

MALTA

ATT Nru XXV tal-2023

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

ATT li jipprovdi għat-twaqqif ta' qafas għall-fornituri ta' servizzi ta' finanzjament kollettiv għan-negozju u r-rekwiziti għall-forniment ta' servizzi ta' finanzjament kollettiv, għall-organizzazzjoni, l-awtorizzazzjoni u s-superviżjoni tal-fornituri ta' servizzi ta' finanzjament kollettiv, għall-operat ta' pjattaformi ta' finanzjament kollettiv kif ukoll għat-trasparenza u l-komunikazzjonijiet ta' kummerċjalizzazzjoni fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv fl-Unjoni Ewropea.

ACT No. XXV of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to provide for the establishment of a framework for crowdfunding service providers for business and the requirements for the provision of crowdfunding services, for the organisation, authorisation and supervision of crowdfunding service providers, for the operation of crowdfunding platforms as well as for transparency and marketing communications in relation to the provision of crowdfunding services in the European Union.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

14 ta' Lulju, 2023

ATT Nru XXV tal-2023

ATT li jipprova għat-twaqqif ta' qafas għall-fornituri ta' servizzi ta' finanzjament kollettiv għan-negozju u r-rekwiżiti għall-forniment ta' servizzi ta' finanzjament kollettiv, għall-organizzazzjoni, l-awtorizzazzjoni u s-superviżjoni tal-fornituri ta' servizzi ta' finanzjament kollettiv, għall-operat ta' pjattaformi ta' finanzjament kollettiv kif ukoll għat-trasparenza u l-komunikazzjonijiet ta' kummerċjalizzazzjoni fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv fl-Unjoni Ewropea.

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:-

TAQSIM TAL-ATT

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**TAQSIMA I
PRELIMINARI**

Titolu fil-qosor, kamp ta' applikabilità u għan.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 dwar il-Fornituri ta' Servizzi ta' Finanzjament Kollettiv.

(2) Il-kamp ta' applikabilità u l-għan ta' dan l-Att huwa li jimplimenta d-dispożizzjonijiet rilevanti tar-Regolament ECSP kif definit hawnhekk, u dawn għandhom jiġu interpretati u applikati skont hekk.

Tifsir.

2. (1) F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtiegħ xort'ohra:

Kap. 330.

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

Kap. 330.

"awtorità regulatorja barranija" tfisser awtorità f'pajjiż jew territorju barra minn Malta li mhijiex Stat Membru jew Stat taż-ŻEE li teżercita kwalunkwe funzjoni regulatorja jew superviżorja fir-rigward ta' servizzi finanzjarji li jikkorrispondu għal funzjoni tal-awtorità kompetenti kif definit fl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;

"awtorità regulatorja Ewropea" tfisser il-korp jew korpi maħtura minn Stat Membru jew Stat taż-ŻEE minbarra Malta skont l-Artikolu 29 tar-Regolament ECSP biex iwettqu l-funzjonijiet u d-dmirijiet previsti fir-Regolament ECSP;

"ESMA" tfisser l-Awtorità Ewropea tat-Titoli u s-Swieq, stabbilita bir-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010;

"fornitur ta' servizzi ta' finanzjament kollettiv" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (e) tal-Artikolu 2(1) tar-Regolament ECSP;

"għestjoni ta' portafolji individwali ta' self" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (ċ) tal-Artikolu 2(1) tar-Regolament ECSP;

"investitur" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (i) tal-Artikolu 2(1) tar-Regolament ECSP;

"jiem ta' xogħol" tfisser jiem li ma għandhomx jinkludu s-Sibtijiet u l-jiem imsemmija fl-Att dwar il-Festi Nazzjonali u Kap. 252.
Btajjel Pubbliċi Ohra;

"klijent" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (g) tal-Artikolu 2(1) tar-Regolament ECSP;

"komunikazzjonijiet ta' kummerċjalizzazzjoni" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (o) tal-Artikolu 2(1) tar-Regolament ECSP;

"korp maniġerjali" tfisser il-korp jew korpi ta' detentur ta' liċenzja li huma maħtura skont il-liġi nazzjonali u li għandhom is-setgħa li jistabbilixxu l-istrateġija, l-oġettivi u d-direzzjoni ġenerali tad-detentur tal-liċenzja, u jissorveljaw u jimmonitorjaw it-teħid ta' deċiżjonijiet maniġerjali, u jinkludi l-persuni li effettivament jidderieġu n-negożju tad-detentur tal-liċenzja;

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

"offerta ta' finanzjament kollettiv" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (f) tal-Artikolu 2(1) tar-Regolament ECSP;

"parteċipazzjoni azzjonarja kwalifikattiva" tfisser parteċipazzjoni diretta jew indiretta f'kumpanija li tirrappreżenta għaxra fil-mija (10%) jew aktar tal-kapital azzjonarju jew tad-drittijiet tal-vot imsemmija fl-Artikoli 9 u 10 tad-Direttiva 2004/109/KE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Diċembru 2004 dwar l-armonizzazzjoni tar-rekwiżiti ta' trasparenza f'dak li għandu x'jaqsam ma' informazzjoni dwar emittenti li t-titoli tagħhom huma ammessi għall-kummerċ f'suq regolat u li temenda d-Direttiva 2001/34/KE waqt li jitqiesu l-kondizzjonijiet rigward l-aggregazzjoni

tagħhom stabbiliti f'dik id-Direttiva, jew li tagħmilha possibbli li tiġi eżerċitata influwenza sinifikanti fuq il-ġestjoni tal-kumpanija li fiha dik il-parteciżazzjoni tissussisti, u "azzjonist kwalitattiv" għandha tiġi interpretata skont hekk;

"pjattaforma ta' finanzjament kollettiv" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (d) tal-Artikolu 2(1) tar-Regolament ECSP;

"proġett ta' finanzjament kollettiv" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (1) tal-Artikolu 2(1) tar-Regolament ECSP;

"Regolament dwar l-ECSP" tfisser ir-Regolament (UE) 2020/1503 tal-Parlament Ewropew u tal-Kunsill tas-7 ta' Ottubru 2020 dwar fornituri Ewropej ta' servizzi ta' finanzjament kollettiv għan-negozji, u li jemenda r-Regolament (UE) 2017/1129 u d-Direttiva (UE) 2019/1937, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe miżura ta' implimentazzjoni, standards tekniċi ta' implimentazzjoni, standards tekniċi regolatorji, linji gwida u miżuri simili li nħarġu jew li jistgħu jinħarġu taħtu;

"Regolament (UE) Nru 1095/2010" tfisser ir-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jistabilixxi Awtorità Superviżorja Ewropea (Awtorità Ewropea tat-Titoli u s-Swieq), li jemenda d-Deċiżjoni Nru 716/2009/KE u jhassar id-Deċiżjoni tal-Kummissjoni 2009/77/KE, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe miżura ta' implimentazzjoni, standards tekniċi ta' implimentazzjoni, standards tekniċi regolatorji, linji gwida u miżuri simili li nħarġu jew li jistgħu jinħarġu taħtu;

"Regoli" tfisser ir-Regoli maħruġa mill-awtorità kompetenti skont dan l-Att;

"self" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (b) tal-Artikolu 2(1) tar-Regolament ECSP;

"servizz ta' finanzjament kollettiv" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (a) tal-Artikolu 2(1) tar-Regolament ECSP;

"sid ta' proġett" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (h) tal-Artikolu 2(1) tar-Regolament ECSP;

"strumenti ammessi għal finijiet ta' finanzjament kollettiv" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (n) tal-Artikolu 2(1) tar-Regolament ECSP;

"titoli trasferibbli" għandu jkollha l-istess tifsira bħal dik assenjata lilha fil-paragrafu (m) tal-Artikolu 2(1) tar-Regolament ECSP.

(2) Kliem u espressjonijiet użati f'dan l-Att li jintużaw ukoll fir-Regolament ECSP iżda li mhumiex definiti hawnhekk, għandu jkollhom l-istess tifsira bħal dik assenjata lilhom fir-Regolament ECSP.

(3) F'dan l-Att u fi kwalunkwe regolament magħmul tahtu, jekk ikun hemm kwalunkwe kunflitt bejn it-testi bl-Ingliż u dak bil-Malti, it-test bl-Ingliż għandu jipprevali.

3. Id-dispożizzjonijiet ta' dan l-Att u kwalunkwe regolamenti jew Regoli maħruġa tahtu ma għandhomx japplikaw għal: Applikabilità.

(a) servizzi ta' finanzjament kollettiv li huma pprovduti lil sidien ta' proġetti li huma konsumaturi, kif definit fil-punt (a) tal-Artikolu 3 tad-Direttiva 2008/48/KE tal-Parlament Ewropew u tal-Kunsill tat-23 ta' April 2008 dwar ftehim ta' kreditu għall-konsumatur u li tħassar id-Direttiva tal-Kunsill 87/102/KEE;

(b) servizzi oħra relatati ma' servizz ta' finanzjament kollettiv u li huma pprovduti f'konformità mal-liġi nazzjonali;

(ċ) offerti ta' finanzjament kollettiv b'kunsiderazzjoni ta' aktar minn ħames miljun euro (€5,000,000), li għandhom jiġu kkalkulati fuq perjodu ta' tmax (12)-il xahar bħala s-somma ta':

(i) il-kunsiderazzjoni totali tal-offerti ta' titoli trasferibbli u strumenti ammessi għal finijiet ta' finanzjament kollettiv u l-ammonti miġbura permezz ta' self permezz ta' pjattaforma ta' finanzjament kollettiv minn sid ta' proġett partikolari; u

(ii) il-kunsiderazzjoni totali tal-offerti lill-pubbliku ta' titoli trasferibbli magħmula mis-sid tal-proġett imsemmi fis-subparagrafu (i) fil-kapaċità tiegħu bħala offerent skont l-eżenzjoni taht l-Artikolu 1(3), jew l-Artikolu 3(2), tar-Regolament (UE) 2017/1129 tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Ġunju 2017 dwar il-prospett li għandu jiġi ppubblikat meta titoli jiġu offruti lill-pubbliku jew jiġu ammessi għall-kummerċ f'suq

regolat, u li jhassar id-Direttiva 2003/71/KE.

Awtorità kompetenti.

4. (1) L-awtorità kompetenti għandha twettaq il-funzjonijiet tagħha skont dan l-Att u, b'mod partikolari, għandha tiżgura konformità mad-dispożizzjonijiet tar-Regolament ECSP, dan l-Att u kwalunkwe regolamenti u Regoli maħruġa taħtu.

(2) L-awtorità kompetenti għandha twettaq ukoll il-funzjonijiet u d-dmirijiet bhala awtorità kompetenti għall-finijiet kollha tar-Regolament ECSP.

TAQSIMA II REKWIZITI TA' AWTORIZZAZZJONI

Awtorizzazzjoni bhala fornitur ta' servizzi ta' finanzjament kollettiv.

