply with any reporting requirements, as may be required by Pension Rules."

Substitution of the heading "Defined Benefit Occupational Retirement Schemes" of the principal Act.

**76.** Immediately before article 26 of the principal Act the heading "Defined Benefit Occupational Retirement Schemes" shall be substituted by the heading "Quantitative Requirements".

Substitution of article 26 of the principal Act.

**77.** Article 26 of the principal Act shall be substituted by the following:

"Technical provisions.

26. (1) Every retirement scheme shall:

(a) establish at all times an adequate amount of liabilities corresponding to the financial commitments which arise out of their portfolio of existing pension contracts; and

(b) where it provides cover against biometric risks or guarantees either an investment performance or a given level of benefits, establish sufficient technical provisions.

(2) The manner in which technical provisions shall apply to retirement schemes licensed under the Act may be determined by regulations prescribed for this purpose."

**78.** In article 28 of the principal Act, for the words "as the case may be, shall produce such annual accounts," there shall be substituted the words "as the case may be, and comply with any reporting requirements such as annual accounts,".

Amendment of article 28 of the principal Act.

**79.** In article 30 of the principal Act, for the words "Every licence holder and recognised person under this Act" there shall be substituted the words "Every licence holder under this Act".

Amendment of article 30 of the principal Act.

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

Amendment of article 31 of the principal Act.

(a) for the words "A licence holder or recognised person, or any person having responsibility," there shall be substituted the words "A licence holder or any person having responsibility"; and

(b) for the words "the information provided under this Act as soon as such person or its delegate" there shall be substituted the words "the information provided under this Act, and any regulations made thereunder, or any Pension Rules, as soon as such person or its delegate".

**81.** Article 32 of the principal Act shall be amended as follows:

Amendment of article 32 of the principal Act.

(a) in sub-article (1) thereof, for the words "No person shall acquire," there shall be substituted the words "Notwithstanding anything contained in any other law, no person shall acquire,";

(b) in sub-article (4) thereof, for the words "mentioned in sub-article (1)(b) shall state the reasons" there shall be substituted the words "mentioned in sub-article (1)(c) shall state the reasons";

(c) sub-article (10) thereof shall be substituted by the following:

"(10) Without prejudice to the provisions of articles 46 and 48, where a shareholding in a service provider is acquired despite the objection of the competent authority, the competent authority shall have the power to make an order:

(a) restraining such person or service

provider from taking, or continuing with such action;

(b) declaring such action to be null and void;

(c) requiring such person or service provider to take such steps, as may be necessary, to restore the position existing immediately before the action was taken;

(d) restraining such person or service provider from exercising any rights which such action would, if lawful, have conferred upon them, including the right to receive any payment or to exercise any voting rights attached to the shares acquired;

(e) restraining such person or service provider from taking any similar action or any other action within the categories set out in sub-articles (1) and (6)."; and

(d) immediately after sub-article (11) thereof there shall be added the following new sub-article:

"(12) The requirements set out in this article shall apply to a retirement scheme set up as an investment company with variable share capital

Cap. 386. ("SICAV") under the Companies Act.".

Amendment of article 33 of the principal Act.

**82.** In article 33 of the principal Act, for the words "from time to time by the Commissioner of Inland Revenue." there shall be substituted the words "from time to time by the Commissioner for Revenue.".

Amendment of article 34 of the principal Act.

**83.** In article 34 of the principal Act, for the words "The competent authority may, by a Pension Rule made for" there shall be substituted the words "The competent authority may, by Pension Rules made for".

Amendment of article 35 of the principal Act.

