

MALTA

ATT Nru. XIII ta' l-1994

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex jaghti lill-Awtorita' dwar il-Kummerċ Internazzjonali ta' Malta l-funzjonijiet ta' Ċentru għas-Servizzi Finanzjarji ta' Malta, sabiex jibdel isem l-Awtorita' u biex jagħmel ċerti emendi konsegwenzjali għall-Att dwar Attivitajiet Kummerċjali Internazzjonali ta' Malta, Kap. 330.

ACT No. XIII of 1994

AN ACT enacted by the Parliament of Malta.

AN ACT to confer on the Malta International Business Authority the functions of the Malta Financial Services Centre, to change the name of the Authority and to make certain consequential amendments to the Malta International Business Activities Act, Cap. 330.

Nagħti l-kunsens tiegħi,

UGO MIFSUD BONNICI
President

13 ta' Settembru, 1994

(L.S.)

ATT Nru. XIII ta' l-1994

Att biex jagħti lill-Awtorita' dwar il-Kummerċ Internazzjonali ta' Malta l-funzjonijiet ta' Ċentru għas-Servizzi Finanzjarji ta' Malta, sabiex jibdel isem l-Awtorita' u biex jagħmel ċerti emendi konsegwenzjali għall-Att dwar Attivitàjiet Kummerċjali Internazzjonali ta' Malta, Kap.330.

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

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1994 li jemenda l-Att Titolu dwar Attivitàjiet Kummerċjali Internazzjonali ta' Malta, u għandu jinqara fil-qosor u jinftiehem bhala haġa waħda ma' l-Att dwar Attivitàjiet Kummerċjali u bidu Internazzjonali ta' Malta, li minn issa 'l quddiem u għall-finijiet ta' dan fis-sehh. l-Att u għal kull effett u skop ta' din u ta' kull ligi oħra, għandu jissejjah bhala l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

(2) Dan l-Att għandu jibda jsehh fdik id-data li l-Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

Emenda tat-titolu fil-qosor u ta' taqsimiet ohra ta' l-Att prinċipali.

2. (1) It-titolu fil-qosor ta' l-Att prinċipali għandu jithassar u minflok jidhlu l-kliem "Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta".

(2) Fit-titolu twil ta' l-Att prinċipali, minflok il-kliem "Biex iwaqqaf Awtorita' għal Attivitàjiet Finanzjarji u Kummerċjali Internazzjonali" għandhom jidhlu l-kliem "Biex iwaqqaf Ċentru għas-Servizzi Finanzjarji".

(3) Fl-Arrangament ta' Sezzjonijiet ta' l-Att prinċipali, minflok il-kliem "L-Awtorita' dwar il-Kummerċ Internazzjonali ta' Malta" għandhom jidhlu l-kliem "Iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta", u wara r-riferenza għat-Tieni Skeda u dak li hemm fiha, għandhom jiżdiedu l-kliem "It-Tielet Skeda" u "Funzjonijiet u Setgħat Ġenerali taċ-Ċentru" rispettivament.

(4) Fl-artikolu 1 ta' l-Att prinċipali, minflok il-kliem "l-Att dwar Attivitàjiet Kummerċjali Internazzjonali ta' Malta" għandhom jidhlu l-kliem "l-Att dwar Ċentru għas-Servizzi Finanzjarji ta' Malta".

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

3. Fis- subartikolu (1) ta' l-artikolu 2 ta' l-Att prinċipali:

(a) it-tifsira ta' "l-Awtorita' " għandha tithassar;

(b) fit-tifsira ta' "il-Bord", "Kumpanija *offshore* ta' assigurazzjoni *captive*", "il-kumitat" u "attività *offshore*", il-kelma "Awtorita' " kull fejn tinsab għandha tithassar u minflokha tidhol il-kelma "Ċentru";

(ċ) minnufih wara t-tifsira ta' "il-Bord" u qabel it-tifsira ta' "flus barranin" għandha tidhol din it- tifsira ġdida li ġejja:

" "iċ-Ċentru" tfisser iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta mwaqqaf bl-artikolu 3 ta' dan l-Att;";

(d) minnufih wara t-tifsira ġdida ta' "iċ-Ċentru" u qabel it-tifsira ta' "flus barranin" għandha tidhol din it-tifsira ġdida li ġejja:-

" "Direttur" tfisser kull persuna li tinhatar membru tal-Kumitat Eżekuttiv, minbarra ċ-*Chief Executive*, bis-saħħa ta' l-artikolu 8 ta' dan l-Att; ";

(e) it-tifsira ta' "Ministru" għandha tithassar u minflokha għandha tidhol din it-tifsira ġdida li ġejja:

" "Ministru" tfisser il-Ministru responsabbli għall-finanzi;";

(f) fir-raba' *proviso* għat-tifsira "*attività offshore*" minnufih wara l-kelma "f'Malta" għandu jidhol dan li ġej:

", jew prodotti ta' agrikoltura u ta' l-ortikultura u hut imkabbrin jew imrobbijin f'Malta;";

(g) minnufih wara l-*proviso* ghat-tifsira ta' "residenti f'Malta" ghandu jidhol dan li ġej:

"Izda wkoll għall-fini tat-tifsira ta' "attività *offshore*" f'dan l-artikolu, kumpennija ffurmata u registrata f'Malta li tkun kollha kemm hi ta' persuni mhux residenti f'Malta u li espressament jillimita l-għanijiet u l-attivitajiet tagħha għal proprjeta', tmexxija u amministrazzjoni ta' bastimenti eżentati registrati taht l-Att dwar il-Bastimenti Merkantili titqies li ma tkunx residenti f'Malta"; u

(h) minnufuh wara t-tifsira ta' "residenti f'Malta" ghandha tidhol it-tifsira li ġejja:

" "vapur" ghandha t-tifsira mogħtija lilha taht l-Att dwar il-Bastimenti Merkantili." Kap. 234.

4. L-intestatura tat-Taqsima I ta' l-Att prinċipali ghandha tithassar u minflokha ghandhom jidhlu l-kliem "Ċentru għas-Servizzi Finanzjarji ta' Malta". Emenda ta' l-intestatura tat-Taqsima I ta' l-Att prinċipali.

5. (1) Is-subartikolu (1) ta' l-artikolu 3 ta' l-Att prinċipali ghandu jithassar u minflok ghandu jidhol dan is-subartikolu li ġej:

" (1) Ghandu jkun hemm Ċentru li jkun magħruf bħala ċ-Ċentru għas-Servizzi Finanzjarji ta' Malta." Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

(2) Fis-subartikolu (2) ta' l-artikolu 3 ta' l-Att prinċipali minflok il-kelma "Awtorita" ghandha tidhol il-kelma "Ċentru".

6. Fl-artikolu 4 ta' l-Att prinċipali: Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

(a) il-kelma "Awtorita" kull fejn tinsab u fin-nota marginali ghandha tithassar u minflokha ghandha tidhol il-kelma "Ċentru"; u

(b) fis-subartikolu (1) tiegħu, il-paragrafi (a) sa (e), it-tnejn magħdudin, ghandhom jithassru u minflokhom jidhlu dawn il-paragrafi ġodda li ġejjin:-

" (a) li jippromwovi Malta bħala ċentru għas-servizzi finanzjarji internazzjonali;

(b) li jghin lil entijiet morali u persuni oħra biex jistabbilixxu f'Malta attivitajiet ta' servizzi finanzjarji;

(ċ) li jipprovdi ko-ordinazzjoni shiha tas-settur ta' servizzi finanzjarji b'mod ġenerali f'Malta;

(d) li jsegwi u jissorvelja attivitajiet *offshore* sabiex jassigura li jkunu qegħdin jigu mwettqa skond il-liġi u partikolarment li ma jkunux qegħdin jitmexxew f'dawk l-arej

jew b'dak il-mod biex jaqdu l-ghanijiet ta' attivitajiet illeciti, sew f'Malta sew barra minn Malta, jew xort'ohra b'detriment għall-interessi ta' Malta; u

(e) li jagħti pariri lill-Gvern b'mod ġenerali fuq servizzi finanzjarji u fuq hwejjeg oħra relatati."

Zieda ta' l-artikolu 4A ġdid ma' l-Att prinċipali.

7. Minnufih wara l-artikolu 4 ta' l-Att prinċipali għandu jidhol dan l-artikolu ġdid li ġej:

"Setgħat aktar ta' Ċentru.

4A. (1) Iċ-Ċentru jkollu wkoll il-funzjonijiet u s-setgħat stipulati fit-Tielet Skeda li tinsab ma' dan l-Att.

(2) Il-Bord ta' Gvernaturi ta' Ċentru, il-Kumitat Eżekuttiv tiegħu u l-impjegati tiegħu ma jkunux responsabbli għad-danni dwar dak li jsir jew jonqos milli jsir fl-eżekuzzjoni jew fl-eżekuzzjoni maħsuba ta' xi funzjoni taħt dan l-Att, kemm-il darba dak li jsir jew jonqos li jsir jintwera bħala li jkun sar jew naqas milli jsir, skond il-każ, *in mala fede*."

Emenda ta' l-artikolu 5 ta' l-Att prinċipali.

8. Fl-artikolu 5 ta' l-Att prinċipali, il-kelma "Awtorita'" kull fejn tinstab u fin-nota marginali għandha tiħassar u għandha tidhol minflokha l-kelma "Ċentru".

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

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

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

" (1) Il-Bord ta' Gvernaturi għandu jkun magħmul minn *Chairman* li jkun ukoll President ta' Ċentru, u minn mhux iktar minn hames membri oħra li jistgħu jinhatru minn żmien għal żmien li minnhom:

(a) wiehed ikun il-Gvernatur tal-Bank Ċentrali, jew, bħala l-alternat tiegħu, uffiċjal ieħor tal-Bank Ċentrali li jkollu s-setgħa jirrappreżenta l-Bank, u d-dispożizzjonijiet kollha ta' dan l-Att għandhom japplikaw daqslikieku r-riferenzi għal membru tal-Bord kienu jinkludu riferenza għall-alternat imsemmi f'dan il-paragrafu;

(b) tliet membri magħżulin minn fost persuni li jkunu distinti fl-oqsma tal-kummerċ, attivitajiet finanzjarji, il-professjonijiet, is-servizzi pubbliċi jew fil-hajja akkademika; u

(ċ) wiehed minnhom ikun ic-*Chief Executive*, li ma jkollux il-jedd li jivvota:

Izda l-membri tal-Bord tal-Gvernaturi, minbarra ċ-*Chairman*, ma għandhomx jitqiesu bħala delegati ta' xi awtorita' tal-Gvern jew ta' xi interessi oħra kummerċjali, finanzjarji,

agrikoli, industrijali jew oħrajn li huma, jew setghu kienu, konnessi magħhom, u ma għandhomx jingħataw jew jaċċettaw direttivi mingħand xi persuna jew awtorita', hliel kif hemm provdut fil-paragrafu (a) ta' dan is-subartikolu."; u

(b) is-subartikoli (5) u (6) tieghu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (7) u (8) rispettivament, u minflok is-subartikolu (4) tieghu għandu jidhol dan li ġej:

"(4) Persuna ma tikkwalifikax biex tinħatar, jew ikollha l-kariga ta' membru tal-Bord ta' Gvernaturi jekk -

(a) tkun legalment inkapaċitata; jew

(b) tkun ġiet dikjarata falluta jew tkun għamlet kompożizzjoni jew arrangament mal-kredituri tagħha; jew