5. (1) Mingħajr preġudizzju għall-Artikolu 18 tar-Regolament dwar l-ECSP, l-ebda servizzi ta' finanzjament kollettiv ma għandhom jiġu pprovduti f'Malta sakemm ma jiġux ipprovduti minn persuna ġuridika li tkun debitament awtorizzata mill-awtorità kompetenti jew kwalunkwe awtorità regolatorja Ewropea bhala fornitur ta' servizzi ta' finanzjament kollettiv.

(2) L-ebda persuna ġuridika stabbilita f'Malta ma għandha tipprowdi, jew iżzomm lilha nnifisha bhala li tipprowdi, servizzi ta' finanzjament kollettiv sakemm ma tkunx debitament awtorizzata mill-awtorità kompetenti bhala fornitur ta' servizzi ta' finanzjament kollettiv.

Kap. 371.

(3) Minkejja kwalunkwe haġa li tinsab fi kwalunkwe liġi oħra, persuna ġuridika ma għandha teħtieġ l-ebda awtorizzazzjoni, inkluża liċenzja skont l-Att dwar il-Kummerċ Bankarju, l-ebda eżenzjoni jew kwalunkwe dispensa b'rabta mal-forniment ta' servizzi ta' finanzjament kollettiv fis-sitwazzjonijiet li ġejjin:

(a) għal sidien ta' proġetti li fir-rigward ta' self iffaċilitat mill-fornitur ta' servizzi ta' finanzjament kollettiv jaċċettaw fondi minn investituri; jew

(b) għall-investituri li jagħtu self lil sidien ta' proġetti ffaċilitat mill-fornitur ta' servizzi ta' finanzjament kollettiv:

Iżda dan is-subartikolu ma għandux japplika meta fornitur ta' servizzi ta' finanzjament kollettiv, sid il-proġett jew investitur ikun awtorizzat bhala istituzzjoni ta' kreditu f'konformità mal-Artikolu 8 tad-Direttiva 2013/36/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar l-aċċess għall-attività tal-istituzzjonijiet ta' kreditu u s-superviżjoni prudenzjali tal-istituzzjonijiet ta' kreditu u tad-ditti tal-investment, li temenda d-Direttiva 2002/87/KE u li thassar id-Direttivi 2006/48/KE u 2006/49/KE.

6. (1) Persuna ġuridika stabbilita f'Malta li għandha l-
 hsieb li ttipprovi servizzi ta' finanzjament kollettiv għandha tapplika
 għand l-awtorità kompetenti għal awtorizzazzjoni bħala fornitur ta'
 servizzi ta' finanzjament kollettiv.

Applikazzjoni
 għall-
 awtorizzazzjoni.

(2) L-applikazzjoni msemmija fis-subartikolu (1) għandu jkun
 fiha l-informazzjoni kollha stabbilita fl-Artikolu 12(2) tar-
 Regolament ECSP.

(3) L-awtorità kompetenti għandha, fi żmien ħamsa u għoxrin
 (25) jum tax-xogħol minn meta tirċievi l-applikazzjoni msemmija fis-
 subartikolu (1), tivvaluta jekk dik l-applikazzjoni tkunx kompluta
 billi tivverifika li l-informazzjoni msemmija fis-subartikolu (2) tkun
 giet sottomessa. Meta l-applikazzjoni ma tkunx kompluta, l-awtorità
 kompetenti għandha tistabbilixxi skadenza sa meta l-fornitur ta'
 servizzi ta' finanzjament kollettiv prospettiv għandu jipprovi l-
 informazzjoni nieqsa.

(4) Meta l-applikazzjoni msemmija fis-subartikolu (1) tibqa'
 mhux kompluta wara l-iskadenza msemmija fis-subartikolu (3), l-
 awtorità kompetenti tista' tirrifjuta li tirrevedi l-applikazzjoni u, fil-
 każ ta' tali rifjut, għandha tagħti lura d-dokumenti sottomessi lill-
 fornitur ta' servizzi ta' finanzjament kollettiv prospettiv.

(5) Meta l-applikazzjoni msemmija fis-subartikolu (1) tkun
 kompluta, l-awtorità kompetenti għandha tinnotifika minnufih lill-
 fornitur ta' servizzi ta' finanzjament kollettiv prospettiv b'dan.

(6) L-awtorità kompetenti għandha, fi żmien tliet (3) xhur
 mid-data li tirċievi l-applikazzjoni kompluta, tivvaluta jekk il-fornitur
 ta' servizzi ta' finanzjament kollettiv prospettiv jikkonformax mar-
 rekwiżiti stabbiliti fir-Regolament ECSP, u f'dan l-Att u kwalunkwe
 regolament u Regoli maħruġa tahtu, u għandha tadotta deċiżjoni
 motivata bis-sħiħ li tagħti jew tirrifjuta li tagħti awtorizzazzjoni bħala
 fornitur ta' servizzi ta' finanzjament kollettiv:

Iżda l-valutazzjoni li għandha titwettaq skont dan is-
 subartikolu għandha tqis in-natura, l-iskala u l-kumplessità tas-
 servizzi ta' finanzjament kollettiv li l-fornitur ta' servizzi ta'
 finanzjament kollettiv prospettiv beħsiebu jipprovi.

(7) L-awtorità kompetenti għandha tinnotifika lill-fornitur ta'
 servizzi ta' finanzjament kollettiv prospettiv bid-deċiżjoni tagħha li
 tagħti jew tirrifjuta li tagħti awtorizzazzjoni bħala fornitur ta' servizzi
 ta' finanzjament kollettiv fi żmien tlett (3) ijiem tax-xogħol mid-data
 tal-imsemmija deċiżjoni.

(8) Fl-għoti ta' awtorizzazzjoni skont dan l-artikolu, l-awtorità

kompetenti tista' tissoġġetta fornitur ta' servizzi ta' finanzjament kollettiv għal tali kondizzjonijiet li hija tqis xierqa u wara li tkun tat tali awtorizzazzjoni, hija tista', minn żmien għal żmien, tvarja jew tirrevoka kwalunkwe kondizzjoni imposta b'dan il-mod jew timponi kondizzjonijiet godda.

(9) L-awtorità kompetenti għandha tistabbilixxi regjistru tad-detenturi kollha ta' awtorizzazzjoni bħala fornitur ta' servizzi ta' finanzjament kollettiv li għandu jkun disponibbli għall-pubbliku. Dan ir-regjistru għandu jispeċifika wkoll is-servizzi ta' finanzjament kollettiv li kull fornitur ta' servizzi ta' finanzjament kollettiv huwa awtorizzat li jipprovdi u għandu jiġi aġġornat fuq bażi regolari.

Kamp ta' applikazzjoni tal-awtorizzazzjoni.

7. (1) Awtorizzazzjoni bħala fornitur ta' servizzi ta' finanzjament kollettiv mogħtija mill-awtorità kompetenti skont l-artikolu 6 għandha tispeċifika s-servizzi ta' finanzjament kollettiv li l-fornitur ta' servizzi ta' finanzjament kollettiv huwa awtorizzat li jipprovdi.

(2) Fornitur ta' servizzi ta' finanzjament kollettiv li beħsiebu jestendi n-negozju tiegħu għal servizzi ta' finanzjament kollettiv addizzjonali mhux previsti fiż-żmien tal-awtorizzazzjoni mogħtija lilu skont l-artikolu 6 għandu jippreżenta talba għall-estensjoni tal-awtorizzazzjoni tiegħu lill-awtorità kompetenti billi jikkomplementa u jaġġorna l-informazzjoni msemmija fl-artikolu 6(2):

Iżda talba għall-estensjoni ta' awtorizzazzjoni magħmula skont dan is-subartikolu għandha tiġi pproċessata skont l-Artikolu 12(4) sa (11) tar-Regolament ECSP.

Rifjut ta' awtorizzazzjoni.

8. (1) L-awtorità kompetenti tista' tirrifjuta li tagħti awtorizzazzjoni bħala fornitur ta' servizzi ta' finanzjament kollettiv jekk ikun hemm raġunijiet oġġettivi u dimostrabbli biex temmen li l-korp manigerjali tal-fornitur ta' servizzi ta' finanzjament kollettiv prospettiv jista' jkun ta' theddida għall-ġestjoni effettiva, soda u prudenti tiegħu u għall-kontinwità tan-negozju, u għall-konsiderazzjoni adegwata tal-interess tal-klijenti tiegħu u l-integrità tas-suq.

(2) Mingħajr preġudizzju għas-subartikolu (1), l-awtorità kompetenti ma għandhiex tagħti awtorizzazzjoni bħala fornitur ta' servizzi ta' finanzjament kollettiv sakemm:

(a) ma tkunx sodisfatta li l-applikant jikkonforma mar-rekwiżiti stabbiliti fir-Regolament ECSP, u f'dan l-Att u f'kull regolament u Regoli maħruġa taħtu;

(b) ma tkunx sodisfatta li l-applikant u l-azzjonisti, il-

membri, id-diretturi u l-uffiċjali tiegħu li jikkwalifikaw huma persuni kompetenti u idonei biex jipprovdu servizzi ta' finanzjament kollettiv;

(ċ) mingħajr preġudizzju għall-paragrafu (b), ma tkunx sodisfatta li l-membri tal-korp manigerjali tal-applikant ikunu ta' reputazzjoni tajba biżżejjed, ikollhom biżżejjed għarfien, ħiliet u esperjenza u jimpenjaw biżżejjed ħin biex iwettqu l-funzjonijiet tagħhom bħala tali mal-applikant; u

(d) l-applikant ma jkollux l-uffiċċju reġistrat tiegħu u, jew l-uffiċċju prinċipali tiegħu, f'Malta.

9. (1) L-awtorità kompetenti tista' fi kwalunkwe ħin tirtira awtorizzazzjoni mogħtija skont l-artikolu 6 jekk:

Irtirar ta' awtorizzazzjoni.