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

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

(i) for the words "a licence holder or recognised person, as applicable, shall have the duty" there shall be substituted the words "a licence holder shall have the duty";

(ii) for the words "any fact or decision of which it becomes aware" there shall be substituted the words "any fact or decision concerning that licence holder of which it becomes aware";

(iii) for the words "such licence holder or recognised person" there shall be substituted the words "such licence holder";

(iv) for the word "which –" there shall be substituted the words "which relates to any matter which may be prescribed or is likely to bring or has brought about the following:";

(v) paragraphs (a), (b) and (c) thereof shall be substituted by the following:

"(a) a serious qualification, or refusal of the auditor's or actuary's report on the accounts of such licence holder;

(b) a material breach of the provisions of this Act and regulations or any Pension Rules which lay down the legal or regulatory requirements applicable to a licence holder in or under this Act; or

(c) a grave impairment of the licence holder's ability to meet the current or future liabilities attributable to it; or";

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

(i) for the words "a licence holder or recognised person, as applicable, shall report" there shall be substituted the words "a licence holder shall report";

(ii) for the words "any facts or decisions as specified in sub-article (1)" there shall be substituted the words "any facts or decisions of which he becomes aware of in the course of carrying out his duties, which relate to or have a serious adverse effect, upon the members or beneficiaries, as specified in sub-article (1)," and

(iii) for the words "of the licence holder or recognised person or of the person having such close links." there shall be substituted the words "of the licence holder or of the person having such close links.";

(c) in sub-article (3) thereof, for the words "the services listed in the Schedule and, or back-office administrative activities as established by Pension Rules." there shall be substituted the words "the services listed in the Schedule.";

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

"(3A) Without prejudice to any provision contained in this Act, the competent authority may request the auditor or the actuary, as the case may be, to provide it with such information and documentation relating to any fact or decision as specified in sub-articles (1) or (2) concerning the licence holder."; and

(e) in sub-article (4) thereof, for the words "a licence holder or recognised person, as applicable, to change its appointed auditor," there shall be substituted the words "a licence holder to change its appointed auditor".

Amendment of  
article 37 of the  
principal Act.

**85.** Article 37 of the principal Act shall be amended as follows:

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

(i) in paragraph (b) thereof, for the words "provide for the safekeeping and custody of the property of retirement schemes" there shall be substituted the words "provide for the safekeeping and oversight duties, and custody of the property of retirement schemes";

(ii) in paragraph (f) thereof, for the words "other licence holders or recognised persons, or advertisement from" there shall be substituted the words "other licence holders or advertisement from";

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

"(ha) regulate the restriction or prohibition of the free disposal of the assets of a retirement scheme falling within such description as may be prescribed, when in particular:

(i) that retirement scheme has failed to establish sufficient technical provisions in respect of the entire business or has insufficient assets to cover the technical provisions;

(ii) that retirement scheme has failed to hold any regulatory own funds as may be applicable.";

(iv) in paragraph (i) thereof, for the words "the manner in which a defined benefit retirement scheme deals with surplus funds" there shall be substituted the words "the manner in which a scheme which provides cover against biometric risks or guarantees an investment performance or a given level of benefits deals with surplus funds";

(v) in paragraph (k) thereof, for the words "as the case may be, of licence or recognition fees or other fees" there shall be substituted the words "as the case may be, of licence fees or other fees";

(vi) in paragraph (l) thereof, for the words "and any other legislative measures of the European Union requiring transposition and, or implementation as may be amended from time to time, and including any implementing measures issued thereunder as may be applicable to retirement schemes;" there shall be substituted the words "and including any implementing measures, implementing technical standards, regulatory technical standards and similar measures issued thereunder as may be applicable to retirement schemes that have or may be issued thereunder;";

(vii) paragraph (n) thereof shall be substituted by the following:

"(n) transpose, implement and, or give effect to the provisions and requirements of Directives, regulations and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder and relating to licence holders and others as may be specified therein; any such regulations strictly related to the transposition or implementation as aforesaid may contain provisions which are inconsistent with the provisions of this Act or of any other law, and for this purpose may provide that any provision in this Act or in any other law shall not apply to matters falling under the regulations, and in case of such

inconsistency, such provisions in any such regulations shall prevail;";

(viii) paragraph (o) thereof shall be substituted by the following:

Cap. 403. "(o) provide for the application of specific provisions of the Occupational Pensions Directive to the occupational pensions provision business carried out by insurance undertakings authorised under the Insurance Business Act carrying on long term business;"; and

(b) sub-article (2) thereof shall be deleted.