(ċ) tkun għamlet reat li jinvolvi frodi jew xi haġa diżonesta oħra; jew

(d) tkun kisret xi provvediment magħmul minn xi liġi jew bis-saħħa ta' xi liġi li jkollha bi skop li tipprotegi l-membri tal-pubbliku kontra kull telf finanzjarju li jiġi kawżat minn diżonesta', inkompetenza jew għemil hażin minn persuni involuti fl-ġħoti ta' servizzi bankarji, assikurattivi, ta' investiment jew finanzjarji oħra jew fl-amministrazzjoni ta' kumpanniji jew kontra kull telf finanzjarju li jiġi kawżat minhabba fl-imġieba ta' persuni falluti sew jekk dawn ikunu tkeċċew sew jekk le; jew

(e) tkun haġet sehem f'xi prattika kummerċjali li tidher lill-Prim Ministru li tkun qarrieqa jew oppressiva jew mod ieħor mhux xierqa (sew jekk kontra l-liġi jew le) jew li mod ieħor tiġbed fuqha nuqqas ta' kreditu dwar il-metodu li tuża biex tmexxi n-negozju jew il-professjoni tagħha; jew

(f) tkun haġet sehem fi jew tkun assoċjata ma' kull prattika kummerċjali oħra jew mod ieħor ġabet ruħha b'dak il-mod li jitfa' dubju fuq kemm hi persuna kompetenti u matura fil-ġudizzju tagħha ; jew

(ġ) ikollha xi interess finanzjarju jew xi interess ieħor li jista' jkun ta' preġudizzju fit-twettiq tal-funzjonijiet tagħha; jew

(h) tkun mod ieħor persuna mhux idonea u xierqa li jkollha dik il-kariga.

(5) Sabiex jistabbilixxi jekk persuna hijiex idonea u xierqa, il-Prim Ministru għandu jqis l-integrità ta' dik il-persuna, kemm hi persuna kompetenti u matura fil-ġudizzju tagħha biex twettaq kull responsabbiltà li ġġib magħha dik il-kariga, il-mod diligenti

kif ikun qed iwettaq jew x'aktarx iwettaq dawk ir-responsabbiltajiet u jekk l-interessi ta' xi persuna ohra humiex, jew x'aktarx ikunu, b'kull mod mhedda jekk l-ewwel persuna jkollha dik il-kariga.

(6) Kull min il-Prim Ministru jkun hatar jew jipproponi li jahtar membru tal-Bord ta' Gvernaturi ghandu, kull meta l-Prim Ministru jitolbu jagħmel hekk, jagħtih dak it-tagħrif li l-Prim Ministru iqis meħtieġ għat-tweġġieq ta' dmirijietu taht is-subartikoli (4) u (5) ta' qabel dan."

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

10. L-artikolu 7 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) s-subartikolu (2) tiegħu ghandu jithassar u minfloku ghandu jidhol dan is-subartikolu ġdid li ġej:

"(2) Il-Bord m'għandux jaġixxi kemm-il darba ma jkunx hemm preżenti *quorum* ta' mhux inqas minn tliet membri li għandhom il-jedd tal-vot."; u

(b) fis-subartikolu (5) tiegħu, il-kliem "u d-Deputat *Chief Executive*" għandhom jithassru u minflok il-kliem "ta' l-Awtorita' " għandhom jidhlu l-kliem "taċ-Ċentru".

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

11. L-artikolu 8 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu ghandu jithassar u minfloku ghandu jidhol dan is-subartikolu ġdid li ġej:

" (1) Il-Kumitat Eżekuttiv taċ-Ċentru jkun magħmul minn -

(a) iċ-*Chief Executive*; u

(b) Direttur għal kull wahda mill-arej ta' sorveljar ta' servizzi finanzjarji assenjati liċ-Ċentru."; u

(b) is-subartikolu (2) tiegħu ghandu jiġi emendat billi fi tmiemu jidiedu l-kliem ", jew, meta jkun hemm żewġ membri biss tal-Kumitat li jkollhom il-kariga, il-*quorum* ikun ta' żewġ membri".

Emenda ta' l-artikoli 9,10,11 u 12 ta' l-Att prinċipali.

12. Fl-artikoli 9, 10, 11 u 12 ta' l-Att prinċipali, minflok il-kelma "l-Awtorita' " kull fejn tinsab, għandha tidhol il-kelma "ċ-Ċentru".

Emenda ta' l-artikolu 9 ta' l-Att prinċipali.

13. Minflok is-subartikolu (1) ta' l-artikolu 9 ta' l-Att prinċipali ghandu jidhol dan is-subartikolu ġdid li ġej:

"(1) Il-membri tal-Kumitat Eżekuttiv jinhatru mill-Bord tal-Gvernaturi b'dawk il-patti u kundizzjonijiet li jistabbilixxu. Id-dispożizzjonijiet tas-subartikoli (4) sa (6) ta' l-artikolu 6 għandhom ighoddu għall-kwalifika għall-hatra, jew iż-żamma tal-kariga, taċ-*Chief Executive* jew ta' Direttur, bħallikieku kull referenza f'dawk is-subartikoli għall-Prim Ministru kienu

referenzi għall-Bord ta' Gvernaturi u kull referenza f'dawk is-subartikoli għall-Bord ta' Gvernaturi kienu referenzi għall-Kumitat Eżekuttiv."

- 14.** Is-subartikolu (1) ta' l-artikolu 10 għandu jiġi emendat billi wara l-kliem "*fiċ-Chief Executive*" jiżdiedu l-kliem li ġej:
- Emenda ta' l-artikolu 10 ta' l-Att prinċipali.
- " , u, bhala l-alternat tiegħu, f'dak l-uffiċjal ieħor taċ-Ċentru li l-Bord ta' Gvernaturi jista' jinnomina b'avviż fil-Gazzetta".
- 15.** Minnufih wara l-artikolu 11 ta' l-Att prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:
- Żieda ta' l-artikolu 11A ġdid ma' l-Att prinċipali.
- "Segretezza professjonali. 11A. Il-Membri tal-Bord ta' Gvernaturi, il-membri tal-Kumitat Eżekuttiv u kull impjegat taċ-Ċentru jkunu marbutin bid-dmir ta' segretezza professjonali dwar kull tagħrif li jistgħu jiksbu fit-twettiq tal-funzjonijiet tagħhom."
- 16.** L-artikolu 12 ta' l-Att prinċipali għandu jiġi emendat kif ġej:
- Emenda ta' l-artikolu 12 ta' l-Att prinċipali.
- (i) fis-subartikolu (2) tiegħu l-kliem "*taht gurament ta' segretezza meħud mill-imħallfin li jikkostitwixxu dik il-qorti qabel ma tibda l-investigazzjoni*" għandhom jithassru; u
- (ii) is-subartikolu (3) għandu jiġi enumerat mill-ġdid bhala s-subartikolu (4) u minnufih qablu għandu jidhol dan li ġej:
- "(3) Ir- Registratur tal-qrati għandu jiehu gurament ta' segretezza quddiem il-Qorti ta' l-Appell dwar kull dokument jew informazzjoni li jkun sar jaf bihom waqt l-implimentazzjoni tad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu."
- 17.** (1) Fl-artikolu 13 ta' l-Att prinċipali, minflok il-kelma "*l-Awtorita'*" kull fejn tinsab, għandha tidhol il-kelma "*iċ-Ċentru*".
- Emenda ta' l-artikolu 13 ta' l-Att prinċipali.
- (2) Il-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 13 għandu jithassar u minflok għandu jidhol dan il-paragrafu ġdid li ġej:
- "(a) id-dhul mid-drittijiet dwar registrazzjoni u drittijiet oħra li jithallsu taht dan l-Att jew kull Att ieħor li dwarhom iċ-Ċentru jagħmel funzjonijiet ta' registrazzjoni jew xi funzjonijiet oħra bhal dawk;".
- 18.** Fl-artikolu 14 ta' l-Att prinċipali minflok il-kelma "*l-Awtorita'*" kull fejn tinsab għandha tidhol il-kelma "*iċ-Ċentru*".
- Emenda ta' l-artikolu 14 ta' l-Att prinċipali.
- 19.** Fl-artikolu 15 ta' l-Att prinċipali minflok il-kelma "*l-Awtorita'*" kull fejn tinsab għandha tidhol il-kelma "*iċ-Ċentru*", u fis-subartikolu (2) tiegħu il-kliem "*mogħtija wara konsultazzjoni mal-Ministru responsabbli għall-finanzi*" u "*wara konsultazzjoni kif imsemmi qabel,*" għandhom jithassru.
- Emenda ta' l-artikolu 15 ta' l-Att prinċipali.

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

20. Minflok l-artikolu 16 ta' l-Att prinċipali ghandu jidhol dan li ġej:

"Avvanzi mill-Gvern.

16. Il-Ministru jista' javvanza liċ-Ċentru dawk is-somom li jista' jaqbel li jkunu mehtieġa miċ-Ċentru għall-qadi ta' kull funzjoni tiegħu taht dan l-Att, u jista' jagħmel dawk l-avvanzi taht dawk il-pattijiet u l-kondizzjonijiet li jista' jqis li jkunu xierqa. Kull avvanz bħal dak jista' jsir mill-Ministru mill-Fond Konsolidat, u mingħajr aktar approprjazzjoni barra dan l-Att, b'*warrant* li jġib il-firma tiegħu u li jawtorizza lill-*Accountant General* biex jagħmel dawk l-avvanzi."

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

21. FI-artikoli 17 sa 19, 21, 22, 24 sa 29, 41 sa 47, 49, 51 u 52 ta' l-Att prinċipali, minflok il-kelma "Awtorita'" kull fejn tinsab għandha tidhol il-kelma "Ċentru".

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

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

(a) fl-ewwel *proviso* tal-paragrafu (ċ) tas-subartikolu (2) tiegħu, minnufih wara l-kliem "l-manifattura jew l-ipproċessar ta' oġġetti f'Malta" ghandu jidhol dan li ġej:

"jew il-kultivazzjoni ta' prodotti ta' l-agrikoltura jew ta' l-ortikoltura, jew il-*farming* ta' hut f'Malta"; u

(b) fil-paragrafi (ċ) u (d) tas-subartikolu (5) tiegħu minflok il-kliem "Ministru responsabbli għall-finanzi" għandha tidhol il-kelma "Ministru";

(ċ) is-subartikolu (10) tiegħu għandu jithassar.