(a) il-fornitur ta' servizzi ta' finanzjament kollettiv ma jkunx uża l-awtorizzazzjoni tiegħu fi żmien tmintax (18)-il xahar mid-data tal-għoti tal-awtorizzazzjoni;

(b) il-fornitur ta' servizzi ta' finanzjament kollettiv ikun espressament irrinunzja l-awtorizzazzjoni tiegħu;

(ċ) il-fornitur ta' servizzi ta' finanzjament kollettiv ma jkunx ipprova servizzi ta' finanzjament kollettiv għal disa' (9) xhur suċċessivi u lanqas ma għadu involut fl-amministrazzjoni ta' kuntratti eżistenti li huma r-rizultat ta' tqabbil inizjali tal-interessi ta' finanzjament kummerċjali permezz tal-użu tal-pjattaforma ta' finanzjament kollettiv tiegħu;

(d) il-fornitur ta' servizzi ta' finanzjament kollettiv ikun kiseb l-awtorizzazzjoni tiegħu b'mezzi irregolari, inkluż billi għamel dikjarazzjonijiet foloz fl-applikazzjoni tiegħu għal awtorizzazzjoni;

(e) il-fornitur ta' servizzi ta' finanzjament kollettiv ma jibqax jissodisfa l-kondizzjonijiet li taħthom inghatat l-awtorizzazzjoni jew fi kwalunkwe ċirkostanza oħra fejn l-awtorità kompetenti kienet tiġi prekluzja milli toħroġ awtorizzazzjoni, jew intitolata li ttrifjuta li tagħti tali awtorizzazzjoni, skont ir-Regolament ECSP jew dan l-Att;

(f) il-fornitur ta' servizzi ta' finanzjament kollettiv ikun kiser serjament kwalunkwe dispożizzjoni tar-Regolament ECSP, dan l-Att u, jew kwalunkwe regolamenti jew Regoli maħruġa taħtu;

(g) l-awtorità kompetenti tkun giet ipprovduta minn,

jew f'isem, il-fornitur ta' servizzi ta' finanzjament kollettiv b'informazzjoni li tkun falza, mhux preċiża jew qarrieqa;

(h) l-awtorità kompetenti tqis li huwa opportun li tirtira l-awtorizzazzjoni tal-fornitur ta' servizzi ta' finanzjament kollettiv għall-protezzjoni tal-investituri u tal-pubbliku ġenerali, u r-reputazzjoni ta' Malta meta jitqiesu l-impenji internazzjonali ta' Malta; u, jew

(i) il-fornitur ta' servizzi ta' finanzjament kollettiv jiġi ddikjarat fallut, jew jispicċa f'likwidazzjoni, jew jagħmel kompożizzjoni mal-kredituri tiegħu, jew inkella jiġi xolt.

(2) Mingħajr preġudizzju għas-subartikolu (1), l-awtorità kompetenti tista' fi kwalunkwe ħin tirtira awtorizzazzjoni mogħtija skont l-artikolu 6:

Kap. 376.

(a) meta l-fornitur ta' servizzi ta' finanzjament kollettiv ikun ukoll fornitur ta' servizzi ta' pagament kif definit fl-artikolu 2(1) tal-Att dwar l-Istituzzjonijiet Finanzjarji u dan, jew il-manigġers, l-impjegati jew partijiet terzi tiegħu li jaġixxu f'ismu, ikunu kisoru d-dispożizzjonijiet tad-Direttiva (UE) 2015/849 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Mejju 2015 dwar il-prevenzjoni tal-użu tas-sistema finanzjarja għall-finijiet tal-ħasil tal-flus jew il-finanzjament tat-terroriżmu, li temenda r-Regolament (UE) Nru 648/2012 tal-Parlament Ewropew u tal-Kunsill, u li tħassar id-Direttiva 2005/60/KE tal-Parlament Ewropew u tal-Kunsill u d-Direttiva tal-Kummissjoni 2006/70/KE, kif trasposti fil-liġi nazzjonali, fir-rigward tal-ħasil tal-flus jew il-finanzjament tat-terroriżmu; jew

Kap. 376.

(b) meta l-fornitur ta' servizzi ta' finanzjament kollettiv jew parti terza li taġixxi f'ismu jkollhom il-liċenzja li tippermetti l-forniment ta' servizzi ta' pagament kif definit fl-artikolu 2(1) tal-Att dwar l-Istituzzjonijiet Finanzjarji jew servizzi ta' investiment kif definiti fl-artikolu 2(1) tal-Att dwar Servizzi ta' Investiment ikunu ġew irtirati jew ikkanċellati, kif applikabbli, u dak il-fornitur ta' servizzi ta' finanzjament kollettiv jew parti terza jkunu naqsu milli jirrimedjaw is-sitwazzjoni fi żmien erbgħin (40) jum kalendarju.

Kap. 370.

Notifika ta' proposta ta' rifjut, varjazzjoni, jew irtirar ta' awtorizzazzjoni.

10. (1) Fejn l-awtorità kompetenti tipproponi li:

(a) tirrifjuta applikazzjoni għal awtorizzazzjoni bhala fornitur ta' servizzi ta' finanzjament kollettiv jew tirtira l-awtorizzazzjoni ta' fornitur ta' servizzi ta' finanzjament kollettiv; jew

(b) tvarja kwalunkwe kondizzjoni li għaliha hija soġġetta l-liċenzja jew timponi kondizzjoni fuqha,

hi għandha tagħti lill-fornitur ta' servizzi ta' finanzjament kollettiv prospettiv jew lill-fornitur ta' servizzi ta' finanzjament kollettiv, kif applikabbli, avviż bil-miktub dwar l-intenzjoni tagħha li tagħmel dan, filwaqt li tagħti r-raġunijiet għad-deċiżjoni li tipproponi li tiehu.

(2) Kull avviż mogħti skont is-subartikolu (1) għandu jiddikjara li r-riċevitur tan-notifika jista', f'perjodu raġonevoli wara n-notifika tiegħu kif jista' jkun iddikjarat fl-avviż, jagħmel sottomissjonijiet bil-miktub lill-awtorità kompetenti fejn jagħti r-raġunijiet għaliex id-deċiżjoni proposta ma għandhiex tittiehed, u l-awtorità kompetenti għandha tikkunsidra kwalunkwe sottomissjoni hekk magħmula qabel ma tasal għal deċiżjoni finali.

(3) Bla ħsara għad-dispożizzjonijiet tal-artikolu 6, l-awtorità kompetenti għandha kemm jista' jkun malajr tinnotifika d-deċiżjoni finali tagħha bil-miktub lil kwalunkwe persuna li lilha għandu jingħata avviż skont is-subartikolu (1).

11. (1) Meta fornitur ta' servizzi ta' finanzjament kollettiv awtorizzat skont dan l-Att ikollu l-intenzjoni li jipprovdi servizzi ta' finanzjament kollettiv fi Stat Membru jew fi Stat taż-ŻEE għajr Malta, huwa għandu jippreżenta l-informazzjoni li ġejja lill-awtorità kompetenti:

Il-forniment transkonfinali ta' servizzi ta' finanzjament kollettiv.

(a) lista tal-Istati Membri u, jew tal-Istati taż-ŻEE li fihom il-fornitur ta' servizzi ta' finanzjament kollettiv beħsiebu jipprovdi servizzi ta' finanzjament kollettiv;

(b) l-identità tal-persuni fiżiċi u ġuridiċi responsabbli għall-forniment tas-servizzi ta' finanzjament kollettiv f'dawk l-Istati Membri u, jew l-Istati taż-ŻEE;

(ċ) id-data tal-bidu tal-forniment intenzjonat tas-servizzi ta' finanzjament kollettiv mill-fornitur ta' servizzi ta' finanzjament kollettiv; u

(d) lista ta' kwalunkwe attività oħra pprovduta mill-fornitur ta' servizzi ta' finanzjament kollettiv mhux koperta mir-Regolament ECSP.

(2) L-awtorità kompetenti għandha, fi żmien għaxart (10) ijiem tax-xogħol minn meta tirċievi l-informazzjoni msemmija fis-subartikolu (1), tikkomunika dik l-informazzjoni lill-awtorità regolatorja Ewropea tal-Istati Membri u, jew lill-Istati taż-ŻEE li fihom il-fornitur ta' servizzi ta' finanzjament kollettiv beħsiebu

jipprovdi servizzi ta' finanzjament kollettiv kif imsemmi fis-subartikolu (1).

(3) Sussegwentement, l-awtorità kompetenti għandha tinforma mingħajr dewmien lill-fornitur ta' servizzi ta' finanzjament kollettiv dwar il-komunikazzjoni msemmija fis-subartikolu (2).

TAQSIMA III OBBLIGI KONTINWI

Bidliet fl-informazzjoni.

12. Fornitur ta' servizzi ta' finanzjament kollettiv, jew kwalunkwe persuna li jkollha r-responsabbiltà għall-amministrazzjoni jew il-ġestjoni ta' kuljum ta' tali fornitur ta' servizzi ta' finanzjament kollettiv, għandu jipprovdi lill-awtorità kompetenti d-dettalji ta' kwalunkwe bidla fl-informazzjoni pprovduta skont ir-Regolament ECSP, dan l-Att, jew kwalunkwe regolamenti jew Regoli maħruġa tahtu hekk kif tali fornitur ta' servizzi ta' finanzjament kollettiv jew tali persuna jsiru konxji ta' tali bidliet.

Responsabbiltà għall-iskeda ta' informazzjoni ewlenija dwar l-investment.

13. (1) Is-sid tal-proġett jew il-membri tal-korpi amministrattivi, maniġerjali jew superviżorji tiegħu, skont il-każ, għandhom ikunu responsabbli għall-informazzjoni li għandha tiġi pprovduta fl-iskeda ta' informazzjoni ewlenija dwar l-investment skont id-dispożizzjonijiet tal-Artikolu 23 tar-Regolament ECSP u t-traduzzjoni tal-informazzjoni msemmija.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), il-persuni msemmija fis-subartikolu msemmi għandhom jiżguraw li:

(a) l-informazzjoni li għandha tiġi pprovduta fl-iskeda ta' informazzjoni ewlenija dwar l-investment ma tkunx falza, qarrieqa jew impreciza; u

(b) l-iskeda ta' informazzjoni ewlenija dwar l-investment ma tħallix barra l-informazzjoni ewlenija meħtieġa biex tgħin lill-investituri meta jikkunsidraw jekk jiffinanzjawx il-proġett ta' finanzjament kollettiv.

Responsabbiltà għall-iskeda ta' informazzjoni ewlenija dwar l-investment fil-livell tal-pjattaforma.

14. (1) Il-fornitur ta' servizzi ta' finanzjament kollettiv għandu jkun responsabbli għall-informazzjoni li għandha tiġi pprovduta fl-iskeda ta' informazzjoni ewlenija dwar l-investment fil-livell tal-pjattaforma skont l-Artikolu 24 tar-Regolament ECSP u t-traduzzjoni tal-informazzjoni msemmija.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), il-persuni msemmija fis-subartikolu msemmi għandhom jiżguraw li:

(a) l-informazzjoni li għandha tiġi pprovduta fl-iskeda

ta' informazzjoni ewlenija dwar l-investment ma tkunx falza, qarrieqa jew impreciza; u

(b) l-iskeda ta' informazzjoni ewlenija dwar l-investment fil-livell tal-pjattaforma ma thallix barra l-informazzjoni ewlenija meħtieġa biex tgħin lill-investituri meta jkunu qed jikkunsidraw jekk jinvestux permezz tal-immaniġġjar tal-portafoll individwali tas-self.