Amendment of article 38 of the principal Act.

**86.** Sub-article (2) of article 38 of the principal Act shall be amended as follows:

(a) for the words "binding on licence holders and, or recognised persons under this Act" there shall be substituted the words "binding on licence holders under this Act";

(b) for the words "may relate to a particular class of retirement scheme and, or retirement fund" there shall be substituted the words "to a particular category of retirement scheme and, or retirement fund";

(c) for the words "activities of that licence holder or recognised person, the conduct of" there shall be substituted the words "activities of that licence holder, the conduct of";

(d) in paragraph (b) thereof, for the words "management of the retirement scheme and, or fund;" there shall be substituted the words "management of the retirement fund;";

(e) in paragraph (c) thereof, for the words "management of the retirement scheme and, or retirement fund" there shall be substituted the words "management of the retirement fund";

(f) in sub-paragraph (ii) of paragraph (e) thereof, for the words "that retirement scheme has failed to hold any regulatory own funds as may be applicable, in accordance with the procedure established under article 17B of the Malta Financial Services Authority Act with respect to freezing of assets;" there shall be substituted the words "that retirement scheme has failed to hold any regulatory own funds as may be applicable;";

(g) paragraph (g) thereof shall be substituted by the

following:

"(g) the provision of specific requirements for personal retirement schemes;"

(h) in paragraph (h) thereof, for the words "for licensing or recognition or other purposes" there shall be substituted the words "for licensing or other purposes";

(i) paragraph (i) thereof shall be deleted;

(j) in paragraph (j) thereof, for the words "applicable to licence holders and, or recognised persons as the case may be;", there shall be substituted the words "applicable to licence holders;"

(k) paragraph (o) thereof shall be substituted by the following:

"(o) establishing conditions and requirements regarding the payment to a member in the event that the member is no longer employed by the employer;"

(l) in paragraph (p) thereof:

(i) for the words "licence holders and, or recognised persons or providing that the persons" there shall be substituted the words "licence holders or providing that the persons"; and

(ii) for the words "licence holders and, or recognised persons as applicable and the duty of a licence holder or recognised person to make documents available to the auditors of such licence holder or recognised person as applicable;" there shall be substituted the words "licence holders and the duty of a licence holder to make documents available to the auditors of such licence holder;"

(m) in paragraph (t) thereof, for the words "retirement schemes." there shall be substituted the words "retirement schemes;" and

(n) immediately after paragraph (t) thereof, as amended, there shall be added the following new paragraphs:

"(u) issuing Pension Rules in relation to occupational retirement schemes transferring all or part of their liabilities, technical provisions and other obligations

and rights, as well as corresponding assets or cash equivalent to another retirement scheme;

(v) issuing Pension Rules to enable a member, beneficiary, contributor and generally any person who has entered or offered to enter into a retirement scheme, to rescind the agreement or withdraw the offer within such period and in such manner as stipulated in the said Rules."

Amendment of article 39 of the principal Act.

**87.** Article 39 of the principal Act shall be amended as follows:

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

(i) for the words "The competent authority may," there shall be substituted the words "Without prejudice to anything contained in any other provision of this Act which requires a Retirement Scheme Administrator, a retirement scheme and a retirement fund to furnish to the competent authority any information or documentation, the competent authority may,";

(ii) in sub-paragraph (i) thereof, for the words "as it may require, with respect to any service," there shall be substituted the words "as it may require, including existing telephone and existing data traffic records, with respect to any service,"; and

(iii) in sub-paragraph (ii) thereof, for the words "verified in such manner as it may specify; or" there shall be substituted the words "verified in such manner and in such language as it may specify; or";

(b) in sub-article (2) thereof, for the words "under this article." there shall be substituted the words "under this article or extracts from them.";

(c) in sub-article (8) thereof, for the words "a holder of a licence or recognition may be required to submit" there shall be substituted the words "a holder of a licence may be required to submit"; and

(d) immediately after sub-article (8) thereof there shall be added the following new sub-article:

"(9) The powers to obtain information available to the competent authority pursuant to this article with regard to the persons listed in sub-article (1), shall also be available with regard to the service providers of outsourced

key functions or any other activities at any time."