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

23. L-artikolu 23 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fl-ewwel *proviso* tas-subartikolu (6) tiegħu, minflok il-kliem "il-proprjeta', tmexxija" għandhom jidhlu l-kliem "it-tmexxija", u minflok il-kliem "li ma jkunux jappartjenu lilha" għandhom jidhlu l-kliem "sew jekk jappartjenu lilha jew le";

(b) it-tieni *proviso* tas-subartikolu (6) tiegħu għandu jithassar;

(ċ) fit-tielet *proviso* tas-subartikolu (6) tiegħu, minflok il-kliem "għandha għall-finijiet ta' dan l-Att titqies bħala kumpannija *offshore* ta' kummerċ generali" għandu jidhol dan li ġej:

"għandha, fi żmien ġimgha tavża liċ-Ċentru bil-kitba dwar dan il-fatt u għandha tagħti d-dettalji kollha tat-transazzjoni kif ukoll l-ismijiet tal-persuni li jippossjedu l-kumpannija *offshore*, u ċ-Ċentru jkun jista' jimponi bil-kitba dawk il-kundizzjonijiet li jidhirlu mehtieġa sabiex jaqdi l-funzjonijiet tiegħu taht dan l-Att;"

24. L-artikolu 24 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 24 ta' l-Att prinċipali.
- (a) minnufih fit-tmiem is-subartikolu (1) tiegħu għandhom jidhlu l-kliem li ġej:
- "Dan iċ-ċertifikat għandu jkun iffirmit miċ-*Chief Executive* jew minn xi uffiċjal iehor taċ-Ċentru li jkun debitament awtorizzat minn żmien għal żmien għal dan l-iskop.";
- (b) il-*proviso* għas-subartikolu (2) tiegħu għandu jithassar u jidhol minflok u li ġej:
- "Iżda fejn, taht id-dispożizzjonijiet ta' dan l-Att, il-kumpannija *offshore* tkun mehtiega li jkollha kumpannija *nominee* bħala direttur waħdieni jew segretarju, l-imsemmija kumpannija *nominee* għandha tiċċertifika fl-applikazzjoni li l-kumpannija *offshore* tissodisfa l-kundizzjonijiet kollha ta' dan l-Att sabiex tista' tkun registrata bħala kumpannija *offshore*.";
- (ċ) is-subartikolu (8) tiegħu għandu jithassar; u
- (d) is-subartikolu (9) tiegħu għandu jiġi enumerat mill-ġdid (8).
25. Fil-*proviso* għas-subartikolu (2) ta' l-artikolu 25 ta' l-Att prinċipali minflok il-kliem "somma li tagħmel daqs" għandhom jidhlu l-kliem "penali ta' mhux iżjed minn". Emenda ta' l-artikolu 25 ta' l-Att prinċipali.
26. L-artikolu 26 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 26 ta' l-Att prinċipali.
- (a) is-subartikolu (2) tiegħu għandu jithassar u jidhol floku dan li ġej:
- "(2) L-*income*, il-flus jew proprjeta' oħra kollha li jkunu jappartjenu lill-kumpannija jew li l-kumpannija tippossjedi kif provdut fis-subartikolu (1) ta' dan l-artikolu jkunu soġġetti għall-qbid u jiġu konfiskati favur il-Gvern u jsiru l-proprjeta' assoluta tiegħu, sakemm il-kumpannija ma tippruvax li l-*income*, il-flus jew proprjeta' oħra ma ġewx derivati jew originaw, direttament jew indirettament, minn transazzjoni, operazzjoni jew attivita' oħra kif provdut fis-subartikolu preċedenti.";
- (b) fil-paragrafu (iii) tas-subartikolu (3) tiegħu minnufih wara l-kelma "xahar" għandhom jidhlu "; jew";
- (ċ) minnufih wara l-paragrafu (iii) tas-subartikolu (3) tiegħu għandu jidhol dan li ġej:

"(iv) fil-każ li kumpannija *offshore* mhux kummerċjali imsemmija fit-tielet *proviso* tas-subartikolu (6) ta' l-artikolu 23 ta' dan l-Att, tkun naqset li thares xi waħda mid-dispożizzjonijiet imniżżla f'dan il-*proviso*,"; u

(d) fil-*proviso* għas-subartikolu (3) tiegħu minnufih wara l-kliem "li ċ-Ċentru jista' jispeċifika." għandhom jidhlu l-kliem "B'dana kollu, iċ-Ċentru jista', meta jkun ta' l-opinjoni li jeżistu raġunijiet biżżejjed gravi, jibda proċeduri għall-kanċellazzjoni immedjata tar-registrazzjoni tal-kumpannija."

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

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

(a) il-paragrafu (a) tas-subartikolu (3) tiegħu għandu jiġi emendat billi jithassru l-kliem "mhux kummerċjali " ;

(b) il-paragrafu (ċ) tas-subartikolu (3) tiegħu kif ukoll il-*proviso* għandhom jithassru u l-paragrafu (d) ta' l-istess subartikolu għandu jsir (ċ).

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

28. (1) Fl-ewwel *proviso* tas-subartikolu (2) ta' l-artikolu 30 ta' l-Att prinċipali, minflok il-kliem "fil-paragrafi (a) u (b)" għandhom jidhlu l-kliem "fil-paragrafu (a)".

(2) Fis-subartikolu (9) ta' l-artikolu 30 u fit-Tieni Skeda li tinsab ma' l-Att prinċipali, minflok il-kliem "Att dwar Attivitàjiet Kummerċjali Internazzjonali ta' Malta" għandhom jidhlu l-kliem "Att dwar Ċentru għas-Servizzi Finanzjarji ta' Malta".

Emenda ta' l-artikolu 39 ta' l-Att prinċipali.

29. Is-subartikolu (6) ta' l-artikolu 39 ta' l-Att prinċipali għandu jiġi emendat billi jithassru l-kliem "u dik il-kontinwazzjoni għandu jkollha seħh minkejja kull haġa li tkun tinsab fil-liġi tal-ġurisdizzjoni tagħha ta' qabel."

Emenda ta' l-artikolu 41 ta' l-Att prinċipali.

30. Is-subartikolu (2) ta' l-artikolu 41 ta' l-Att prinċipali għandu jiġi emendat billi minnufih wara l-kliem "indefinita u irrevokabbli" jiżdied dan li ġej:

", sakemm mhux awtorizzat mod ieħor miċ-Ċentru."

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

31. Fl-artikolu 44 ta' l-Att prinċipali, minflok il-kliem "u b'kull bidla fost id-diretturi tagħha, u kull bidla bħal dik ma għandhiex ikollha effett hlief jekk u sakemm tiġi hekk notifikata" għandhom jidhlu l-kliem "u b'kull bidla fost id-diretturi u membri tagħha u l-imsemmija bidliet ma jkollhomx effett sakemm ma jiġux hekk notifikati u approvati miċ-Ċentru."

Emenda ta' l-artikolu 46 ta' l-Att prinċipali.

32. L-artikolu 46 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu il-kelma "*Offshore*" għandha tithassar;

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

"(2) Kumpanniji *offshore* ta' kummerċ generali u kumpanniji *offshore* mhux kummerċjali jistgħu jiġu registrati maċ-Ċentru taht dan l-Att permezz biss ta' l-aġenzija ta' kumpannija *nominee* awtorizzata biex taġixxi bhala tali għar-rigward ta' dawn il-kumpanniji."; u

(ċ) minnufih wara s-subartikolu (2) tieghu ghandu jidhol is-subartikolu ġdid li ġej:

"(3) Kumpannija *offshore* mhux kummerċjali ghandu jkollha r-rappreżentanza legali u ġudizzjali permezz ta' kumpannija *nominee*, jew bhala direttur waħdieni jew bhala segretarju, kemm jekk waħedha jew flimkien ma' daww il-persuni kif jista' jkun provdut fl-istatut, jew f'każ partikolari, jew fi klassijiet ta' każijiet, u bil-kunsens ta' kumpannija *nominee* minn persuna jew persuni oħra bhal daww li l-kumpannija *offshore* mhux kummerċjali tista' tappunta għal dak il-ghan.".

33. Minnufih wara s-subartikolu (4) ta' l-artikolu 47 ta' l-Att prinċipali ghandu jidhol is-subartikolu ġdid li ġej:

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

"(5) Meta f'xi żmien ikun hemm tibdil jew żieda sostanzjali fin-natura ta' attivitajiet ta' kumpannija *offshore* ta' kummerċ generali, ikun l-obbligu ta' kumpannija *nominee* li tavża liċ-Ċentru immedjatament bin-natura tad-tibdil jew żieda.".

34. L-artikolu 49 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

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

(a) fis-subartikolu (2) tieghu, minflok il-kliem "Meta kumpannija *nominee* tkun id-direttur waħdieni ta' kumpannija *offshore* mhux kummerċjali jew is-segretarju tagħha, għandha" għandhom jidhlu l-kliem "Kumpannija *nominee* li tkun qed taġixxi ta' direttur waħdieni ta' kumpannija *offshore* jew ta' segretarju"; u

(b) fil-paragrafu (a) tas-subartikolu (2) tieghu l-kliem "kemm jekk żvelati jew le," għandhom jiġu mħassra.

35. Minnufih wara l-artikolu 51 ta' l-Att prinċipali ghandu jidhol l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 51A ġdid ma' l-Att prinċipali.

"Registrazzjoni ta' *nominees* liċenzati.

51A. (1) Kumpannija tista' tapplika liċ-Ċentru bil-miktub sabiex tiġi liċenzata bhala azzjonista *nominee* u ċ-Ċentru għandu jagħti liċenza jekk il-kundizzjonijiet imsemmija fis-subartikoli (2) u (3) ta' dan l-artikolu jkunu ġew sodisfatti.

(2) Il-kundizzjonijiet imsemmija fis-subartikolu ta' qabel dan huma li:

(a) il-kumpannija tkun kumpannija privata;

(b) l-ghanijiet tal-kumpannija jkunu espressament limitati għall-attività bħala azzjonista *nominee* u *trustee* u għal hwejjeġ anċillari jew inċidentali għalihom;

(ċ) il-maġġoranza tad-diretturi tkun dejjem komposta minn ċittadini Maltin residenti f'Malta;

(d) id-diretturi tal-kumpannija ma jkunux inqas minn tlieta, li għall-inqas tnejn minnhom ikunu ċittadini Maltin residenti f'Malta, li għal perijodu mhux interrott ta' hames snin, ikunu xi persuna minn dawn li ġejjin:

(i) persuna li tkun detentur ta' *warrant* ta' avukat taht il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili; jew

(ii) persuna li tkun detentur ta' *warrant* ta' *accountant* pubbliku ċertifikat jew ta' *accountant* u uditur pubbliku ċertifikat taht l-Att dwar il-Professjoni ta' l-*Accountancy*; jew

(iii) *associate* jew *fellow* taċ-*Chartered Institute of Bankers* jew ta' l-*Institute of Chartered Secretaries and Administrators* jew taċ-*Chartered Insurance Institute* tar-Renju Unit jew membru ta' istituzzjoni oħra bħal dik jew korp simili ieħor, sew f'Malta jew barra minn Malta, rikonoxxut miċ-Ċentru għall-finijiet ta' dan l-artikolu; jew

(iv) persuna li tkun serviet bħal uffiċjal pubbliku fi grad mhux taht dak ta' assistent kap ta' dipartiment, jew f'pożizzjoni ekwivalenti ma' korp imwaqqaf b'ligi, jew li tkun xort'oħra konoxxuta miċ-Ċentru bħala persuna li tista' tigi paragonata ma' xi persuna msemmija qabel;

(e) il-kumpannija jkollha sistemi stabbiliti għall-manteniment ta' *records* adegwati ta' l-identita' u r-residenza tal-klijenti tagħha u ċ-Ċentru jkun sodisfatt li dawn is-sistemi jkunu adegwati għal dan l-iskop; u

(f) kull persuna li jkollha nteress dirett jew indirett fil-kumpannija jew li tkun membru, direttur jew segretarju tagħha, tkun ta' karattru tajjeb u ma

tkun qatt instabet hatja ta' delitt dwar fiducja pubblika jew ta' serq jew ta' frodi jew talli xjentement irceviet proprjeta' miksuba minn serq jew frodi.