15. Meta fornitur ta' servizzi ta' finanzjament kollettiv ixxerred, skont l-Artikolu 27 tar-Regolament ECSP, komunikazzjonijiet ta' kummerċjalizzazzjoni dwar is-servizzi tiegħu, huwa għandu jikkonforma mar-rekwiżiti rilevanti kif jista' ikun speċifikat fir-Regoli maħruġa għal dawn l-għanijiet.

Komunikazzjonijiet ta' kummerċjalizzazzjoni.

TAQSIMA IV SETGHAT REGOLATORJI U INVESTIGATORJI

16. (1) Il-Ministru, li jaġixxi fuq il-parir tal-awtorità kompetenti, jista' jagħmel regolamenti li jagħtu effett lid-dispożizzjonijiet ta' dan l-Att, u mingħajr preġudizzju għall-generalità ta' dan ta' hawn fuq jista', b'dawn ir-regolamenti, b'mod partikolari, jagħmel xi wieħed minn dawn li ġejjin:

Setgħa tal-Ministru li jagħmel regolamenti.

(a) jipprovdi għal u jirregola l-hlas minn kwalunkwe persuna jew korp, skont il-każ, ta' awtorizzazzjoni jew tariffi oħra u dawk l-imposti l-oħra li għandhom jithallsu lill-awtorità kompetenti fir-rigward ta' kwalunkwe kwistjoni prevista, minn jew skont dan l-Att jew kwalunkwe regolamenti magħmula skont dan l-artikolu, kif jista' jiġi preskritt;

(b) jeżenta lil kwalunkwe persuna, servizz jew attività minn kwalunkwe waħda jew aktar mid-dispożizzjonijiet ta' dan l-Att, soġġett għal tali varjazzjonijiet, żidiet, adattamenti u modifiki li jistgħu jiġu preskritti u soġġetti għal dawk il-kondizzjonijiet jew rekwiżiti oħra, inklużi forom oħra ta' proċeduri ta' awtorizzazzjoni u notifika, kif jista' jkun preskritt;

(ċ) jittrasponi, jimplimenta u jagħti effett lid-dispożizzjonijiet u r-rekwiżiti tar-Regolament ECSP;

(d) jittrasponi, jimplimenta u jagħti effett lid-dispożizzjonijiet u r-rekwiżiti tad-Direttivi tal-Unjoni Ewropea, ir-Regolamenti tal-Unjoni Ewropea u kwalunkwe miżura legiżlattiva oħra tal-Unjoni Ewropea li teħtieġ traspożizzjoni u, jew implimentazzjoni, kif jistgħu jiġu emendati minn żmien għal żmien, inkluż kwalunkwe miżuri ta' implimentazzjoni li jkunu nħarġu jew li jistgħu jinħarġu skont dawn u li jkunu

relatati ma' persuni awtorizzati u oħrajn kif jista' jkun speċifikat fihom; ir-regolamenti magħmula skont dan il-paragrafu, u strettament relatati mat-traspożizzjoni jew l-implimentazzjoni kif imsemmi qabel, jistgħu jipprovdu li kwalunkwe dispożizzjoni ta' dan l-Att jew ta' kwalunkwe liġi oħra ma għandhiex tapplika għal materji li jaqgħu taħt ir-regolamenti, u li sa fejn kwalunkwe dispożizzjoni tar-regolamenti tkun inkonsistenti mad-dispożizzjonijiet ta' dan l-Att jew ta' kwalunkwe liġi oħra, tali dispożizzjonijiet f'regolamenti bhal dawn għandhom jipprevalu;

(e) jassenja setgħat u funzjonijiet lill-awtorità kompetenti għall-finijiet ta' dan l-Att;

(f) jipprovdi għall-eżerċizzju tas-setgħat u t-twettiq tal-funzjonijiet assenjati lill-awtorità kompetenti skont dan l-Att;

(g) jipprovdi għal kwalunkwe kwistjoni relatata mal-operat ta' fond ta' kontingenza li jista' jiġi stabbilit minn fornitur ta' servizzi ta' finanzjament kollettiv għall-attività tiegħu relatata mal-ġestjoni ta' portafoll individwali ta' self;

(h) jippreskrivi kwalunkwe haġa li għandha tkun jew li tista' tiġi preskritta;

(i) jipprovdi għal u jirregola l-ħlas minn kwalunkwe persuna ta' awtorizzazzjoni jew tariffi oħra u tali ħlasijiet oħra pagabbli lill-awtorità kompetenti fir-rigward ta' kwalunkwe kwistjoni prevista, minn jew skont ir-Regolament ECSP, dan l-Att u kwalunkwe regolamenti jew Regola maħruġa tahtu, inklużi l-miżati u l-imposti fir-rigward ta' kwalunkwe permess, liċenzja, awtorizzazzjoni, eżenzjoni jew benefiċċju ieħor, kif ukoll kwalunkwe tariffa u imposta fir-rigward tal-funzjonijiet regolatorji, superviżorji jew investigattivi tal-awtorità kompetenti skont ir-Regolament ECSP, dan l-Att, u kwalunkwe regolamenti jew Regoli maħruġa tahtu, kif jista' jkun preskritta;

(j) jipprovdi għat-twaqqif u l-impożizzjoni ta' penali amministrattivi u miżuri amministrattivi oħra fuq il-fornituri ta' servizzi ta' finanzjament kollettiv jew oħrajn kif jista' jiġi speċifikat fihom;

(k) jippreskrivi li ksur ta' kwalunkwe regolamenti li jsiru skont dan l-Att jista' jammonta għal reat kriminali kif jista' jiġi speċifikat, u tali regolamenti jistgħu jimponu pieni fir-rigward ta' kwalunkwe ksur, li jikkonsistu f'multa li ma taqbiżx il-ħames mitt elf euro (€500,000) jew prigunerija għal terminu

ta' mhux aktar minn tliet (3) snin, jew il-multa u l-prigunerija flimkien fil-każ ta' persuna fizika; u multa li ma taqbiżx itmien mitt elf euro (€800,000), fil-każ ta' persuna ġuridika; u multa oġhla tista' tiġi imposta fuq persuna fizika jew persuna ġuridika, skont il-każ, fejn jitqies meħtieġ jew xieraq għal kwalunkwe ksur jew nuqqas ta' konformità ma' kwalunkwe Direttiva tal-UE jew Regolament tal-UE jew ma' kwalunkwe regolamenti magħmula skont dan l-artikolu biex jittrasponu jew jagħtu effett lil kwalunkwe Direttiva tal-UE jew Regolament tal-UE; u

(1) jipprovdi għal kwalunkwe materja incidentali għal jew konnessa ma' xi wieħed minn dawn ta' hawn fuq.

(2) Ir-regolamenti magħmula skont dan l-artikolu, jistgħu jkunu soġġetti għal dawk l-eżenzjonijiet jew kondizzjonijiet kif jistgħu jiġu speċifikati hemmhekk, jistgħu jagħmlu dispożizzjonijiet differenti għal każijiet, ċirkostanzi jew għanijiet differenti u jistgħu jagħtu lill-awtorità kompetenti dawk is-setgħat ta' adattament tar-regolamenti kif jista' jkun speċifikat ukoll.

(3) Fejn ikunu saru regolamenti skont dan l-artikolu, l-awtorità kompetenti tista' toħroġ Regoli għat-twettiq aħjar u għall-implimentazzjoni aħjar tad-dispożizzjonijiet tar-regolamenti.

(4) Ir-regolamenti magħmula skont dan l-Att u kwalunkwe emenda jew revoka ta' dawn ir-regolamenti, jistgħu jiġu ppubblikati fil-lingwa Ingliża biss.

(5) L-eżerċizzju ta' kwalunkwe setgħa mogħtija skont dan l-artikolu għandu jkun soġġett għal kwalunkwe obbligi jew drittijiet li jirriżultaw mill-impjenji internazzjonali ta' Malta.

17. (1) L-awtorità kompetenti tista', minn żmien għal żmien, toħroġ u tippubblika Regoli li għandhom jorbtu lill-persuni kollha awtorizzati minnha jew li jaqgħu taħt il-funzjonijiet regolatorji jew superviżorji tagħha u oħrajn kif jista' jkun speċifikat fihom.

Setgħa ta' hruġ ta' Regoli.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), Regoli maħruġa mill-awtorità kompetenti jistgħu:

(a) jistabilixxu rekwiżiti u kondizzjonijiet addizzjonali fir-rigward ta' persuni awtorizzati minnha, li jfittxu l-approvazzjoni tagħha, jew li jaqgħu taħt il-funzjonijiet regolatorji jew superviżorji tal-awtorità kompetenti, l-attivitajiet tagħhom, it-twettiq tan-negozju tagħhom, ir-relazzjonijiet tagħhom mal-klijenti, il-pubbliku u partijiet oħra, ir-responsabbiltajiet tagħhom lejn l-awtorità kompetenti, ir-

rekwiżiti ta' rappurtar, riżorsi finanzjarji u riżorsi oħra, u rekwiżiti relatati, u kwalunkwe kwistjoni oħra li l-awtorità kompetenti tista' tqis xierqa;

(b) jipprovdu d-dikjarazzjonijiet u l-avvizi li għandhom isiru jew jingħataw għal kwalunkwe għan li fir-rigward tiegħu l-awtorità kompetenti teżercita funzjonijiet superviżorji jew regolatorji, u l-forma u l-kontenut tagħhom;

(ċ) jippreskrivu l-informazzjoni li dawn il-persuni għandhom jissottomettu lill-awtorità kompetenti;

(d) jittrasponu, jimplimentaw u jagħtu effett lid-dispożizzjonijiet u r-rekwiżiti tar-Regolament ECSP;

(e) jittrasponu, jimplimentaw u jagħtu effett lid-dispożizzjonijiet u r-rekwiżiti tad-Direttivi tal-Unjoni Ewropea, ir-Regolamenti tal-Unjoni Ewropea u kwalunkwe miżuri leġislattivi oħrajn tal-Unjoni Ewropea li jeħtieġu traspożizzjoni u, jew implimentazzjoni, kif jistgħu jiġu emendati minn żmien għal żmien, inkluż kwalunkwe miżuri ta' implimentazzjoni li jkunu nħarġu jew li jistgħu jinħarġu skont dawn u li jkunu relatati ma' persuni awtorizzati u oħrajn kif jista' jkun speċifikat fihom; u, jew

(f) jirregolaw kwalunkwe kwistjoni li tkun inkidentalment għal jew konnessa ma' kwalunkwe waħda mill-kwistjonijiet imsemmija hawn fuq kif l-awtorità kompetenti tista' tqis xieraq fit-tweqqif tal-funzjonijiet tagħha.

(3) Ir-regoli jistgħu jkunu soġġetti għal dawk l-eżenzjonijiet jew kondizzjonijiet kif jistgħu jiġu speċifikati fihom, jistgħu jagħmlu dispożizzjonijiet differenti għal każijiet, ċirkostanzi jew għanijiet differenti u jistgħu jagħtu lill-awtorità kompetenti dawk is-setgħat ta' adattament tar-Regoli, kif jista' jkun speċifikat ukoll.