**88.** In sub-article (1) of article 40 of the principal Act, for the words "referred to in article 39(1)(a) to (c)." there shall be substituted the words "referred to in article 39(1)(a) to (c) and to report thereon to it." Amendment of article 40 of the principal Act.

**89.** Article 41 of the principal Act shall be amended as follows: Amendment of article 41 of the principal Act.

(a) in sub-article (1) thereof, for the words "or further directive." there shall be substituted the words "or further directive:", and immediately thereafter there shall be added the following new provisos:

"Provided that the competent authority may give any such directive, even where a licence holder, for whatever reason, ceases to hold a licence granted in terms of this Act:

Provided further that any directive given in terms of this article shall, unless the competent authority otherwise directs, continue to apply even when a licence holder, for whatever reason, ceases to hold a licence granted in terms of this Act.";

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

(i) in paragraph (a) thereof, for the words "or any other requirement, and confer powers," there shall be substituted the words "or any other requirement, including any requirement emanating from European Union legislation, and confers powers,";

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

"(c) require that any officer or any person having functions in relation to the holder of a licence be prohibited, temporarily or otherwise, suspended from carrying out activities licensable under the Act, or be removed, or removed and replaced by another person acceptable to the competent authority;" and

(iii) in paragraph (d) thereof, for the words "management of the retirement scheme or retirement fund" there shall be substituted the words "management of the retirement fund".

Addition of articles 41A and 41B to the principal Act.

**90.** Immediately after article 41 of the principal Act, as amended, there shall be added the following new articles:

"Supervisory review process of occupational retirement schemes.

41A. (1) The competent authority shall review the strategies, processes and reporting procedures which are established by a Retirement Scheme Administrator or an occupational retirement scheme to comply with the provisions of this Act and any regulations and Pension Rules issued thereunder taking into account the size, nature, scale and complexity of the activities of the scheme.

(2) The review carried out by the competent authority pursuant to sub-article (1), shall take into account the circumstances in which the occupational retirement scheme is operating, and where relevant, the parties carrying out outsourced key functions or any other activities for them. The review shall comprise of an assessment of the following elements:

- (a) an assessment of the qualitative requirements relating to the system of governance;
- (b) an assessment of the risks which the occupational retirement scheme faces;
- (c) an assessment of the ability of the occupational retirement scheme to assess and manage those risks.

(3) Where the competent authority identifies any weakness or deficiency as a consequence of the supervisory review process, it shall request the Retirement Scheme Administrator or an occupational retirement scheme to remedy such weakness or deficiency within such period and in such manner, as it may deem necessary or appropriate in the circumstances.

(4) The reviews, evaluations and assessments referred to in sub-articles (1) and (2), shall be conducted regularly and the competent authority shall establish the minimum frequency and the scope of the review referred to in sub-article (1) having regard to the nature, scale and complexity of the activities of a Retirement Scheme Administrator or the occupational retirement scheme.

Information to be provided for supervisory purposes.

41B. Without prejudice to the provisions of the Act, an occupational retirement scheme shall submit to the competent authority the information which is necessary for the purposes of supervision, as may be specified by means of regulations or Pension Rules which shall also specify the period within which such information is to be submitted."

**91.** Article 42 of the principal Act shall be amended as follows:

Amendment of article 42 of the principal Act.

(a) in sub-article (1) thereof, for the words "Any officer, employee or agent" there shall be substituted the words "Without prejudice to the provisions of the Companies Act, relating to the entry and search of premises, any officer, employee or agent";

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(b) in sub-article (2) thereof, for the words "on producing, if required, evidence of his authorisation, enter any premises referred to in sub-article (1) for the purpose of obtaining there any information or documents, being information or documents" there shall be substituted the words "on producing if required, evidence of his authority, enter any premises referred to in sub-article (1) for the purpose of obtaining from there any information or documents, specified in the notice, being information or documents"; and

(c) in sub-article (3) thereof, for the words "enforcement of law and order." there shall be substituted the words "enforcement of law and order:", and immediately thereafter there shall be added the following new proviso:

"Provided that, where an entry as is mentioned in this article involves premises that are occupied for the purpose of habitation, such entry shall be carried out in the presence of an officer of the Police of a rank not below that of inspector and shall moreover not take place between nine in the evening and five in the morning."