(3) Fejn xi persuna minn dawk imsemmija fil-paragrafu (f) tas-subartikolu ta' qabel dan ma tkunx individwu, il-kundizzjonijiet ta' l-imsemmi paragrafu (f) u ta' dan is-subartikolu (3) ghandhom japplikaw ghall-imsemmija persuna daqs li kieku r-riferenza "ghall-kumpannija" kienet riferenza ghal din il-persuna.

(4) Kumpannija *nominee* licenzata trid tavza lic-Centru b'kull tibdil fil-*memorandum* jew fl-istatut taghha u b'kull tibdil fid-diretturi jew membri taghha u dawn it-tibdiliet ma jkollhomx effett jekk u sakemm ma jkunux notifikati u approvati mic-Centru.

(5) Iç-Centru ghandu jissorvelja l-attivitajiet ta' *nominees* licenzati u ghandu jitlobhom li jaghtuh, minn zmien ghall-iehor, dik l-informazzjoni li jidhirlu li hija mehtiega sabiex ikun jista' jivverifika illi n-*nominee* licenzata baqghet tissodisfa l-kundizzjonijiet li jinsabu fis-subartikolu (2) ta' dan l-artikolu.

(6) Fejn *nominee* licenzata tonqos milli tissodisfa xi kundizzjoni minn dawk li jinsabu fis-subartikoli (2) u (3) ta' dan l-artikolu jew li tonqos li taghti l-informazzjoni mitluba mic-Centru fl-eżerċizzju tal-funzjonijiet tieghu taht dan is-subartikolu, iç-Centru jkun jista' jirrevoka l-licenza ta' l-imsemmija *nominee* immedjatament.

(7) Fejn iç-Centru jkollu raguni jissuspetta li xi dikjarazzjoni maghmula bil-miktub minn *nominee* licenzata fir-rigward ta' ishma miżmumin minnha bhala *nominee* jew *trustee*, jew fir-rigward ta' persuni intitolati li jibbenefikaw minn dawn l-ishma, ma tkunx korretta, iç-Centru ghandu jirrevedi l-attivitajiet tan-*nominee* licenzata bil-ghan li jigi stabbilit jekk in-*nominee* licenzata ghandhiex tikkorreġi l-imsemmija dikjarazzjoni.

(8) Bla hsara ghal kull piena oghla li tista' tkun provduta skond xi ligi ohra, fejn *nominee* licenzata tonqos milli tikkorreġi dikjarazzjoni kif stabbilit mic-Centru skond is-subartikolu ta' qabel dan, kull ufficjal tan-*nominee* licenzata li jkun hati tan-nuqqas ikun hati

ta' reat u jehel, meta jinsab hati, multa ta' mhux anqas minn elf lira u mhux aktar minn ghaxart-elf lira jew ghal prigunerija ta' mhux aktar minn tliet snin, jew dik il-multa u prigunerija flimkien.

(9) Ebda persuna ma tista' tissottoskrivi ghal azzjonijiet jew iżzommhom fisimha ghal jew fl-interest jew ghan-nom ta' haddiehor, sakemm dik il-persuna ma tkunx giet liċenzata miċ-Ċentru sabiex taħdem bhala *nominee* jew *trustee* skond il-provvedimenti ta' dan l-artikolu, jew sakemm dik il-persuna tkun liċenzata jew awtorizzata sabiex taħdem bhala *nominee* jew *trustee* taħt xi liġi oħra. Persuna li tikser id-dispożizzjonijiet ta' dan is-subartikolu tkun hatja ta' offiża kontra dan l-Att u tista' tehel il-pieni stabbiliti taħt is-subartikolu (8) ta' dan l-artikolu.

(10) Il-Ministru jista', fuq il-parir taċ-Ċentru, jagħmel regolamenti għall-esekuzzjoni aħjar ta' xi dispożizzjonijiet ta' dan l-artikolu, u jista', partikolarment, iżda bla ħsara għall-generalita' ta' dak li ntqal qabel b'regolamenti bhal dawk:

(a) jirregola t-tmexxija u d-dmirijiet ta' *nominees* liċenzati;

(b) jippreskrivi dak it-tagħrif u prospetti li *nominees* liċenzati għandhom jibagħtu liċ-Ċentru;

(c) jistabbilixxi d-drittijiet pagabbli minn *nominees* liċenzati għal hruġ ta' liċenza taħt dan l-artikolu."

Żieda ta' l-artikoli 56 sa 60 godda ma' l-Att prinċipali.

36. Minnufih wara l-artikolu 55 ta' l-Att prinċipali għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

"Referenzi f'liġijiet oħra.

56. Kull referenza f'xi liġi oħra għall-Awtorita' dwar il-Kummerċ Internazzjonali ta' Malta, u għall-Att dwar Attivitajiet Kummerċjali Internazzjonali ta' Malta, għandhom jinftehemu bhala referenzi għaċ-Ċentru għas-Servizzi Finanzjarji ta' Malta, u għall-Att dwar Ċentru għas-Servizzi Finanzjarji ta' Malta rispettivament. Kull referenza għad-Deputat *Chief Executive* (ta' l-Awtorita') għandha tinftiehem bhala referenza għal Direttur (taċ-Ċentru).

Jintemmu aktar
registrazzjonijiet
ta' kumpanniji
offshore.

57. Wara l-31 ta' Diċembru, 1996 ebda registrazzjoni ġdida ta' kumpannija ma ghandha ssir taht dan l-Att, sew bhala kumpanniji ġodda jew bi tkompliġa ta' kumpanniji eżistenti u kull registrazzjoni ta' kumpanniji f'dik id-data jew warajha ma tkunx regolata b'dan l-Att:

Izda l-Ministru jista' jistabbilixxi dati oħra għall-ghanijiet ta' kif dan l-artikolu jkun japplika għal kumpanniji *offshore* ta' assigurazzjoni u għal kumpanniji li b-mod espress jillimitaw ix-xogħol tagħhom għat-tmexxija, amministrazzjoni u thaddim ta' bastiment jew bastimenti sew jekk dawn ikunu ta' proprjeta' tagħhom sew jekk le.

Dispożizzjonijiet
transitorji għal
kumpanniji
offshore.

58.(1) (a) Dawn l-artikoli ta' dan l-Att ma għandhomx japplikaw għar-rigward ta' kumpanniji *offshore* registrati wara data kif stabbilita mill-Ministru b'avviż fil-Gazzetta, liema data għal finijiet ta' dan l-artikolu u ta' l-artikoli 59 u 60 ta' dan l-Att tissejjah "id-data rilevanti":

- artikolu 11;
- artikolu 12;
- artikolu 30, is-subartikolu (9) tiegħu;
- artikolu 38:

Izda bla hsara għad-dispożizzjonijiet ta' qabel, xejn ma għandu jfixxkel liċ-Ċentru milli jfittex li jidentifika l-individwi jew persuni oħra li għandhom interess fil-pussess jew kontroll ta' kumpanniji *offshore* li għandhom interess f'kumpanniji ta' manifattura jew ta' proċessar ta' prodotti f'Malta, jew ta' kultivazzjoni ta' prodotti ta' l-agrikoltura jew ta' ortikultura jew ta' trobbija ta' hut f'Malta.

(b) Kumpanniji *offshore* registrati wara d-data rilevanti ma għandhomx jibbenifikaw minn arrangamenti li jsiru bis-saħħa ta' l-artikolu 76 (li qabel kien l-artikolu 80) ta' l-Att dwar i^t-Taxxa fuq l-*Income*.

(2) Għar-rigward ta' kumpanniji *offshore* registrati wara d-data rilevanti, is-subartikolu (8) ta' l-artikolu 30 ta' dan l-Att ma għandux japplika u din id-dispożizzjoni li ġejja għandha tkun tapplika minflokha:

"Kull proċediment quddiem il-Bord ta' Kummissarji Speċjali jew tal-Qorti ta' l-Appell

ghandhom isiru *in camera* fil-qies mehtieg biex jigu protetti s-sigrieti kummerċjali legittimi tal-kumpannija u ta' l-azzjonisti taghha."

(3) Ghar-rigward ta' kumpanniji *offshore* registrati wara d-data rilevanti, is-subartikolu (3) ta' l-artikolu 35 ta' dan l-Att ma ghandux japplika u din id-dispożizzjoni li gejjja ghandha tkun tapplika minflokha:

"Il-proċedimenti taht dan l-artikolu, hlief ghall-ordni jew direttiva tal-Qorti u dawk il-partijiet tal-proċedimenti li l-Qorti tista' tqis bhala essenzjali li tiżvela, ghandhom, flimkien ma' kull dokument jew taghrif ieħor preżenti jew moghtijin u kull xhieda mismugha ghall-finijiet ta' dawk il-proċedimenti, jinżammu sigrieti u konfidenzjali minn kull persuna konċernata jew konnessa ma' l-imsemmija proċedimenti kif ukoll minn xi persuna oħra li xi haġa bhal dik tista' tiġi għal konjizzjoni taghha bhallikieku dawn kienu marbutin bid-dmir ta' segretezza professjonali dwar dak it-taghrif. Id-dokumentazzjoni ta' dawk il-proċedimenti ghandha tinżamm taht il-kustodja personali tar-Registratur tal-Qorti."

(4) Dawn l-artikoli ta' dan l-Att ghandhom itemmu milli jibqghu japplikaw għeluq l-ghaxar snin mid-data rilevanti:

- artikolu 27;
- artikolu 28;
- artikolu 29;
- artikolu 30;
- artikolu 31;
- artikolu 32;
- artikolu 33;
- artikolu 34;
- artikolu 35;
- artikolu 40.

(5) Minkejja d-dispożizzjonijiet ta' l-artikolu 53 ta' dan l-Att (garanzija ta' eżenzjonijiet), il-garanzija ghandha ttemm għaxar snin mill-hruġ taċ-ċertifikat ta' registrazzjoni ta' kumpannija *offshore* jew għeluq għaxar snin mid-data rilevanti, skond liema żmien jiġi l-ewwel, u fil-każ jew l-ieħor, il-kumpannija tieqaf milli tkun kumpannija *offshore*.

Kumpannija
offshore
bankarji u ta' l-
assigurazzjoni.

59. Minkejja d-dispożizzjonijiet ta' l-artikolu ta' qabel dan, il-Ministru jista', b'avviż fil-Gazzetta, jistabilixxi data qabel gheluq ghaxar snin mid-data rilevanti li minnha l-artikoli 28 u 29 ta' dan l-Att ghandhom itemmu milli jibqghu japplikaw.

Konverzjoni
ta' kumpannija.

60. (1) Meta kumpannija *offshore* tavża liċ-Ċentru bil-miktub sa disa' snin mid-data rilevanti li tixtieq ma tibqax tali kumpannija, iċ-Ċentru jista', jekk jidhirlu li jkun hekk xieraq, jawtorizza lill-kumpannija *offshore* bil-miktub sabiex hija ttejjem milli tkun kumpannija *offshore* minn dik id-data li tigi stabbilita miċ-Ċentru fid-diskrezzjoni assoluta tiegħu. Meta taht id-dispożizzjonijiet ta' dan l-Att, il-kumpannija *offshore* tkun obligata jkollha kumpannija *nominee* bhala direttur wahdieni jew segretarju, l-avviż fuq imsemmi ghandu jinghata mill-kumpannija *nominee* ghan-nom tal-kumpannija *offshore*.