Setgħat tal-awtorità kompetenti.

18. (1) Mingħajr preġudizzju għal kwalunkwe setgħa oħra mogħtija lilha minn dan l-Att jew minn kwalunkwe liġi oħra, l-awtorità kompetenti għandu jkollha s-setgħat li ġejjin:

(a) li tissospendi offerta ta' finanzjament kollettiv għal massimu ta' għaxart (10) ijiem ta' xogħol konsekuttivi fi kwalunkwe okkażjoni meta jkun hemm raġunijiet raġonevoli biex wieħed jissuspetta li nkisret xi waħda mid-dispożizzjonijiet tar-Regolament ECSP, dan l-Att u kwalunkwe regolamenti jew Regoli maħruġa tahtu;

(b) li tipprojbixxi jew tissospendi komunikazzjonijiet

ta' kummerċjalizzazzjoni, jew li tirrikjedi li fornitur ta' servizzi ta' finanzjament kollettiv jew parti terza maħtura biex twettaq funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv iwaqqfu jew jissospendu komunikazzjonijiet ta' kummerċjalizzazzjoni għal massimu ta' għaxart (10) ijiem ta' xogħol konsekuttivi fi kwalunkwe okkażjoni meta jkun hemm raġunijiet raġonevoli biex wiehed jemmen li xi waħda mid-dispożizzjonijiet tar-Regolament ECSP, dan l-Att u kwalunkwe regolamenti jew Regoli maħruġa taħtu jkunu nkisru;

(ċ) li tipprojbixxi offerta ta' finanzjament kollettiv meta l-awtorità kompetenti ssib li xi waħda mid-dispożizzjonijiet tar-Regolament ECSP, dan l-Att u kwalunkwe regolamenti jew Regoli maħruġa taħtu jkunu ġew miksura jew fejn ikun hemm raġunijiet raġonevoli sabiex wiehed jissuspetta li jkun se jsir ksur tagħhom;

(d) li tissospendi, jew tirrikjedi li fornitur ta' servizzi ta' finanzjament kollettiv jissospendi, il-forniment ta' servizzi ta' finanzjament kollettiv għal massimu ta' għaxart (10) ijiem ta' xogħol konsekuttivi fi kwalunkwe okkażjoni meta jkun hemm raġunijiet raġonevoli biex wiehed jemmen li nkisret xi waħda mid-dispożizzjonijiet tar-Regolament ECSP, dan l-Att u kwalunkwe regolamenti jew Regoli maħruġa taħtu;

(e) li tipprojbixxi l-forniment ta' servizzi ta' finanzjament kollettiv meta l-awtorità kompetenti ssib li tkun inkisret xi waħda mid-dispożizzjonijiet tar-Regolament ECSP, dan l-Att u kwalunkwe regolamenti jew Regoli maħruġa taħtu;

(f) li tagħmel pubbliku l-fatt li fornitur ta' servizzi ta' finanzjament kollettiv jew parti terza maħtura biex twettaq funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv qed jonqsu milli jikkonformaw mal-obbligi tagħhom;

(g) li tiżvela, jew tirrikjedi li fornitur ta' servizzi ta' finanzjament kollettiv jew parti terza maħtura biex twettaq funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv jiżvelaw l-informazzjoni materjali kollha li jista' jkollha effett fuq il-forniment tas-servizz ta' finanzjament kollettiv sabiex tiġi żgurata l-protezzjoni tal-investitur jew l-operat bla xkiel tas-suq;

(h) li tissospendi, jew tirrikjedi li fornitur ta' servizzi ta' finanzjament kollettiv jew parti terza maħtura biex twettaq

funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv tissospendi, il-forniment ta' servizzi ta' finanzjament kollettiv meta l-awtorità kompetenti tqis li s-sitwazzjoni tal-fornitur ta' servizzi ta' finanzjament kollettiv tkun tali li l-forniment tas-servizz ta' finanzjament kollettiv ikun ta' detriment għall-interessi tal-investituri;

(i) li tittrasferixxi kuntratti eżistenti lil fornitur ta' servizzi ta' finanzjament kollettiv ieħor f'kazijiet fejn l-awtorizzazzjoni ta' fornitur ta' servizzi ta' finanzjament kollettiv tiġi rtirata f'konformità mal-artikolu 9(1)(ċ), soġġet għall-qbil tal-klijenti u tal-fornitur ta' servizzi ta' finanzjament kollettiv riċevanti:

Iżda l-fornitur ta' servizzi ta' finanzjament kollettiv li lilu jiġu ttrasferiti l-kuntratti eżistenti f'konformità ma' dan il-paragrafu għandu jkun awtorizzat mill-awtorità kompetenti biex jipprovdi servizzi ta' finanzjament kollettiv; u, jew

(j) li tagħmel rikors lill-qorti għax-xoljiment u l-istralċ mill-qorti ta' fornitur ta' servizzi ta' finanzjament kollettiv meta l-awtorità kompetenti jidhrilha li fornitur ta' servizzi ta' finanzjament kollettiv għandu jiġi xolt u stralċat mill-qorti għar-raġuni stabbilita fl-artikolu 214(2)(b)(iii) tal-Att dwar il-Kumpaniji, u fejn il-qorti taċċedi għar-rikors d-dispożizzjonijiet rilevanti tal-Att dwar il-Kumpaniji fir-rigward tax-xoljiment u l-istralċ mill-qorti u kwalunkwe dispożizzjonijiet applikabbli oħra ta' kwalunkwe liġi oħra għandhom japplikaw.

Kap. 386.
Kap. 386.

(2) Kwalunkwe miżuri adottati fl-eżerċizzju tas-setgħat tal-awtorità kompetenti skont dan l-artikolu għandhom ikunu proporzjonati, debitament ġustifikati u meħuda skont l-artikolu 24.

Setgħa li
tintalab
informazzjoni.

19. (1) L-awtorità kompetenti tista', b'avviż bil-miktub, titlob:

(i) lil kwalunkwe persuna li qed tippovdi jew li kienet qed tippovdi, jew li tidher li hija jew li kienet qed tippovdi servizzi ta' finanzjament kollettiv, u partijiet terzi maħtura biex iwettqu funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv, u l-persuni fiżiċi jew ġuridiċi li jikkontrollawhom jew li huma kkontrollati minnhom;

(ii) lill-awdituri u l-manigġers ta' fornituri ta' servizzi ta' finanzjament kollettiv u partijiet terzi maħtura biex iwettqu funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv; u, jew

(iii) lil kwalunkwe persuna oħra li tidher li hija fil-pussess ta' informazzjoni rilevanti,

biex tagħmel dan kollu jew xi waħda minn dawn li ġejjin:

(a) li tfori lill-awtorità kompetenti, f'dak il-ħin u f'post u f'tali forma li tista' tispeċifika, dik l-informazzjoni u d-dokumentazzjoni li tista' teħtieġ, inkluża s-setgħa li titlob rekords telefoniċi eżistenti u rekords eżistenti tat-traffiku tad-data;

(b) li tipprovi lill-awtorità kompetenti kwalunkwe informazzjoni jew dokumentazzjoni li tkun teħtieġ verifika bil-mod li tista' tispeċifika;

(ċ) li tattendi quddiem l-awtorità kompetenti, jew quddiem persuna maħtura minnha, fil-ħin u l-post li hija tista' tispeċifika, biex twieġeb mistoqsijiet u tipprovi dik l-informazzjoni u d-dokumentazzjoni li tista' teħtieġ;

(d) li tagħti lill-awtorità kompetenti kwalunkwe assistenza li tista' teħtieġ u li dik il-persuna tkun tista' tagħti b'mod raġonevoli.

(2) Persuna fiżika jew ġuridika li tagħmel l-informazzjoni disponibbli għall-awtorità kompetenti f'konformità ma' dan l-artikolu ma għandhiex titqies li qed tikser kwalunkwe restrizzjoni fuq l-iżvelar ta' informazzjoni imposta b'kuntratt jew bi kwalunkwe dispozizzjoni leġislattiva, regolatorja jew amministrattiva, u ma għandha tkun soġġetta għall-ebda tip ta' responsabbiltà relatata mal-ġoti ta' tali informazzjoni.

(3) L-awtorità kompetenti tista' tieħu kopji ta' kwalunkwe dokumenti furnuti, ipprovduti jew li għanda aċċess għalihom skont dan l-artikolu.

(4) Fejn il-persuna meħtieġa tipprovi informazzjoni jew dokumentazzjoni skont dan l-artikolu ma jkollhiex l-informazzjoni jew id-dokumentazzjoni rilevanti, hija għandha tiżvela lill-awtorità kompetenti fejn, sa fejn taf hi, dik l-informazzjoni jew id-dokumentazzjoni tinsab, u l-awtorità kompetenti tista' titlob lil kwalunkwe persuna, kemm jekk indikata kif imsemmi preċedentement u kemm jekk mhix, li jidhrilha li hija fil-pussess ta' dik l-informazzjoni jew id-dokumentazzjoni, sabiex tipproviha.

(5) Dikjarazzjoni magħmula u dokumentazzjoni pprovduta skont kwalunkwe rekwizit taħt dan l-artikolu jistgħu jintużaw bħala

evidenza kontra l-persuna li tagħmel id-dikjarazzjoni jew li tipprovdi d-dokumentazzjoni kif ukoll kontra kwalunkwe persuna li magħha huma relatati.

Kap. 9.

(6) Id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw għal informazzjoni jew dokumentazzjoni li hija privileġġgata skont id-dispożizzjonijiet tal-artikolu 642(1) tal-Kodiċi Kriminali.

(7) Meta l-awtorità kompetenti tkun hatret persuna skont is-subartikolu (1)(ċ), din il-persuna għandha, għall-finijiet tat-twettiq tal-funzjonijiet tagħha skont il-ħatra tagħha, ikollha s-setgħat kollha mogħtija lill-awtorità kompetenti b'dan l-artikolu u rekwiżit impost minnha għandu jitqies li huwa u għandu l-istess forza u effett bħal rekwiżit tal-awtorità kompetenti.

Setgħa li
jinhatru spetturi.

20. (1) L-awtorità kompetenti tista', kull meta tqis li jkun meħtieġ jew espedjenti, taħtar spettur biex jinvestiga u jirrapporta dwar l-affarijiet ta' kwalunkwe persuna msemmija fl-artikolu 19(1)(i) sa (iii).