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

Amendment of article 43 of the principal Act.

(a) in paragraph (a) thereof, for the words "on the licence or recognition granted" there shall be substituted the words "on the licence granted"; and

(b) in paragraph (b) thereof, for the words "suspend a licence or recognition under article 10(1);" there shall be substituted the words "suspend a licence under article 10(1);".

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Amendment of  
article 44 of the  
principal Act.

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

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

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

"(aA) any condition imposed in a licence in terms of article 9(3);";

(ii) in paragraph (c) thereof, for the words "suspension of a licence or recognition under articles" there shall be substituted the words "suspension of a licence under articles";

(b) in the proviso to sub-article (2) thereof, for the words "a licence or recognition shall not become operative" there shall be substituted the words "a licence shall not become operative"; and

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

"(4) The Financial Services Tribunal shall have exclusive competence to hear appeals on the matters listed in sub-article (1)."

Amendment of  
article 46 of the  
principal Act.

**94.** Article 46 of the principal Act shall be amended as follows:

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

(i) for the words "where a licence holder or recognised person" there shall be substituted the words "where a licence holder";

(ii) for the words "or the manager, secretary, director or any other person responsible" there shall be substituted the words "or an officer, or any other person responsible";

(iii) for the words "responsible for a licence holder or recognised person contravenes or fails to comply with any of the conditions imposed in a licence or recognition, and, or where the competent authority" there shall be substituted the words "responsible for a licence holder contravenes or fails to comply with any of the conditions imposed in a licence and, or where the competent authority";

(iv) for the words "impose on the licence holder or recognised person," there shall be substituted the words "impose on the licence holder,";

(v) for the words "manager, secretary, director, and, or any other person, as the case may be, an administrative penalty which may not exceed ninety-three thousand and two hundred euro." there shall be substituted the words "officer and, or any other person, as the case may be, an administrative penalty which may not exceed one hundred and fifty thousand euro (€150,000) in respect of each infringement or failure to comply, as the case may be and, where such infringement or failure to comply continues, a further penalty not exceeding one hundred and sixteen euro (€116) for each day during which the infringement or failure to comply continues.";

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

(i) for the words "on licence holders, recognised persons or others, as may be specified," there shall be substituted the words "on licence holders or others, as may be specified,"; and

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

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

"(4) The competent authority shall, without undue delay, publish in such medium and in such manner and for such duration, as it may determine, any administrative penalty or other measure which is imposed for breaches of the provisions of this Act, any regulations or Pension Rules issued thereunder, and with regard to which no appeal was filed within the time limit prescribed by law. Such publication shall include information on the type and nature of the breach and the identity of the natural or legal person responsible for the breach."; and

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

"(4A) Notwithstanding sub-article (1), the competent authority may decide to defer publication, not to publish, or to publish on an anonymous basis, any administrative penalty or other measure imposed, in any of the following circumstances:

(a) where the publication of the identity of legal persons, or the identity or personal data of natural persons, is considered by the competent authority to be disproportionate, following a case by case assessment conducted on the proportionality of the publication of such data; or

(b) where the publication jeopardises the stability of financial markets or an ongoing investigation."

Substitution of article 48 of the principal Act.

**95.** Article 48 of the principal Act shall be substituted by the following:

"Offences.