(2) L-effetti ta' awtorizzazzjoni mogħtija bis-sahha tas-subartikolu ta' qabel dan ghandhom ikunu dawn li ġejjin:

(a) il-kumpannija *offshore* ghandha ttejjem milli tkun kumpannija *offshore* sa mid-data imsemmija qabel u li tigi stabbilita miċ-Ċentru;

(b) il-kumpannija *offshore* m'ghandhiex tigi xjolta billi ttejjem milli tkun kumpannija *offshore*; u

(c) id-dispożizzjonijiet ta' dan l-Att ghandhom itemmu japplikaw għall-kumpannija sa mid-data meta l-kumpannija ttejjem milli tkun kumpannija *offshore*:

lżda d-dispożizzjonijiet ta' l-artikolu 11, ta' l-artikolu 12 u ta' l-artikolu 38 ta' dan l-Att ghandhom jibqghu japplikaw għar-rigward ta' transazzjonijiet u attivitajiet tal-kumpannija li jkunu saru qabel id-data meta l-kumpannija ttejjem milli tkun kumpannija *offshore*."

37. Minnufih wara t-Tieni Skeda li tinsab ma' l-Att prinċipali, ghandha tiżdied it-Tielet Skeda ġdida fl-għamla murija fl-Iskeda għal dan l-Att.

Żieda tat-Tielet Skeda ma' l-Att prinċipali.

SKEDA

(Artikolu 37)

It-Tielet Skeda

Funzjonijiet u Setghat Ġenerali taċ-Ċentru

Funzjonijiet
ta' sorveljar.

1. (1) Minghajr preġudizzju għal kull funzjoni oħra mogħtija jew trasferita liċ-Ċentru bi jew taħt dan l-Att jew kull Att ieħor, ikun id-dmir taċ-Ċentru li jwettaq il-funzjonijiet ta' sorveljar tiegħu fl-oqsma tal-banek, assigurazzjoni, servizzi ta' investiment u oqsma bħal dawk fil-qasam ta' servizzi finanzjarji, hekk kif jista' minn żmien għal żmien jingħata liċ-Ċentru bi jew taħt Att tal-Parlament.

(2) Minghajr preġudizzju għas-subartikolu (1) ta' dan l-artikolu, ikun id-dmir taċ-Ċentru, daqs kemm ikun prattiku minn żmien għal żmien:-

(a) li jippromwovi u jagħti servizzi finanzjarji adegwati u raġonevoli għall-pubbliku;

(b) li jassigura livelli għoljin ta' imġieba u ta' tmexxija fis-sistema finanzjarja kollha;

(ċ) li jissorvelja l-hin kollu l-attivitajiet kummerċjali u finanzjarji f'Malta, u li jiġbor tagħrif dwar dawk l-attivitajiet, u l-persuni li jwettquhom, bil-għan li ċ-Ċentru jsir jaf dwar, u jaċċerta ruħu minn ċirkostanzi li għandhom x'jaqsmu ma' hwejjeg li dwarhom iċ-Ċentru jista' jwettaq dmirijietu;

(d) li jirċievi u jiġbor xiehda li jsir jaf biha dwar dawk l-attivitajiet li hemm imsemmija fil-paragrafu ta' qabel dan u li jidhiru li tkun xiehda ta' għemil li jista' jolqot hażin l-interessi ekonomiċi ta' dawk li jahdmu f'dak il-qasam u tal-konsumaturi relattivi; u

(e) li jgħib 'il quddiem dawk il-*policies* li mhumiex inkonsistenti ma' dan l-Att u li jkun fl-interess nazzjonali.

(3) Ikun ukoll id-dmir taċ-Ċentru, meta jew iqis li jkun hekk spedjenti jew il-Ministru hekk jeħtieġu jagħmel:-

(a) li jagħti tagħrif lill-Ministru dwar xi haġa li fuqha ċ-Ċentru għandu xi dmirijiet taħt dan l-artikolu, jew

(b) li jagħmel rakkomandazzjonijiet lill-Ministru dwar kull azzjoni li fil-fehma taċ-Ċentru jkun spedjenti għall-Ministru jew għal kull Ministru ieħor li jichu dwar xi haġa li fuqha ċ-Ċentru għandu dawk id-dmirijiet.

2. (1) Il-Ministru jista' f'kull zmien jehtieg liċ-Ċentru li jagħmel Investigazzjonijiet investigazzjoni u jissottomettlu rapport dwar xi haġa li fuqha ċ-Ċentru fuq talba għandu xi dmirijiet taht dan l-Att jew taht kull liġi oħra. tal-Ministru.

(2) Mingħajr preġudizzju għas-subartikolu (1) ta' dan l-artikolu, l-investigazzjonijiet u rapporti mehtieġa bis-saħħa ta' dan is-subartikolu jistgħu b'mod partikolari jqisu biss ċertu aspetti speċifiċi jew generali tar-regolament ta' attivitajiet kummerċjali f'Malta li għandhom x'jaqsmu mal-banek, assigurazzjoni, servizzi ta' investment u oqsma bħal daww fil-qasam ta' servizzi finanzjarji.

3. (1) Iċ-Ċentru għandu jara li jkun hemm, fl-għamla u fil-qies li Tixrid jista' jidhirlu xieraq, tixrid ta' tagħrif u pariri hekk kif jista' jidhirlu li ta' tagħrif. jkun spedjenti li jagħti lill-pubbliku f'Malta dwar hwejjeg li jkollhom x'jaqsmu mat-twettiq tal-funzjonijiet tiegħu taht dan l-Att jew kull liġi oħra.

(2) Meta ċ-Ċentru jkun qed jiehu hsieb li jippubblika tagħrif jew pariri, iċ-Ċentru għandu jagħti każ tal-htieġa li jirrispetta d-dmir ta' segretezza professjonali u, sakemm ikun prattiku, li jeskludi:-

(a) kull haġa li għandha x'taqsam mal-hajja privata ta' individwu, jekk il-pubblikazzjoni ta' dik il-haġa tkun jew tista' fil-fehma taċ-Ċentru, toqot b'mod serju u ta' preġudizzju l-interessi ta' dak l-individwu; u

(b) kull haġa li b'mod speċifiku għandha x'taqsam mal-imġieba ta' għaqda ta' persuni partikolari, sew jekk korporati flimkien jew mhumiex, meta l-pubblikazzjoni ta' dik il-haġa tkun jew tista', fil-fehma taċ-Ċentru, b'mod serju u ta' preġudizzju toqot l-interessi ta' dik l-għaqda ta' persuni.

4. (1) Ikun id-dmir taċ-Ċentru li jikkonsidra kull haġa li:-

Konsiderazzjoni ta' ilmenti.

(a) għandha x'taqsam mal-funzjonijiet li jitwettqu miċ-Ċentru taht dan l-Att jew taht kull liġi oħra; u

(b) ikun il-qofol ta' lment (minbarra ilment li ċ-Ċentru jidhirlu li jkun wiehed frivolu) li jsir liċ-Ċentru minn persuna, jew f'isimha, li ċ-Ċentru jkun jidhirlu li għandha interess f'dik il-haġa.

(2) Meta xi haġa li tiġi ikkunsidrata miċ-Ċentru taht is-subartikolu (1) ta' qabel dan tkun wahda li dwarha xi wahda mill-funzjonijiet taċ-Ċentru tkun tista' titwettaq, il-Qorti għandha, jekk tinhtieg li tagħmel dan jew hekk jidhirlha li jkun xieraq, twettaq dik il-funzjoni dwar dik il-haġa.

5. (1) Iċ-Ċentru jkollu s-setgħa li jinvestiga kull haġa li tissodisfa Investigazzjoni l-kundizzjonijiet stabbiliti fil-paragrafi (a) u (b) tas-subartikolu (1) ta' l-artikolu 4 ta' qabel dan. ta' ilmenti.

(2) Meta ċ-Ċentru jkun investiga xi haġa taht dan l-artikolu, dan jista' jhejji rapport fuq dik il-haġa u (bla hsara li jissalvagwardja d-dmir ta' segretezza professjonali) jibgħat kopja ta' kull rapport bħal dak lil min minn dawn il-persuni li ġejjin (jekk ikun hemm) li jifhem li għandu jibgħatulhom, jiġifieri:-

(a) kull persuna li r-rapport jirreferi għaliha jew liċ-Ċentru jkun jidhirlu li jkollha interess fil-haġa li dwarha jkun sar ir-rapport;

(b) kull persuna li l-funzjonijiet tagħha taht xi ligi jkunu jidhru liċ-Ċentru li għandhom jitwettqu għar-rigward ta' dik il-haġa;

(ċ) kull persuna li ċ-Ċentru jidhirlu li tkun persuna li għandha tagħti każ tar-rapport biex tkun tista' tistabbilixxi kif għandha tagħxi dwar dik il-haġa.

Investigazzjoni ta' kontravvenzjonijiet.

6. Meta ċ-Ċentru jidhirlu li persuna tista' tkun qed tikser jew setgħet kisret xi kundizzjoni, htieġa, jew ligi relevanti, iċ-Ċentru jista' għal kull għan li għandu x'jaqsam mat-twettiq tal-funzjonijiet tiegħu taht dan l-Att dwar dik il-haġa, b'avviż:-

(a) jehtieġ persuna li ġġib, fiż-żmien u fil-lok speċifikat fl-avviż, fiċ-Ċentru jew li tibgħat persuna li tinhatar minnha għal dan il-għan, kull dokument li jiġi speċifikat jew deskritt fl-avviż u li jkun fil-kustodja ta' dik il-persuna jew taht il-kontroll tagħha; jew

(b) jehtieġ persuna li tkun qed tiġġestixxi negozju li tagħti liċ-Ċentru dak it-tagħrif hekk kif jista' jiġi speċifikat jew deskritt fl-avviż, u jispeċifika ż-żmien, il-mod u l-għamla li fihom kull tagħrif bħal dak għandu jingħata; iżda hadd ma għandu jiġi mgieghel għal kull għan bħal dak li jagħti xi tagħrif jew iġib dokumenti li jkunu jaqgħu taht id-dmir ta' segretezza professjonali.

Pieni għal min ma jikkooperax, eċċ.

7. (1) Bla hsara għal kull responsabbiltà taht xi ligi oħra, persuna li mingħajr skużanti raġonevoli tonqos milli tagħmel xi haġa debitament mehtieġa minnha permezz ta' avviż taht l-artikolu 6 ta' din l-Iskeda tkun hatja ta' reat u teħel, meta tinstab hatja, multa sa għoxrin elf lira Maltija.

(2) Bla hsara għal kull responsabbiltà taht xi ligi oħra, persuna li xjentement tibdel, taħbi jew tiddistruggi dokument li jkun mehtieġ li tipproduci permezz ta' avviż taht l-artikolu 6 ta' din l-Iskeda tkun hatja ta' reat u teħel, meta tinstab hatja, multa sa għoxrin elf lira Maltija.

(3) Bla hsara għal kull responsabbiltà taht xi ligi oħra, jekk persuna tonqos milli tikkonforma ruhha ma' avviż taht l-artikolu 6 ta' din l-Iskeda, il-Qorti tista', wara li jsirilha rikors miċ-Ċentru, tagħmel dak l-ordni li l-Qorti jidhirlha xieraq sabiex in-nuqqas ikun jista' jitranga; u kull ordni bħal dak jista' jipprovdi li l-ispejjeż kollha tar-rikors u li jkollhom x'jaqsmu miegħu għandhom jiġġarbu mill-persuna li tkun naqset jew minn uffiċjali ta' korp magħqud li jkun responsabbli għan-nuqqas.