(2) Spettur maħtur skont is-subartikolu (1):

(a) jista', jekk jaħseb li jkun meħtieġ jew espedjenti għall-għanijiet ta' investigazzjoni, jinvestiga l-affarijiet ta' kwalunkwe persuna msemmija fis-subartikolu (1);

(b) għandu jkollu u jista' jeżerċita s-setgħat kollha mogħtija lill-awtorità kompetenti bl-artikolu 18, u kwalunkwe rekwiżit magħmul minnu għandu jitqies li jkun u jgħib l-istess forza u effett bħal rekwiżit tal-awtorità kompetenti;

(ċ) jista', u jekk hekk jiġi ordnat mill-awtorità kompetenti għandu, jagħmel rapporti interim, u dwar il-konkluzjoni tal-investigazzjoni tiegħu għandu jagħmel rapport finali lill-awtorità kompetenti.

(3) Fil-ħatra ta' spettur skont is-subartikolu (1), l-awtorità kompetenti tista' tordna li l-investigazzjoni għandha titwettaq f'dak iż-żmien u għandha tkun limitata għal kwistjonijiet speċifiċi jew generali li l-awtorità kompetenti tqis xierqa.

Kap. 281.

(4) Għall-finijiet ta' dan l-artikolu l-ispetturi jistgħu jinkludu avukat, persuna awtorizzata li twettaq il-professjoni ta' accountant jew awditur skont l-Att dwar il-Professjoni tal-*Accountancy*, jew persuna meqjusa mill-awtorità kompetenti bhala li għandha għarfien espert xieraq biex teżerċita din il-funzjoni.

(5) L-awtorità kompetenti għandu jkollha s-setgħa li tordna li l-ispejjeż kollha ta', u incidentali għal, investigazzjoni magħmula skont dan l-artikolu jithallsu mill-persuna msemmija fis-subartikolu (1).

21. (1) Kwalunkwe uffiċjal, impjegat jew aġent tal-awtorità kompetenti, meta jipproduċi, jekk meħtieġ, evidenza tal-awtorità tiegħu, ikollu s-setgħa li jidhol fi kwalunkwe bini okkupat minn persuna li lilha jkun gie nnotifikat avviz skont l-artikolu 19 jew li l-affarijiet tiegħu jkunu qed jiġu investigati skont l-artikolu 20, bil-għan li jikseb minn hemm l-informazzjoni jew id-dokumenti meħtieġa minn dak l-avviz, jew inkella għall-għan li jitwettqu spezzjonijiet jew investigazzjonijiet fuq il-post, u li jeżerċita kwalunkwe setgħa mogħtija mill-artikoli msemmija. Dritt ta' dhul.

(2) Meta xi uffiċjal, impjegat jew aġent tal-awtorità kompetenti jkollu raġuni li jemmen li jekk avviz bħal dak imsemmi fis-subartikolu (1) ikun gie notifikat, ma jkunx hemm konformità miegħu jew li xi dokumenti li jistgħu jirrelataw miegħu jitneħħew, jiġu mbagħbsa jew meqruda, dak l-uffiċjal, impjegat jew aġent ikollu s-setgħa, meta jipproduċi, jekk ikun meħtieġ, evidenza tal-awtorità tiegħu, jidhol fi kwalunkwe bini msemmi fis-subartikolu (1) bil-għan li jikseb minn hemm kwalunkwe informazzjoni jew dokumenti speċifikati fl-awtorità, li huma informazzjoni jew dokumenti li setgħu kienu meħtieġa permezz ta' avviz bħal dak imsemmi fis-subartikolu (1).

(3) Għall-finijiet ta' kwalunkwe azzjoni meħuda skont id-dispożizzjonijiet ta' dan l-artikolu, l-awtorità kompetenti tista' titlob l-assistenza tal-Kummissarju tal-Pulizija, li jista' għal dak il-għan jeżerċita dawk is-setgħat li huma mogħtija lilu mil-liġi.

22. (1) Mingħajr preġudizzju għal kull setgħa oħra mogħtija lilha b'dan l-Att jew b'xi liġi oħra, l-awtorità kompetenti tista', kull meta jidhrilha li jkun meħtieġ, tagħti b'avviz bil-miktub, dawk id-direttivi li jidhrilha xierqa fiċ-ċirkostanzi; u kull persuna li lilha, jew li lilha jingħata l-avviz għandha tobdi, tikkonforma ma' u tagħti effett b'xi mod ieħor lil kwalunkwe direttiva bħal din fiż-żmien u bil-mod iddikjarat fid-direttiva jew fid-direttivi sussegwenti: Setgħa li jinħarġu direttivi.

Iżda l-awtorità kompetenti tista' tagħti kwalunkwe direttiva bħal din ukoll meta detentur ta' liċenzja, għal kwalunkwe raġuni, ma jibqax ikollu liċenzja mogħtija skont dan l-Att:

Iżda wkoll kwalunkwe direttiva mogħtija skont dan l-artikolu għandha, sakemm l-awtorità kompetenti ma tordnax mod ieħor, tkompli tapplika wkoll meta detentur ta' liċenzja, għal

kwalunkwe raġuni, ma jibqax ikollu liċenzja mogħtija skont dan l-Att.

(2) Is-setgħa li jinħarġu direttivi skont dan l-artikolu għandha tinkludi wkoll is-setgħa li tvarja, tibdel, iżżid jew tirtira kwalunkwe direttiva, kif ukoll is-setgħa li toħroġ direttivi ġodda sussegwenti.

(3) Meta l-awtorità kompetenti tkun sodisfatta li ċ-ċirkostanzi jiġġustifikaw dan, hija tista' f'kull hin tagħmel pubblika kull direttiva li tkun haġġet skont dan l-artikolu.

Penalitajiet
amministrattivi
u miżuri oħra.

23. (1) L-awtorità kompetenti tista' timponi penalitajiet amministrattivi u miżuri amministrattivi oħra kif imsemmi fis-subartikolu (2), fejn tqis li:

(a) l-imġiba ta' persuna tammonta għal ksur ta' kwalunkwe dispożizzjoni tar-Regolament ECSP, ta' dan l-Att jew ta' kwalunkwe regolament jew Regoli maħruġa taħtu; jew

(b) persuna tkun kisret jew naqset milli tikkonforma ma' kwalunkwe kondizzjoni, obbligu, rekwiżit jew direttiva magħmula jew mogħtija mill-awtorità kompetenti skont kwalunkwe waħda mid-dispożizzjonijiet tar-Regolament ECSP, dan l-Att jew kwalunkwe regolamenti jew Regoli maħruġa taħtu, inkluż in-nuqqas ta' kooperazzjoni ma' investigazzjoni jew spezzjoni jew kwalunkwe talba magħmula mill-awtorità kompetenti skont l-artikolu 19.

(2) L-awtorità kompetenti għandu jkollha s-setgħa li timponi l-penalitajiet amministrattivi li ġejjin u miżuri amministrattivi oħra għall-ksur indikat fis-subartikolu (1):

(a) dikjarazzjoni pubblika li tindika l-persuna fiżika jew ġuridika responsabbli għall-ksur u n-natura ta' tali ksur;

(b) ordni li tirrikjedi li l-persuna fiżika jew ġuridika twaqqaf l-imġiba li tikkostitwixxi l-ksur u li ma tirrepetix dik l-imġiba;

(ċ) projbizzjoni li tipprevjeni lil kwalunkwe membru tal-korp maniġerjali tal-persuna ġuridika responsabbli għall-ksur, jew lil kwalunkwe persuna fiżika oħra li tinzamm responsabbli għall-ksur, milli teżerċita funzjonijiet ta' ġestjoni fil-fornituri ta' servizzi ta' finanzjament kollettiv;

(d) penalitajiet amministrattivi li ma għandhomx jaqbu d-doppju tal-ammont tal-benefiċċju miksub mill-ksur meta dak il-benefiċċju jkun jista' jiġi ddeterminat, ukoll jekk jaqbeż l-

ammonti massimi stabbiliti fil-paragrafu (e);

(e) fil-każ ta' persuna ġuridika, penalitajiet amministrattivi li ma għandhomx jaqbu l-ħames mitt elf euro (€500,000), jew sa ħamsa fil-mija (5%) tal-fatturat annwali totali ta' dik il-persuna ġuridika skont l-aħħar rapporti finanzjarji disponibbli approvati mill-korp manigerjali:

Iżda meta l-persuna ġuridika tkun impriża prinċipali jew sussidjarja ta' impriża prinċipali li tkun meħtieġa tnejn rapporti finanzjarji konsolidati f'konformità mad-Direttiva 2013/34/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar id-dikjarazzjonijiet finanzjarji annwali, id-dikjarazzjonijiet finanzjarji kkonsolidati u r-rapporti relatati ta' ċerti tipi ta' impriži, u li temenda d-Direttiva 2006/43/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttivi tal-Kunsill 78/660/KEE u 83/349/KEE, il-fatturat annwali totali rilevanti għandu jkun il-fatturat annwali totali jew it-tip korrispondenti ta' introjtu skont il-liġi rilevanti tal-Unjoni fil-qasam tal-kontabbiltà skont l-aħħar rapporti finanzjarji konsolidati disponibbli approvati mill-korp manigerjali tal-impriża prinċipali aħħarija;

(f) fil-każ ta' persuna fiżika, penalitajiet amministrattivi li ma għandhomx jaqbu l-ħames mitt elf euro (€500,000).

(3) Penalitajiet amministrattivi li jistgħu jiġu imposti mill-awtorità kompetenti skont dan l-artikolu, jistgħu jiġu imposti fil-forma ta' penali fissa, penali ta' kuljum, jew it-tnejn.

(4) Il-penalitajiet amministrattivi u miżuri amministrattivi oħra meħuda mill-awtorità kompetenti skont dan l-artikolu għandhom ikunu effettivi, proporzjonati, dissważivi u debitament ġustifikati.

(5) Id-dispożizzjonijiet tal-artikolu 16(4) tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw *mutatis mutandis* fir-rigward ta' kwalunkwe penali amministrattiva imposta mill-awtorità kompetenti skont dan l-artikolu. Kap. 330.

(6) Mingħajr preġudizzju għad-dispożizzjonijiet ta' dan l-artikolu, fejn l-obbligi imposti skont ir-Regolament ECSP, dan l-Att jew kwalunkwe regolamenti jew Regoli maħruġa taħtu, japplikaw għal persuna ġuridika, fil-każ ta' ksur ta' kwalunkwe dispożizzjoni tiegħu, jistgħu jiġu imposti wkoll penalitajiet amministrattivi u miżuri oħra, soġġett għall-kondizzjonijiet stabbiliti fil-liġi nazzjonali, fuq il-membri tal-korpi amministrattivi, manigerjali jew superviżorji tal-

entità ġuridika kkonċernata, u fuq individwi oħra li huma responsabbli għall-ksur skont il-liġi nazzjonali.