48. Any person who:

(a) for the purposes of obtaining a licence under this Act, or pursuant to any of the provisions of this Act, any regulations or Pension Rules issued thereunder, or any condition, obligation, requirement or Pension Rules or directive made or given as aforesaid, furnishes information or makes a statement or a declaration which he knows to be inaccurate, false or misleading in any material respect, or recklessly furnishes information or makes a statement or a declaration which is inaccurate, false or misleading in any material respect;

(b) is knowingly a party to the carrying out of any retirement scheme or retirement fund or licensable activity with an intent to defraud or for a fraudulent purpose;

(c) by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (whether dishonest or otherwise) of any statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person to enter into, or offer to enter into a retirement scheme or retirement fund;

(d) with intent to avoid detection of the commission of an offence under this Act, any regulations or Pension Rules issued thereunder removes, destroys, conceals or fraudulently alters any book, document or other paper; or

(e) intentionally obstructs a person exercising rights conferred by this Act or any regulations or Pension Rules issued thereunder,

shall be guilty of an offence."

**96.** In article 49 of the principal Act, for the words "of article 48 shall, unless another penalty is prescribed, be liable on conviction to a fine (multa) not exceeding four hundred and sixty-six thousand euro or to" there shall be substituted the words "of article 48 shall, be liable on conviction to a fine (*multa*) not exceeding four hundred and sixty-six thousand euro (€466,000) or to".

Amendment of article 49 of the principal Act.

**97.** Article 50 of the principal Act shall be amended as follows:

Amendment of article 50 of the principal Act.

(a) in sub-article (1) thereof, for the words "under this Act shall be commenced without the consent of" there shall be substituted the words "under this Act and any regulations made thereunder, shall be commenced without the sanction of"; and

(b) in sub-article (2) thereof, for the words "this Act shall not affect any criminal liability that may be incurred by any person under any other law." there shall be substituted the words "this Act and any regulations made thereunder shall not affect any criminal proceedings that may be competent under any other law."

**98.** Article 51 of the principal Act shall be deleted.

Deletion of article 51 of the principal Act.

**99.** Article 52 of the principal Act shall be substituted by the following:

Substitution of article 52 of the principal Act.

"Confidentiality. 52. (1) Information obtained by the competent authority or its officers, employees, agents, including former officers, employees or agents, as well as by inspectors, auditors, actuaries and experts acting on behalf of the competent authority for the purposes of, or pursuant to any of the provisions of this Act, or any regulations or Pension Rules issued thereunder, or in the discharge of any functions under any of the said provisions, shall be treated as confidential and protected by the duty of professional secrecy.

(2) Without prejudice to cases covered by criminal law, the persons referred to in sub-article (1) shall not disclose information obtained, from a retirement scheme, a retirement fund and a service provider licensed under the Act, unless such disclosure of information is done in summary or aggregate form, so as not to enable the identity of such scheme, to whom such information relates, to be ascertained:

Provided that such persons may disclose confidential information in civil or commercial proceedings where a retirement scheme, a retirement fund or a service provider is being compulsorily wound up.

(3) The competent authority, when processing personal data for the purposes of the Act and any regulations and Pension Rules issued thereunder, shall do so in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), as amended from time to time."

Addition of articles 52A, 52B, 52C, 52D and 52E to the principal Act.

**100.** Immediately after article 52 of the principal Act, as substituted, there shall be added the following new articles:

"Use of confidential information.

52A. (1) Where the competent authority receives confidential information under this Act and any regulations or Pension Rules issued thereunder, it may only use such confidential information in the course of its duties and for the following purposes:

(a) to verify that conditions for taking up the activity for the provision of retirement benefits are met by the retirement scheme before commencing its activities;

(b) to facilitate the monitoring of activities of the retirement scheme, including the monitoring of technical provisions, the solvency, the system of governance and the information provided to members and beneficiaries, as applicable;

(c) to impose corrective measures, including administrative sanctions;

(d) to publish key performance indicators for all individual occupational retirement schemes which may assist members and beneficiaries in taking financial decisions regarding their pension where permitted by national law;

(e) in appeals filed from decisions of the competent authority under article 44;

(f) in judicial proceedings relating to the provisions of the Act, any regulations and, or Pension Rules issued thereunder.

(2) Articles 52 and 52A of the Act shall be without prejudice to the right of inquiry conferred on the European Parliament by Article 226 of the Treaty on the Functioning of the European Union, pursuant to Article 54 of the Occupational Pensions Directive.