(4) Bla hsara ghal kull responsabbilta' taht xi ligi ohra, persuna li, fl-ghoti ta' xi taghrif jew fl-ghemil ta' xi rikors taht jew għall-ghanijiet ta' xi dispożizzjoni ta' dan l-Att, tagħmel xi dikjarazzjoni li tkun taf li ma tkunx minnha fxi dettal partikolari, jew b'nuqqas ta' hsieb tagħmel xi dikjarazzjoni li ma tkunx minnha f'dettal partikolari, tkun hatja ta' reat u tehel, meta tinstab hatja, multa sa ghoxrin elf lira Maltija.

(5) Bla hsara ghal kull responsabbilta' taht xi ligi ohra, persuna li b'kull mod iehor xjentement timpedixxi liċ-Ċentru fxi investigazzjoni li dan ikun qieghed jagħmel taht id-dispożizzjonijiet ta' dan l-Att tkun hatja ta' reat u tehel, meta tinstab hatja, multa sa ghoxrin elf lira Maltija.

8. (1) Il-Bank Ċentrali ta' Malta jista' jitlob liċ-Ċentru biex iġhaddilu taghrif li jista' jkollu u li jkun mehtieg sabiex il-Bank Ċentrali jwettaq dmirijietu taht l-Att dwar il-Bank Ċentrali ta' Malta, u iċ-Ċentru għandu jikkonforma ruħu ma' kull talba bħal dik.

Komunikazzjon-
ijiet mal-Bank
Ċentrali.
Kap. 204.

(2) Iċ-Ċentru jista' jitlob lill-Bank Ċentrali ta' Malta biex iġhaddilu taghrif li jista' jkollu u li jkun mehtieg sabiex iċ-Ċentru jwettaq dmirijietu taht dan l-Att jew kull Att iehor, u l-Bank Ċentrali għandu jikkonforma ruħu ma' kull talba bħal dik.

(3) Taghrif li jkun sugġett għad-dmir ta' segretezza professjonali jista' jiġi komunikat bis-saħħa tas-subartikli (1) u (2) ta' dan l-artikolu u jkun ukoll sugġett għad-dmir ta' segretezza professjonali meta jasal għand min jirċevih.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru.303 ta' l-20 ta' Lulju, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skriivan tal-Kamra tad-Deputati

I assent,

UGO MIFSUD BONNICI
President

13th September, 1994

(L.S.)

ACT No. XIII of 1994

AN ACT to confer on the Malta International Business Authority the functions of the Malta Financial Services Centre, to change the name of the Authority and to make certain consequential amendments to the Malta International Business Activities Act, Cap.330.

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

Short title and
commencement.
Cap.330.

1. (1) This Act may be cited as the Malta International Business Activities (Amendment) Act, 1994, and shall be read and construed as one with the Malta International Business Activities Act, which shall henceforth and for the purposes of this Act and for all effects and purposes of this and any other law, be known as the Malta Financial Services Centre Act, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on such date as the Minister may by notice in the Gazette appoint, and different dates may be appointed for different provisions and different purposes of this Act.

2. (1) The short title of the principal Act shall be deleted and substituted by the words "Malta Financial Services Centre Act".

Amendment of short title and other parts of the principal Act.

(2) In the long title of the principal Act, for the words "To establish an Authority for International Financial and Trading Activities" there shall be substituted the words "To establish a Centre for Financial Services".

(3) In the Arrangement of Sections of the principal Act, for the words "The Malta International Business Authority" there shall be substituted the words "The Malta Financial Services Centre", and after the reference to the Second Schedule and its contents there shall be added the words "Third Schedule" and "General functions and powers of the Centre" respectively.

(4) In section 1 of the principal Act, for the words "Malta International Business Activities Act" there shall be substituted the words "Malta Financial Services Centre Act".

3. In subsection (1) of section 2 of the principal Act:

Amendment of section 2 of the principal Act.

(a) the definition of "the Authority" shall be deleted;

(b) in the definition of "the Board", "captive insurance offshore company", "the Committee" and "offshore activity", the word "Authority" whenever it occurs shall be deleted and substituted by the word "Centre";

(c) immediately after the definition of "captive insurance offshore company" and before the definition of "the Committee" there shall be added the following new definition:

" "the Centre" means the Malta Financial Services Centre established by section 3 of this Act;"

(d) immediately after the definition of "the Court" and before the definition of "foreign currency" there shall be added the following new definition:

" "Director" means any person appointed as a member of the Executive Committee, other than the Chief Executive, pursuant to section 8 of this Act;" ;

(e) the definition of "Minister" shall be deleted and shall be substituted by the following new definition:

" "the Minister" means the Minister responsible for finance;" ;

(f) in the fourth proviso to the definition of "offshore activity" immediately after the word "Malta" there shall be added the following:

" , or agricultural and horticultural products and fish produced or bred in Malta;" ;

(g) immediately after the proviso to the definition of "resident in Malta" there shall be added the following:

"Provided further that for the purposes of the definition of "offshore activity" in this section, a company formed and registered in Malta which is wholly owned by persons not resident in Malta and which expressly limits its objects and activities to the ownership, administration or operation of exempted ships registered under the Merchant Shipping Act shall be deemed not to be a resident in Malta;" ; and

(h) immediately after the definition of "resident in Malta" there shall be inserted the following definition:

" "ship" has the meaning assigned to it by the Merchant Shipping Act." .

Cap. 234.

Amendment of heading of Part I of the principal Act.

4. The heading of Part I of the principal Act shall be deleted and shall be substituted by the words "The Malta Financial Services Centre".

Amendment of section 3 of the principal Act.

5. (1) Subsection (1) of section 3 of the principal Act shall be deleted and shall be substituted by the following subsection:

"(1) There shall be a centre to be called the Malta Financial Services Centre." .

(2) In subsection (2) of section 3 of the principal Act for the word "Authority" there shall be substituted the word "Centre".

Amendment of section 4 of the principal Act.

6. In section 4 of the principal Act:

(a) the word "Authority" wherever it occurs and in the marginal note shall be deleted and shall be substituted by the word "Centre"; and

(b) in subsection (1) thereof, paragraphs (a) to (e), both inclusive, shall be deleted and shall be substituted by the following new paragraphs:

"(a) to promote Malta as a centre for international financial services;

(b) to assist bodies corporate and other persons to establish in Malta financial services activities ;

(c) to provide overall co-ordination of the financial services sector generally in Malta;

(d) to monitor and supervise offshore activities to ensure that they are performed according to law and in particular that they are not carried out in such areas or manner as to serve the purposes of illicit activities, whether in Malta or abroad, or otherwise to be detrimental to the interests of Malta; and

(e) to advise the Government generally on financial services and other related matters."

7. Immediately after section 4 of the principal Act there shall be added the following new section: Addition of new section 4A to the principal Act.

"Additional powers of the Centre.

4A.(1) The Centre shall also have the functions and powers set out in the Third Schedule to this Act.

(2) The Board of Governors of the Centre, its Executive Committee and employees shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function under this Act, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith."

8. In section 5 of the principal Act, the word "Authority", whenever it occurs and in the marginal note, shall be deleted and shall be substituted by the word "Centre". Amendment of section 5 of the principal Act.

Amendment of section 6 of the principal Act.

9. Section 6 of the principal Act shall be amended as follows:-

(a) subsection (1) thereof shall be deleted and substituted by the following:

"(1) The Board of Governors shall consist of a Chairman who shall also be President of the Centre, and not more than five other members as may from time to time be appointed of whom:

(a) one shall be the Governor of the Central Bank, or, as his alternate, another official of the Central Bank empowered to represent the Bank, and all the provisions of this Act shall apply as though references to a member of the Board included a referenceto the alternate referred to in this paragraph;

(b) three members selected from among persons who have distinguished themselves in business, financial activities, the professions, the public services or academic affairs; and

(c) one shall be the Chief Executive who shall not have the right to vote:

Provided that the members of the Board of Governors, other than the Chairman, shall not be regarded as delegates from any Government authority or from any commercial, financial, agricultural, industrial or other interest with which they are or may have been connected, and shall not receive or accept directions from any person or authority, except as provided by paragraph (a) of this subsection."; and

(b) subsections (5) and (6) thereof shall be renumbered as subsections (7) and (8) respectively, and for subsection (4) thereof there shall be substituted the following:

"(4) A person shall not be qualified to be appointed, or to hold office as a member of the Board of Governors if he -

(a) is legally incapacitated; or

(b) has been declared bankrupt or has made a composition or arrangement with his creditors; or

(c) has committed an offence involving fraud or other dishonesty; or

(d) has contravened any provision made by or under any enactment appearing to be designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts; or

(e) has engaged in any business practice appearing to the Prime Minister to be deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise reflects discredit on his method of conducting business or profession; or

(f) has engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment; or

(g) has a financial or other interest as is likely to affect prejudicially the discharge by him of his functions; or

(h) is otherwise not a fit and proper person to hold that office.

(5) In determining whether a person is a fit and proper person, the Prime Minister shall have regard to that person's probity, to his competence and soundness of judgment for fulfilling the responsibilities of that office, to the diligence with which he is fulfilling or is likely to fulfil those responsibilities and to whether the interests of any person are, or are likely to be, in any way threatened by his holding that office.

(6) Any person whom the Prime Minister has appointed or proposes to appoint as a member of the Board of Governors shall, whenever requested by the Prime Minister to do so, furnish to him such information as the Prime Minister considers necessary for the performance of his duties under sub-paragraphs (4) and (5) above."

10. Section 7 of the principal Act shall be amended as follows:-

Amendment of
section 7 of the
principal Act.

(a) for subsection (2) there shall be substituted the following new subsection:

"(2) The Board shall not act unless a quorum consisting of not less than three members having the right to vote is present."; and

(b) in subsection (5) thereof, the words "and the Deputy Chief Executive" shall be deleted and for the words "the Authority" there shall be substituted the words "the Centre".

Amendment of section 8 of the principal Act.

11. Section 8 of the principal Act shall be amended as follows:

(a) subsection (1) thereof shall be deleted and substituted by the following new subsection:

"(1) The Executive Committee of the Centre shall consist of:-

(a) the Chief Executive; and

(b) a Director for each of the areas of financial services supervision assigned to the Centre."; and

(b) subsection (2) thereof shall be amended by adding at the end thereof the words ", or, where only two members of the Committee are in office, the quorum shall be two members" .

Amendment of sections 9, 10, 11 and 12 of the principal Act.

12. In sections 9, 10, 11 and 12 of the principal Act, for the word "Authority" wherever it occurs, there shall be substituted the word "Centre".

Amendment of section 9 of the principal Act.

13. Subsection (1) of section 9 of the principal Act shall be substituted by the following new subsection:

"(1) The members of the Executive Committee shall be appointed by the Board of Governors on such terms and conditions as they may determine. The provisions of subsections (4) to (6) of section 6 shall apply to the qualification for appointment, or the holding of office, of the Chief Executive or any Director, as though the references in those subsections to the Prime Minister were references to the Board of Governors and references in those subsections to the Board of Governors were references to the Executive Committee.".

Amendment of section 10 of the principal Act.

14. Subsection (1) of section 10 shall be amended by adding after the words "Chief Executive" the following words:

", and, as his alternate, such other officer of the Centre as the Board of Governors may by notice in the Gazette designate."