(7) L-impożizzjoni mill-awtorità kompetenti ta' penali amministrattiva jew ta' kwalunkwe miżura amministrattiva oħra skont dan l-artikolu għandha tkun mingħajr preġudizzju għal kwalunkwe konsegwenza oħra li tirriżulta mill-att jew mill-ommissjoni tal-persuna responsabbli skont il-liġi ċivili jew kriminali:

Iżda fil-każijiet kollha fejn l-awtorità kompetenti timponi penali amministrattiva fir-rigward ta' kwalunkwe att jew ommissjoni minn kwalunkwe persuna, u tali att jew ommissjoni jikkostitwixxu wkoll reat kriminali, l-ebda proċeduri ma jistgħu jittiehdu jew jitkomplew kontra l-persuna msemmija fir-rigward ta' tali reat kriminali.

Ċirkostanzi rilevanti.

24. Fil-każ ta' penalitajiet amministrattivi jew miżuri oħra imposti mill-awtorità kompetenti skont id-dispożizzjonijiet ta' dan l-Att, l-awtorità kompetenti għandha tqis il-punt sa fejn il-ksur ikun intenzjonat jew jirriżulta minn negligenza u ċ-ċirkostanzi rilevanti l-oħra kollha, inkluż, fejn xieraq:

(a) il-gravità u d-durata tal-ksur;

(b) il-grad ta' responsabbiltà tal-persuna fiżika jew ġuridika responsabbli għall-ksur;

(ċ) is-saħħa finanzjarja tal-persuna fiżika jew ġuridika responsabbli għall-ksur, kif indikat mill-fatturat totali tal-persuna ġuridika responsabbli jew l-introjtu annwali u l-assi netti tal-persuna fiżika responsabbli;

(d) l-importanza tal-profitti miksuba jew tat-telf evitat mill-persuna fiżika jew ġuridika responsabbli għall-ksur, sa fejn dawn ikunu jistgħu jiġu ddeterminati;

(e) it-telf għal partijiet terzi kkawżat mill-ksur, sa fejn dan ikun jista' jiġi ddeterminat;

(f) il-livell ta' kooperazzjoni tal-persuna fiżika jew ġuridika responsabbli għall-ksur mal-awtorità kompetenti, mingħajr preġudizzju għall-ħtieġa li tiġi żgurata r-restituzzjoni tal-profitti miksuba jew tat-telf evitat minn dik il-persuna;

(g) ksur preċedenti mill-persuna fiżika jew ġuridika responsabbli għall-ksur; u

(h) l-impatt tal-ksur fuq l-interessi tal-investituri.

25. (1) Jekk l-awtorità kompetenti tipproponi li timponi penali amministrattiva jew kwalunkwe miżura oħra fuq kwalunkwe persuna skont l-artikolu 23, hi għandha tagħti lil din il-persuna avviż bil-miktub dwar l-intenzjoni tagħha li tagħmel dan, fejn tagħti r-raġunijiet għad-deċiżjoni li tipproponi li tiegħu.

Avviż ta' penali amministrattivi u miżuri oħra.

(2) Kull avviż mogħti skont is-subartikolu (1) għandu jispeċifika li r-riċevitur tan-notifika jista', f'perjodu raġonevoli wara n-notifika tiegħu, kif jista' jkun speċifikat fl-avviż, jagħmel rappreżentazzjonijiet bil-miktub lill-awtorità kompetenti fejn jagħti r-raġunijiet għaliex id-deċiżjoni proposta ma għandhiex tittiehed, u l-awtorità kompetenti għandha tikkunsidra kull rappreżentazzjoni magħmula hekk qabel ma tasal għal deċiżjoni finali.

(3) L-awtorità kompetenti għandha malli jkun prattikabbli, tinnotifika d-deċiżjoni finali tagħha bil-miktub lil kull persuna li lilha għandu jingħata avviż skont is-subartikolu (1).

26. (1) L-awtorità kompetenti għandha tippubblika kwalunkwe deċiżjoni li timponi penali amministrattiva jew kwalunkwe miżura oħra, skont id-dispożizzjonijiet tar-Regolament ECSP, dan l-Att jew kwalunkwe regolamenti jew Regoli maħruġa taħtu, fuq is-sit elettroniku tagħha minnufih wara li l-persuna soġġetta għal dik id-deċiżjoni tkun giet infurmata b'dik id-deċiżjoni.

Pubblikazzjoni tad-deċiżjonijiet.

(2) L-informazzjoni ppubblikata skont is-subartikolu (1) għandha tispeċifika t-tip u n-natura tal-ksur, l-identità tal-persuna soġġetta għad-deċiżjoni u kwalunkwe informazzjoni oħra li l-awtorità kompetenti tqis rilevanti.

(3) Id-dispożizzjonijiet tas-subartikoli (1) u (2) ma għandhomx japplikaw għal deċiżjonijiet tal-awtorità kompetenti li jimponu miżuri li huma ta' natura investigattiva.

(4) Meta l-awtorità kompetenti tqis, wara valutazzjoni każ b'każ, li l-pubblikazzjoni tal-identità tal-persuna ġuridika soġġetta għad-deċiżjoni, jew l-identità jew id-data personali ta' persuna fiżika, tkun sproporzjonata, jew fejn tali publikazzjoni tista' tipperikola investigazzjoni li tkun għaddejjja, l-awtorità kompetenti għandha:

(a) tiddifferixxi l-pubblikazzjoni tad-deċiżjoni li tiġi imposta penali jew miżura sal-mument meta r-raġunijiet għannuqqas ta' publikazzjoni ma jibqgħux jeżistu;

(b) tippubblika d-deċiżjoni li timponi penali jew miżura fuq bażi anonima b'mod li jkun konformi mal-liġi nazzjonali, fejn tali publikazzjoni anonima tiżgura protezzjoni effettiva tad-data personali kkonċernata:

Iżda, f'dan il-każ, il-pubblikazzjoni tad-data rilevanti tista' tiġi differita għal perijodu raġonevoli fejn ikun previst li f'dak il-perjodu r-raġunijiet għall-pubblikazzjoni anonima ma jibqgħux jeżistu;

(ċ) ma tippubblikax id-deċiżjoni li tiġi imposta penali jew miżura fil-każ li l-għażliet stabbiliti fil-paragrafi (a) u (b) jitqiesu bħala insuffiċjenti biex jiżguraw il-proporzjonalità tal-pubblikazzjoni ta' tali deċiżjoni fir-rigward ta' miżuri li jitqiesu li huma ta' natura minuri.

(5) Meta d-deċiżjoni tkun soġġetta għal appell quddiem awtorità ġudizzjarja, amministrattiva jew awtorità oħra nazzjonali, l-awtorità kompetenti għandha tippubblika wkoll immedjatament fuq is-sit elettroniku tagħha tali informazzjoni u kwalunkwe informazzjoni sussegwenti dwar l-eżitu ta' tali appell. Kwalunkwe deċiżjoni li tannulla deċiżjoni soġġetta għal appell għandha tiġi ppubblikata wkoll.

(6) Kwalunkwe deċiżjoni li tiġi ppubblikata skont dan l-artikolu għandha tibqa' aċċessibbli fuq is-sit elettroniku tal-awtorità kompetenti għal perjodu ta' mill-inqas ħames (5) snin wara l-pubblikazzjoni tagħha:

Iżda d-data personali li tinsab fi kwalunkwe deċiżjoni bħal din għandha tinzamm fuq is-sit elettroniku tal-awtorità kompetenti biss għall-perjodu li huwa meħtieġ, skont il-leġiżlazzjoni applikabbli dwar il-protezzjoni tad-data.

TAQSIMA V

KOOPERAZZJONI MA' AWTORITAJIET OĦRA

Kooperazzjoni
mal-awtoritajiet
regolatorji
Ewropej.

27. (1) L-awtorità kompetenti għandha taġixxi bħala l-punt ta' kuntatt skont u għall-finijiet tal-Artikolu 29(2) tar-Regolament ECSP.

(2) L-awtorità kompetenti għandha tikkoopera ma' awtoritajiet regolatorji Ewropej oħra kull meta jkun meħtieġ bil-għan li twettaq id-dmirijiet tagħha u teżerċita s-setgħat tagħha skont ir-Regolament ECSP. Hija għandha tagħti l-assistenza meħtieġa lil awtoritajiet regolatorji Ewropej oħra, b'mod partikolari billi tiskambja informazzjoni u tikkoopera fi kwalunkwe attività investigattiva, superviżorja jew ta' infurzar.

(3) Awtorità regolatorja Ewropea tista' titlob informazzjoni mill-awtorità kompetenti, f'liema każ l-awtorità kompetenti għandha, mingħajr dewmien żejjed, tipprovdi l-informazzjoni mitluba għall-finijiet tar-Regolament ECSP:

Iżda jekk l-awtorità kompetenti ma tkunx tista' tipprovdi l-informazzjoni meħtieġa minnufih, hija għandha tinnotifika lill-awtorità regolatorja Ewropea rikjedenti bir-raġunijiet.

(4) Awtorità regolatorja Ewropea tista' titlob il-kooperazzjoni tal-awtorità kompetenti fit-twettiq tal-funzjonijiet superviżorji tagħha jew għal verifika fuq il-post jew f'investigazzjoni, f'liema każ l-awtorità kompetenti għandha, fil-qafas tas-setgħat tagħha:

(a) twettaq l-ispezzjoni fuq il-post jew l-investigazzjoni hija stess;

(b) tippermetti lill-awtorità regolatorja Ewropea li tkun ippreżentat it-talba li tipparteċipa fi spezzjoni jew investigazzjoni fuq il-post;

(ċ) tippermetti lill-awtorità regolatorja Ewropea li tkun ressqet it-talba twettaq l-ispezzjoni jew l-investigazzjoni fuq il-post hija stess;

(d) taħtar awdituri jew esperti biex iwettqu l-ispezzjoni jew l-investigazzjoni fuq il-post; jew

(e) taqsam kompiti speċifiċi relatati ma' attivitajiet superviżorji ma' awtoritajiet kompetenti oħra.

(5) Minkejja d-dispożizzjonijiet ta' hawn fuq, l-awtorità kompetenti tista' tirrifjuta li taġixxi fuq talba għal informazzjoni jew talba biex tikkoopera ma' investigazzjoni magħmula minn awtorità regolatorja Ewropea fi kwalunkwe waħda miċ-ċirkostanzi li ġejjin:

(a) meta l-konformità mat-talba x'aktarx li taffettwa hażin l-investigazzjoni tagħha stess, l-attivitajiet ta' infurzar jew investigazzjoni kriminali;

(b) meta jkunu diġà nbdew proċeduri ġudizzjarji fir-rigward tal-istess azzjonijiet u kontra l-istess persuni fiżiċi jew ġuridiċi quddiem l-awtoritajiet ta' Malta; jew

(ċ) meta sentenza finali tkun diġà ngħatat fir-rigward ta' dawn il-persuni fiżiċi jew ġuridiċi għall-istess azzjonijiet f'Malta.