Co-operation  
in supervisory  
duties and  
sharing of  
information.

52B. (1) Notwithstanding the provisions of articles 52 and 52A, the competent authority:

(a) in the discharge of its supervisory functions, shall exchange information with:

(i) overseas regulatory authorities;

(ii) authorities responsible for the supervision of the financial sector entities and other financial organisations and the authorities responsible for the supervision of financial markets;

(iii) authorities or bodies charged with the responsibility for maintaining the stability of the financial system in Member States through the use of macro-prudential rules;

(iv) bodies involved in the winding up of retirement schemes and in other similar procedures;

(v) reorganisation bodies or authorities aiming at protecting the stability of the financial system;

(vi) persons responsible for carrying out statutory audits of the accounts of retirement schemes, insurance undertakings and other financial institutions;

(vii) authorities responsible for overseeing the bodies involved in the winding up of retirement schemes and other similar procedures;

(viii) authorities responsible for overseeing the persons charged with carrying out statutory audits of the accounts of retirement schemes, insurance undertakings and other financial institutions;

(ix) independent actuaries of retirement schemes carrying out supervision of those schemes and the bodies responsible for overseeing such actuaries;

(b) shall disclose to bodies which administer the winding up of a retirement scheme the information necessary for the performance of their duties.

(2) Any information provided by the competent authority to authorities, bodies or persons referred to in sub-article (1)(a)(i) to (vi), shall be subject to the duty of professional secrecy.

(3) Notwithstanding the provisions of articles 52 and 52A, the competent authority may transmit information for the purposes of the exercise of their respective tasks to the following:

(a) the Central Bank of Malta, the central banks of the European System of Central Banks (including the European Central Bank) and other bodies with a similar function in their capacity as monetary authorities;

(b) where appropriate, other national public authorities responsible for overseeing payment systems; and

(c) the European Systemic Risk Board, EIOPA, the European Supervisory Authority (European Banking Authority) established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council and the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council.

(4) Without prejudice to the provisions of this article and articles 52C and 52D, the authorities or bodies referred to in sub-article (4) shall communicate to the competent authority any information which the competent authority requires for the purposes of article 52A.

(5) Any information provided by the competent authority in accordance with sub-article (4) or received by the competent authority in accordance with sub-article (5) shall be subject to the duty of professional secrecy.

Disclosure of confidential information in relation to occupational retirement schemes.

52C. (1) Notwithstanding the provisions of articles 52(1), 52(2), 52A and 52D(1), the competent authority may exchange information with other departments of central government administration responsible for the enforcement of legislation on the supervision of occupational retirement schemes, credit institutions, financial institutions, investment services and insurance undertakings, or inspectors acting on behalf of those departments, provided that:

(a) such disclosures shall be made only where necessary for reasons of prudential control and prevention and resolution of failing occupational retirement schemes; and

(b) without prejudice to sub-article (3), persons having access to such information shall be subject to the duty of professional secrecy.

(2) Any information obtained by means of an on-site verification may be disclosed to the departments referred to in sub-article (1), only with the express consent of the competent authority from which the information originated from, or the overseas regulatory authority of the country in which the on-site verification was carried out.

(3) The competent authority may disclose confidential information relating to the prudential supervision of an occupational retirement scheme to national parliamentary enquiry committees or national courts of auditors and other national entities in charge of enquiries, where all the following conditions are satisfied:

(a) the entities have competence under national law to investigate or scrutinise the actions of authorities responsible for the supervision of occupational retirement schemes or for laws on such supervision;

(b) the information is strictly necessary for satisfying the competence referred to in paragraph (a);

(c) the persons with access to the information are subject to the duty of professional secrecy requirements;

(d) if the information originates from another Member State, that information is disclosed with the explicit agreement of the originating overseas regulatory authorities and solely for the purposes for which those authorities gave their agreement.

Conditions  
for the  
exchange of  
information.