15. Immediately after section 11 of the principal Act there shall be added the following new section:

Addition of new section 11A to the principal Act.

"Professional secrecy.

11A. The members of the Board of Governors, the members of the Executive Committee and all employees of the Centre shall be bound by the duty of professional secrecy in respect of all information which they obtain in the exercise of their functions."

16. Section 12 of the principal Act shall be amended as follows:

Amendment of section 12 of the principal Act.

(i) in subsection (2) thereof the words "under an oath of secrecy taken by the judges constituting that court before the investigation is commenced" shall be deleted; and

(ii) subsection (3) thereof shall be renumbered as subsection (4) and the following shall be inserted immediately before it:

"(3) The Registrar of the courts shall take an oath of secrecy before the Court of Appeal in respect of any documents and information that may come to his knowledge in the course of implementing the provisions of subsection (2) of this section."

17. (1) In section 13 of the principal Act, for the word "Authority" whenever it occurs there shall be substituted the word "Centre".

Amendment of section 13 of the principal Act.

(2) Paragraph (a) of subsection (2) of section 13 shall be deleted and shall be substituted by the following new paragraph:

"(a) income from registration and other fees payable under this Act or any other Act in respect of which the Centre exercises registration or similar functions."

18. In section 14 of the principal Act for the word "Authority" wherever it occurs there shall be substituted the word "Centre".

Amendment of section 14 of the principal Act.

19. In section 15 of the principal Act for the word "Authority" wherever it occurs there shall be substituted the word "Centre", and in subsection (2) thereof the words "given after consultation with the Minister responsible for finance" and the words, "after consultation as aforesaid", shall be deleted.

Amendment of section 15 of the principal Act.

Substitution of section 16 of the principal Act.

20. For section 16 of the principal Act there shall be substituted the following:

"Advances by the Government. 16. The Minister may make advances to the Centre of such sums as he may consider to be required by the Centre for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may deem appropriate. Any such advances may be made by the Minister out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advances."

Amendment of various sections of the principal Act.

21. In sections 17 to 19, 21, 22, 24 to 29, 41 to 47, 49, 51 and 52 of the principal Act, for the word "Authority" wherever it occurs there shall be substituted the word "Centre".

Amendment of section 22 of the principal Act.

22. Section 22 of the principal Act shall be amended as follows:

(a) in the first proviso to paragraph (c) of subsection (2) thereof, immediately after the words "the manufacturing or processing of goods in Malta " there shall be inserted the following:

"or the cultivation of agricultural or horticultural products or the farming of fish in Malta", and

(b) in paragraphs (c) and (d) of subsection (5) thereof for the words "Minister responsible for finance" there shall be substituted the word "Minister".

(c) subsection (10) thereof shall be deleted.

Amendment of section 23 of the principal Act.

23. Section 23 of the principal Act shall be amended as follows:

(a) in the first proviso to subsection (6) thereof for the words "the ownership, management" there shall be substituted the words "the management", and for the words "not belonging to it" there shall be substituted the words "whether belonging to it or not";

(b) the second proviso to subsection (6) thereof shall be deleted;

(c) in the third proviso to subsection (6) thereof for the words "shall for the purposes of this Act be considered as a general trading offshore company" there shall be substituted the following:

"shall within a period of one week, notify the Centre in writing of this fact, giving full details of the transaction and of the beneficial ownership of the offshore company and the Centre may impose in writing such conditions as it deems necessary for the performance of its functions under this Act."

24. Section 24 of the principal Act shall be amended as follows:

Amendment of section 24 of the principal Act.

(a) immediately at the end of subsection (1) thereof there shall be inserted the following:

"Such certificate shall be signed by the Chief Executive or by such other officer of the Centre duly delegated from time to time for this purpose.";

(b) the proviso to subsection (2) thereof shall be deleted and the following substituted therefor:

"Provided that where under the provisions of this Act the offshore company is required to have a nominee company as its sole director or secretary, the said nominee company shall in the application certify that the offshore company satisfies all the conditions of this Act to enable it to be registered as an offshore company.";

(c) subsection (8) thereof shall be deleted; and

(d) subsection (9) thereof shall be renumbered (8).

25. In the proviso to subsection (2) of section 25 of the principal Act for the words "sum equal to" there shall be substituted the words "penalty established by the Centre in its discretion not exceeding".

Amendment of section 25 of the principal Act.

26. Section 26 of the principal Act shall be amended as follows:

Amendment of section 26 of the principal Act.

(a) subsection (2) thereof shall be substituted by the following:

"(2) All income, money or other property belonging to or in the possession of a company as is referred to in subsection (1) of this section, shall be liable to seizure and shall be forfeited in

favour of the Government and become its property absolutely, unless the company proves that the income, money or other property was not derived or originated directly or indirectly from a transaction, operation or other activity referred to in the preceding subsection.";

(b) in paragraph (iii) of subsection (3) thereof for the words "exceeding one month," there shall be substituted the words "exceeding one month; or"

(c) immediately after paragraph (iii) as amended of subsection (3) thereof there shall be inserted the following:

"(iv) in the case of a non-trading offshore company referred to in the third proviso to subsection (6) of section 23 of this Act, it has failed to comply with any of the requirements laid down in the said proviso,"; and

(d) in the proviso to subsection (3) thereof, immediately after the words "as the Centre may specify." there shall be inserted the words "Nevertheless the Centre may, where in its opinion there exist reasons of sufficient gravity, proceed to the immediate cancellation of the registration of the company."

Amendment of section 27 of the principal Act.

27. Section 27 of the principal Act shall be amended as follows:

(a) in paragraph (a) of subsection (3) thereof, for the words "a non-trading" there shall be substituted the word "an"; and

(b) paragraph (c) of subsection (3) thereof including the proviso thereto shall be deleted and paragraph (d) shall be re-lettered (c).

Amendment of section 30 of the principal Act.

28. (1) In the first proviso to subsection (2) of section 30, substitute the words "paragraphs (a) and (b)" with the words "paragraph (a)".

(2) In subsection (9) of section 30 and in the Second Schedule to the principal Act, for the words "Malta International Business Activities Act" there shall be substituted the words "Malta Financial Services Centre Act".

29. In subsection (6) of section 39 of the principal Act the words "and such continuance shall have effect notwithstanding anything contained in the law of its former jurisdiction" shall be deleted. Amendment of section 39 of the principal Act.

30. Subsection (2) of section 41 of the principal Act shall be amended by the insertion of ", unless otherwise authorised by the Centre." immediately after the words "in respect thereof". Amendment of section 41 of the principal Act.

31. In section 44 of the principal Act for the words "and any change among the directors and any such change shall not have effect unless and until they are so notified" there shall be substituted the words: Amendment of section 44 of the principal Act.

"and of any change among its directors and members, and any such changes shall not have effect unless and until they are so notified to and approved by the Centre."

32. Section 46 of the principal Act shall be amended as follows: Amendment of section 46 of the principal Act.

(a) in subsection (1) thereof the word "Offshore" shall be deleted;

(b) subsection (2) thereof shall be substituted by the following:

"(2) General trading offshore companies and non-trading offshore companies may be registered with the Centre under this Act only through the agency of a nominee company authorised to act as such with respect to such companies."; and

(c) immediately after subsection (2) thereof there shall be inserted the following new subsection:

"(3) A non-trading offshore company shall be represented legally and judicially by a nominee company either as its sole director or as its secretary whether alone or with such other persons as may be provided in the articles of association or, in a particular case or cases or classes of cases, and with the consent of the nominee company by such other person or persons as the non-trading offshore company may appoint for that purpose."

33. Immediately after subsection (4) of section 47 of the principal Act there shall be inserted the following new subsection: Amendment of section 47 of the principal Act.

"(5) Where at any time there is any substantial alteration or addition in the nature of the activities of a general trading offshore

company it shall be the duty of a nominee company to notify the Centre immediately of the nature of the alteration or addition."

Amendment of section 49 of the principal Act.

34. Section 49 of the principal Act shall be amended as follows:

(a) in subsection (2) thereof for the words "Where a nominee company is the sole director of a non-trading offshore company or its secretary, it ", there shall be substituted the following:

"A nominee company acting as the sole director of an offshore company or its secretary," ; and

(b) in paragraph (a) of subsection (2) thereof, the words "whether disclosed or not," shall be deleted.

Addition of new section 51A to the principal Act.

35. Immediately after section 51 of the principal Act there shall be added the following new section:

"Registration of licensed nominees.

51A.(1) Any company may apply in writing to the Centre to be registered as a nominee and the Centre shall grant the licence if the conditions laid down in subsections (2) and (3) of this section are satisfied.

(2) The conditions referred to in the preceding subsection are that-

(a) the company is a private company;

(b) the objects of the company are expressly limited to acting as a nominee shareholder and trustee and to matters ancillary or incidental thereto;

(c) the majority of the directors are at all times Maltese citizens resident in Malta;

(d) the directors of the company are not less than three, of whom at least two are Maltese citizens resident in Malta, who, for an uninterrupted period of five years, have been any of the following:

(i) a person holding the warrant of advocate under the Code of Organisation and Civil Procedure; or

(ii) a person holding the warrant of a certified public accountant or a certified public accountant and auditor under the Accountancy Profession Act; or

(iii) an associate or fellow of the Chartered Institute of Bankers or of the Institute of Chartered Secretaries and Administrators or of the Chartered Insurance Institute of the United Kingdom or a member of such other institute or similar body within or outside Malta recognised by the Centre for the purposes of this section; or

(iv) a person who has served as a public officer in a grade not below that of assistant head of department, or in an equivalent position with a statutory body, or is otherwise recognised by the Centre as a person comparable to any of the persons aforesaid;

(e) the company has established systems for maintaining proper records of the identity and residence of its clients, and the Centre is satisfied that such systems are adequate for such purpose; and

(f) every person who has a direct or indirect interest in the company or is a member, director or secretary thereof, is of good character and has not been convicted of a crime affecting public trust or theft or fraud or of knowingly receiving property obtained by theft or fraud.

(3) Where any of the persons referred to in paragraph (f) of the preceding subsection is not an individual, the requirements of the said paragraph (f) and this subsection (3) shall apply to such person as though the reference to "the company" were a reference to such person.

(4) A licensed nominee shall notify the Centre of any change in its memorandum or articles of association and of any change in its directors or members, and any such changes shall not have effect

unless and until they are so notified to and approved by the Centre.

(5) The Centre shall supervise the activities of licensed nominees and shall require a licensed nominee to provide the Centre from time to time with such information as the Centre considers necessary for the purposes of verifying that the licensed nominee continues to satisfy the conditions laid down in subsection (2) of this section.

(6) Where a licensed nominee fails to satisfy any of the conditions in subsections (2) and (3) of this section or fails to comply with any request for information made by the Centre in the exercise of its functions under this section, the Centre may revoke the licence of such nominee forthwith.

(7) Where the Centre has grounds to doubt that any statement in writing issued by a licensed nominee in relation to shares held by it as nominee or trustee, or in relation to the persons beneficially entitled to such shares, is incorrect, the Centre shall review the activities of the licensed nominee with a view to determining whether the licensed nominee should rectify any such statement.

(8) Saving any higher punishment which may be provided under any other law, where a licensed nominee fails to rectify a statement as determined by the Centre pursuant to the previous subsection, every officer of the licensed nominee who is in default shall be liable on conviction to a fine (*multa*) of not less than one thousand and not more than ten thousand liri or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(9) No person shall subscribe for or hold shares in his own name for, or in the interest of, or otherwise on behalf of another, unless such person is licensed by the Centre to act as a nominee or trustee in accordance with the provisions of this section, or unless such person is licensed or authorised to act as nominee or trustee under any other law. Any person who acts in breach of this subsection shall be guilty of an offence

against this Act and shall be liable to the punishments established under subsection (8) of this section.

(10) The Minister may, on the advice of the Centre, make regulations for the better carrying out of any of the provisions of this section, and may, in particular, but without prejudice to the generality of the foregoing, by such regulations:

(a) regulate the conduct and duties of licensed nominees;

(b) prescribe such information which licensed nominees are to submit to the Centre;

(c) establish the fees payable by licensed nominees for the issue of a licence under this section."

36. Immediately after section 55 of the principal Act there shall be added the following new sections:-

Addition of new sections 56 to 60 to the principal Act.

"References in other enactments.

56. All references in any other enactment to the Malta International Business Authority and to the Malta International Business Activities Act, shall be construed as references to the Malta Financial Services Centre and to the Malta Financial Services Centre Act respectively. All references to the Deputy Chief Executive (of the Authority) shall be construed as a reference to a Director (of the Centre).

Further registration of offshore companies to cease.

57. After 31 December 1996 no new registration of companies shall be made under this Act, either as new companies or as the continuance of existing companies and any registration of companies on or after such date shall not be governed by this Act:

Provided that the Minister may appoint other dates for the purposes of the application of this section to insurance offshore companies and to companies which expressly limit their object to the management, administration and operation of a ship or ships whether or not belonging to them.

Transitional provisions for offshore companies.

58. (1) (a) The following sections of this Act shall not apply in relation to offshore companies registered after a date to be established by the Minister by notice in the Gazette, which date for the purposes of this section and of sections 59 and 60 of this Act is referred to as "the relevant date":

- section 11;
- section 12;
- section 30, subsection (9) thereof;
- section 38:

Provided that nothing in the foregoing shall hinder the Centre from seeking to identify the individuals or other persons having an interest in the ownership or control of trading offshore companies, or of offshore companies having an interest in companies engaged in the manufacturing or processing of goods in Malta, or in the cultivation of agricultural or horticultural products or the farming of fish in Malta.

(b) Offshore companies registered after the relevant date shall not benefit from arrangements made pursuant to section 76 (formerly section 80) of the Income Tax Act.

(2) In relation to offshore companies registered after the relevant date, subsection (8) of section 30 of this Act shall not apply and the following provision shall apply in substitution therefor:

"All proceedings before the Board of Special Commissioners or the Court of Appeal shall be held in camera to the extent necessary to protect the legitimate business secrets of the company and its shareholders."

(3) In relation to offshore companies registered after the relevant date, subsection (3) of section 35 of this Act shall not apply and the following provision shall apply in substitution therefor:

"The proceedings under this section, other than the order or directive of the Court and such parts of the proceedings as the Court may deem essential to disclose, shall, together with any document or other information produced or given and any evidence heard for the purposes of such proceedings, be kept secret and confidential by every person concerned or connected with the said proceedings as well as by any other person to whose notice such matter may come as though they were bound by the duty of professional secrecy in respect of such information. The records of such proceedings shall be kept under the personal custody of the Registrar of the Court."

(4) The following sections of this Act shall cease to apply after the expiry of ten years from the relevant date:

- section 27;
- section 28;
- section 29;
- section 30;
- section 31;
- section 32;
- section 33;
- section 34;
- section 35;
- section 40.

(5) Notwithstanding the provisions of section 53 of this Act (guarantee of exemptions), the guarantee shall expire ten years from the issue of the certificate of registration of an offshore company or ten years from the relevant date, whichever is the earlier, and in either case, the company shall cease to be an offshore company.

Banking and
insurance
offshore
companies.

59. Notwithstanding the provisions of the previous section, the Minister may, by notice in the Gazette, appoint a date, prior to the expiry of ten years from the relevant date, from which section 29 of this Act shall cease to apply.

Conversion of
companies.

60. (1) Where an offshore company notifies the Centre in writing on or before the expiry of nine years from the relevant date that it desires to cease to be such a company, the Centre may, if it thinks fit, authorise such company in writing to cease to be an offshore company from a date determined by the Centre in its absolute discretion. Where, under the provisions of this Act, the offshore company is required to have a nominee company acting as its sole director or secretary, the hereinmentioned notification shall be made by the nominee company on behalf of the offshore company.

(2) The effects of an authorisation given pursuant to the previous subsection shall be as follows:

(a) the offshore company shall cease to be an offshore company as from the aforesaid date determined by the Centre;

(b) the offshore company shall not be dissolved by virtue of ceasing to be an offshore company; and

(c) the provisions of this Act shall cease to apply to the company as from the date the company ceases to be an offshore company:

Provided that the provisions of section 11, section 12 and section 38 of this Act shall continue to apply in respect of transactions and activities of the company taking place prior to the date when the company ceases to be an offshore company."

Addition of
Third Schedule
to the principal
Act.

37. Immediately after the Second Schedule to the principal Act, there shall be added a new Third Schedule in the form set out in the Schedule to this Act.

SCHEDULE

(Section 37)

Third Schedule

General Functions and Powers of the Centre

1. (1) Without prejudice to any other functions assigned or transferred to the Centre by or under this or any other Act, it shall be the duty of the Centre to exercise such supervisory functions in the fields of banking, insurance, investment services and similar areas in the field of financial services, as may from time to time be assigned to the Centre by or under an Act of Parliament.

Supervisory
functions.

(2) Without prejudice to sub-article (1) of this article, it shall be the duty of the Centre, so far as practicable from time to time:-

(a) to promote and maintain adequate and reasonable financial services for the public;

(b) to ensure high standards of conduct and management throughout the financial system;

(c) to keep under review the carrying on of commercial and financial activities in Malta, and to collect information with respect to such activities, and the persons by whom they are carried on, with a view to its becoming aware of, and ascertaining the circumstances relating to, matters with respect to which its functions are exercisable;

(d) to receive and collate evidence becoming available to it with respect to such activities as are mentioned in the preceding paragraph and which appear to it to be evidence of practices which may adversely affect the economic interests of practitioners and consumers in those areas; and

(e) to further such policies not inconsistent with this Act as shall be in the national interest.

(3) It shall also be the duty of the Centre, where either it considers it expedient or it is requested by the Minister to do so:-

(a) to give information to the Minister with respect to any of the matters in respect of which the Centre has any duties under this article, or

(b) to make recommendations to the Minister as to any action which in the opinion of the Centre it would be expedient for the Minister or any other Minister to take in relation to any of the matters in respect of which the Centre has such duties.

Investigations
at the request
of the Minister.

2. (1) The Minister may at any time require the Centre to conduct an investigation and submit to him a report on any of the matters in respect of which the Centre has any duties under this Act or any other enactment.

(2) Without prejudice to sub-article (1) of this article, the investigations and reports required pursuant to that sub-article may in particular have regard to specific or general aspects of the regulation of commercial activities in Malta which relate to banking, insurance, investment services and similar areas in the field of financial services.

Dissemination
of information.

3. (1) The Centre shall arrange for the dissemination in such form and manner as it considers appropriate of such information and advice as it may appear to it expedient to give the public in Malta about matters relating to the exercise of its functions under this Act or any other enactment.

(2) In arranging for the publication of any such information or advice, the Centre shall have regard to the need to respect the duty of professional secrecy and, so far as practicable, for excluding:-

(a) any matter which relates to the private affairs of an individual, where the publication of that matter would or might, in the opinion of the Centre, seriously and prejudicially affect the interests of that individual; and

(b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Centre, seriously and prejudicially affect the interests of that body.

Consideration
of complaints.

4. (1) It shall be the duty of the Centre to consider any matter which:-

(a) relates to the functions exercisable by the Centre under this Act or any other enactment; and

(b) is the subject of a representation (other than one appearing to the Centre to be frivolous) made to the Centre by or on behalf of a person appearing to the Centre to have an interest in that matter.

(2) Where any matter considered by the Centre under sub-article (1) above is one in respect of which any of its functions is exercisable, the Centre shall, if it is required to do so or if it thinks fit, exercise that function with respect to that matter.

5. (1) The Centre shall have power to investigate any matter which satisfies the conditions laid down in paragraphs (a) and (b) of sub-article (1) of article 4 above. Investigation of complaints.

(2) Where the Centre has investigated any matter under this article, it may prepare a report on that matter and (subject to respecting the duty of professional secrecy) shall send a copy of any such report to such (if any) of the following persons as it thinks appropriate, that is to say:-

(a) any person to whom the report refers or who appears to the Centre to have an interest in the matter to which the report relates;

(b) any person whose functions under any enactment appear to the Centre to be exercisable in relation to that matter;

(c) any person who appears to the Centre to be a person who ought to take account of the report in determining how to act in relation to that matter.

6. Where it appears to the Centre that any person may be contravening or may have contravened any relevant condition, requirement or enactment, the Centre may, for any purpose connected with the exercise of its functions under this Act in relation to that matter, by notice:- Investigation of contraventions.

(a) require any person to produce, at a time and place specified in the notice, to the Centre or any person appointed by it for the purpose, any documents which are specified or described in the notice and are in that person's custody or under his control; or

(b) require any person carrying on any business to furnish to the Centre such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished; but no person shall be compelled for any such purpose to furnish any information or produce any documents which are subject to the duty of professional secrecy.

Penalties for
non co-operation,
etc.

7. (1) Without prejudice to any liability under any other law, a person who without reasonable excuse fails to do anything duly required of him by a notice under article 6 of this schedule shall be guilty of an offence and liable on conviction to a fine (*multa*) of up to twenty thousand Maltese liri.

(2) Without prejudice to any liability under any other law, a person who intentionally alters, suppresses or destroys any document which he has been required by a notice under article 6 above to produce shall be guilty of an offence and liable on conviction to a fine (*multa*) of up to twenty thousand Maltese liri.

(3) Without prejudice to any liability under any other law, if a person makes default in complying with a notice under article 6 of this schedule, the court may, on the application of the Centre, make such order as the court thinks fit for requiring the default to be made good; any such order may provide that the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of any body corporate who are responsible for the default.

(4) Without prejudice to any liability under any other law, a person who, in furnishing any information or making any application under or for the purposes of any provision of this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable, on conviction, to a fine (*multa*) of up to twenty thousand Maltese liri.

(5) Without prejudice to any liability under any other law, a person who in any other way intentionally obstructs the Centre in any investigation being carried out by him under the provisions of this Act shall be guilty of an offence and liable, on conviction, to a fine (*multa*) of up to twenty thousand Maltese liri.

Communications
with the Central
Bank of Malta.

Cap. 204.

8. (1) The Central Bank of Malta may request the Centre to pass to it information in the possession of the latter which is necessary for the discharge by the Central Bank of its duties under the Central Bank of Malta Act, and the Centre shall comply with such a request.

(2) The Centre may request the Central Bank of Malta to pass to it information in the possession of the latter which is necessary for the discharge by the Centre of its duties under this or any other Act, and the Central Bank shall comply with such a request.

(3) Information subject to the duty of professional secrecy may be communicated pursuant to subarticles (1) and (2) of this article and shall also be subject to the duty of professional secrecy in the hands of the recipient.

Passed by the House of Representatives at Sitting No. 303 of the 20th July, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