52D. (1) For exchanges of information under articles (1) to (3) of article 52B of the Act, transmission of information under sub-articles (4), (5) and (6) of article 52B and the disclosure of information under article 52C, the following conditions shall be satisfied:

(a) the information shall be exchanged, transmitted or disclosed for the purpose of carrying out oversight or supervision;

(b) the information received shall be subject to the duty of professional secrecy;

(c) where the information originates from another Member State, it shall not be disclosed without the express agreement of the overseas regulatory authority from which it originates and where appropriate, solely for the purposes for which that authority gave its agreement.

(2) Notwithstanding the provisions of article 52A, the competent authority may exchange information with authorities or bodies responsible for the detection and investigation of breaches of company law applicable to sponsoring undertakings, for the purposes of strengthening the stability and integrity of the financial system, provided that:

(a) the information is intended for the purpose of detection, investigation and scrutiny as referred to in article 52C(3)(a);

(b) the information received shall be subject to the duty of professional secrecy;

(c) where the information originates from another Member State, it shall not be disclosed without the express agreement of the overseas regulatory authority from which it originates and, where appropriate, solely for the purposes for which that authority gave its agreement.

(3) Where the authorities or bodies referred to in sub-article (2) perform their tasks of detection or investigation with the assistance of persons appointed in view of their specific competence and for that purpose, and who are not employed in the public sector, the possibility of exchanging information provided for in article 52C(3), shall apply.

Co-operation with EIOPA and the European Commission.

52E. (1) The competent authority shall co-operate with EIOPA in accordance with Regulation (EU) No. 1094/2010 and with the European Commission for the purposes of the Occupational Pensions Directive and to facilitate supervision of the operations of retirement schemes.

(2) The competent authority shall provide EIOPA with all information necessary to carry out its duties under the Occupational Pensions Directive and Regulation (EU) No. 1094/2010, in accordance with Article 35 of Regulation (EU) No. 1094/2010.

(3) The competent authority shall inform EIOPA and the European Commission of any major difficulties which the application of the Occupational Pensions Directive gives rise to and the European Commission, EIOPA and the competent authority shall examine such difficulties as quickly as possible in order to find an appropriate solution."

**101.** Article 53 of the principal Act shall be deleted.

Deletion of article 53 of the principal Act.

**102.** Article 54 of the principal Act shall be amended as follows:

Amendment of article 54 of the principal Act.

(a) in the marginal note thereof, for the words "Notices." there shall be substituted the words "Service of notices.";

(b) in the English text of paragraph (a) thereof, for the words "delivered to it;" there shall be substituted the words "delivered to him;"

(c) in the English text of paragraph (b) thereof, for the words "address furnished by it to the competent authority, or to its last known address;" there shall be substituted the words "address furnished by him to the competent authority, or to his last known address;" and

(d) in paragraph (c) thereof, for the words "sent to it by post, e-mail or by telefax at any of" there shall be substituted the words "sent to it by post or e-mail at any of".

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Amendment of  
article 56 of the  
principal Act.

**103.** Immediately after sub-article (3) of article 56 of the principal Act, there shall be added the following new sub-article:

Cap.514.

"(4) The Minister, acting on the advice of the competent authority may, by regulations, make transitional provisions in respect of such persons who were granted a recognition by the competent authority under article 7 of the Retirement Pensions Act and, without prejudice to the generality of the foregoing may, by such regulations, in particular, prescribe a period within which back office administrators are to surrender their recognition, subject to such conditions and requirements as may be prescribed."

**PART XI**  
**AMENDMENTS TO THE COMPANY**  
**SERVICE PROVIDERS ACT**

Amendments to  
the Company  
Service  
Providers Act.  
Cap. 529.

**104.** This Part amends the Company Service Providers Act and it shall be read and construed as one with the Company Service Providers Act, hereinafter in this Part referred to as "the principal Act".

Amendment of  
article 5 of the  
principal Act.

**105.** In sub-article (5) of article 5 of the principal Act, for the words "as may be prescribed, which is payable annually upon the anniversary of the date of such registration." there shall be substituted the words "as may be prescribed."

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Passed by the House of Representatives at Sitting No. 302 of the  
26th February, 2020.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



# VERŻJONI ELETTRONIKA