(6) Fejn l-awtorità kompetenti ssib li xi wieħed mir-rekwiżiti skont ir-Regolament ECSP ma jkunx ġie ssodisfat jew ikollha raġuni biex temmen li dan ikun il-każ, hija għandha tinforma lill-awtorità regolatorja Ewropea tal-entità jew l-entitajiet suspettati b'tali ksur bis-sejbiet tagħha b'mod dettaljat.

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Miżuri ta' prekawzjoni.

28. (1) Meta fornitur ta' servizzi ta' finanzjament kollettiv jipprovdi servizzi ta' finanzjament kollettiv f'Malta, l-awtorità kompetenti għandha, fejn ikollha raġunijiet ċari u dimostrabbli biex temmen li twettqu irregolaritajiet mill-fornitur ta' servizzi ta' finanzjament kollettiv jew minn partijiet terzi mahtura biex iwettqu funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv jew li l-fornitur ta' servizzi ta' finanzjament kollettiv jew partijiet terzi jkunu kisru l-obbligi tagħhom skont ir-Regolament ECSP, tinnotifika lill-awtorità regolatorja Ewropea li tat awtorizzazzjoni lill-fornitur ta' servizzi ta' finanzjament kollettiv u lill-ESMA dwar tali irregolaritajiet jew ksur.

(2) Meta, minkejja l-miżuri meħuda mill-awtorità regolatorja Ewropea msemmija fis-subartikolu (1), il-fornitur ta' servizzi ta' finanzjament kollettiv jew il-parti terza mahtura biex twettaq funzjonijiet fir-rigward tal-forniment ta' servizzi ta' finanzjament kollettiv jipersistu fi ksur tar-Regolament ECSP, l-awtorità kompetenti għandha, wara li tinforma lill-imsemmija awtoritajiet regolatorji Ewropej u lill-ESMA, tiegħu l-miżuri xierqa kollha sabiex tiproteġi lill-investituri u għandha tinforma lill-Kummissjoni Ewropea u lill-ESMA dwar tali miżuri mingħajr dewmien żejjed.

Kooperazzjoni mal-ESMA.

29. (1) L-awtorità kompetenti għandha tikkoopera mal-ESMA għall-finijiet tar-Regolament ECSP skont ir-Regolament (UE) Nru 1095/2010.

(2) Fil-każ ta' spezzjoni fuq il-post jew investigazzjoni b'effett transkonfinali, l-awtorità kompetenti tista' titlob lill-ESMA biex tikkoordina l-ispezzjoni jew l-investigazzjoni, skont il-każ.

(3) L-awtorità kompetenti għandha jipprovdi mingħajr dewmien lill-ESMA l-informazzjoni kollha meħtieġa biex twettaq dmirijietha, skont l-Artikolu 35 tar-Regolament (UE) Nru 1095/2010.

Kooperazzjoni ma' awtoritajiet oħra.

30. Meta fornitur ta' servizzi ta' finanzjament kollettiv jinvolvi ruħu f'attivitajiet oħra li mhumiex servizzi ta' finanzjament kollettiv, l-awtorità kompetenti għandha tikkoopera mal-awtoritajiet responsabbli għas-sorveljanza ta' tali attivitajiet oħra kif previst fil-leġislazzjoni rilevanti tal-Unjoni Ewropea jew fil-liġi nazzjonali rilevanti, kif applikabbli.

TAQSIMA VI APPELLI, SANZJONIJIET U KUNFIDENZJALITÀ

Appelli.
Kap. 330.

31. (1) F'dan l-artikolu t-Tribunal għas-Servizzi Finanzjarji jfisser it-Tribunal stabbilit skont l-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta.

(2) Kwalunkwe persuna li hija aggravata minn deċiżjoni tal-awtorità kompetenti skont ir-Regolament tal-ECSP jew dan l-Att, jew kwalunkwe regolamenti jew Regoli mahruġa tahtu, tista' tappella kontra dik id-deċiżjoni quddiem it-Tribunal f'dak il-perjodu u taht dawk il-kondizzjonijiet li huma stabbiliti skont l-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta. Kap. 330.

(3) Mingħajr preġudizzju għas-subartikolu (2), kwalunkwe persuna li hija aggravata min-*nuqqas* tal-awtorità kompetenti li tiegħu deċiżjoni fir-rigward ta' applikazzjoni għal awtorizzazzjoni biex tagħxi bħala fornitur ta' servizzi ta' finanzjament kollettiv li fiha l-informazzjoni kollha meħtieġa skont id-dispożizzjonijiet fis-seħħ fi żmien sitt (6) xhur mis-sottomissjoni tagħha, tista' tappella kontra tali nuqqas li tiddeċiedi lit-Tribunal fi żmien tali perjodu u skont tali kundizzjonijiet li huma stabbiliti fit-termini tal-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta. Kap. 330.

(4) Appell kontra deċiżjoni tal-awtorità kompetenti ma għandux jissospendi l-operat ta' dik id-deċiżjoni:

Iżda deċiżjoni tal-awtorità kompetenti li tirtira l-awtorizzazzjoni ta' fornitur ta' servizzi ta' finanzjament kollettiv ma għandhiex issir operattiva sal-iskadenza tal-perjodu li fih ikun jinsab appell skont dan l-artikolu u, jekk jiġi ppreżentat appell f'tali perjodu, id-deċiżjoni għandha ssir operattiva fid-data tad-deċiżjoni tat-Tribunal li tiċhad l-appell jew fid-data li fiha l-appell jiġi abbandunat.

(5) Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, id-dispożizzjonijiet tal-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw *mutatis mutandis* għall-appelli li jistgħu jittressqu quddiem it-Tribunal skont dan l-artikolu. Kap. 330.

32. (1) Kwalunkwe persuna li tikser jew tonqos milli tikkonforma ma' xi waħda mid-dispożizzjonijiet tal-artikoli 5(1), 5(2), 19(1), 19(4), 22(1) jew 34(1), jew tal-artikolu 19(1) jew 19(4) kif applikat bl-artikolu 20, jew li tikser jew tonqos milli tikkonforma ma' kwalunkwe kondizzjoni, obbligu, rekwiżit, direttiva jew ordni magħmula jew mogħtija skont xi waħda mid-dispożizzjonijiet tar-Regolament ECSP jew ta' dan l-Att, jew ta' xi regolamenti magħmula taht dan l-Att, għandha tkun ħatja ta' reat. Reati.

(2) Kwalunkwe persuna li għall-finijiet ta', jew skont, kwalunkwe dispożizzjoni tar-Regolament ECSP, ta' dan l-Att jew ta' kwalunkwe regolamenti jew Regoli mahruġa tahtu, jew kwalunkwe kondizzjoni, obbligu, rekwiżit, direttiva jew ordni magħmula jew mogħtija kif imsemmi qabel, tipprovdi informazzjoni jew tagħmel dikjarazzjoni li taf li hija inezatta, falza jew qarrieqa f'kull rigward materjali, jew bi traskuraġni tipprovdi informazzjoni jew tagħmel

dikjarazzjoni li ma tkunx eżatta, falza jew qarrieqa fi kwalunkwe rigward materjali, għandha tkun hatja ta' reat.

(3) Kwalunkwe persuna li konxjament tkun parti mill-forniment ta' kwalunkwe servizz ta' finanzjament kollettiv b'intenzjoni frawdolenti jew għal għan frawdolenti, għandha tkun hatja ta' reat.

(4) Kwalunkwe persuna li bl-intenzjoni li tevita li tikxef it-twettiq ta' reat skont dan l-Att tneħhi, teqred, taħbi jew tbiddel b'mod frawdolenti kwalunkwe ktieb, dokument jew karta oħra, għandha tkun hatja ta' reat.

(5) Kwalunkwe persuna li intenzjonalment tostakola persuna li teżerċita drittijiet jew setgħat mogħtija b'dan l-Att għandha tkun hatja ta' reat.

(6) Id-dispożizzjonijiet ta' dan l-Att jew kwalunkwe regolamenti magħmula tahtu ma għandhom jaffettwaw l-ebda proċeduri kriminali li jistgħu jkunu kompetenti skont xi ligi oħra.

Penali.

33. (1) Persuna fiżika hatja ta' reat skont id-dispożizzjonijiet tal-artikolu 32 għandha tehel meta tinsab hatja għal multa li ma taqbiżx il-ħames mitt elf euro (€500,000) jew għal piena ta' prigunerija li ma taqbiżx tliet (3) snin, jew għal tali multa u prigunerija flimkien, sakemm tali multa jew terminu ta' prigunerija ma jkunux imposti b'mod ieħor fir-regolamenti maħruġa skont l-artikolu 16(1)(k).

(2) Persuna ġuridika hatja ta' reat skont id-dispożizzjonijiet tal-artikolu 31 għandha tehel meta tinsab hatja għal multa li ma taqbiżx it-tmien mitt elf euro (€800,000), sakemm tali multa ma tkunx imposta mod ieħor fir-regolamenti maħruġa skont l-artikolu 16(1)(k).

Kunfidenzjalità.

34. (1) Informazzjoni miksuba mill-awtorità kompetenti jew mill-uffiċjali, l-impjegati jew l-aġenti tagħha, kemm jekk kurrenti jew ta' qabel, jew minn spetturi, awdituri u esperti li qabel kienu jew attwalment ingaġġati mill-awtorità kompetenti għall-finijiet ta', jew skont, kwalunkwe dispożizzjoni tar-Regolament ECSP, dan l-Att, jew ta' kwalunkwe regolamenti jew Regoli maħruġa tahtu, jew fit-twettiq ta' kwalunkwe funzjoni taht kwalunkwe waħda mid-dispożizzjonijiet imsemmija, jew minn kwalunkwe persuna oħra li taħdem jew hadmet għall-awtorità kompetenti jew għal kwalunkwe parti terza li lilha l-awtorità kompetenti tkun iddelegat xi waħda mill-funzjonijiet jew is-setgħat tagħha, għandha tiġi ttrattata bħala kunfidenzjali u protetta bid-dmir tas-segretezza professjonali, u ma għandhiex tiġi żvelata lil kwalunkwe persuna oħra, ħlief fil-każijiet li ġejjin:

(a) meta l-awtorità, il-korp jew il-persuna li tikkomunika l-informazzjoni lill-awtorità kompetenti tagħti l-kunsens tagħha;

(b) meta l-iżvelar tal-informazzjoni jkun meħtieġ għal kwalunkwe proċeduri legali;

(ċ) meta l-informazzjoni tiġi pprovduta lil tali awtoritajiet regolatorji, ġudizzjarji jew tal-infurzar lokali jew Ewropej jew barranin oħra konformement ma' tħassib serju ta' natura regolatorja jew kriminali; u, jew

(d) meta l-iżvelar tal-informazzjoni jkun permess jew meħtieġ mil-legiżlazzjoni tal-Unjoni Ewropea jew mil-liġi nazzjonali.

(2) L-informazzjoni msemmija fis-subartikolu (1) għandha tinkludi l-informazzjoni kollha skambjata bejn l-awtorità kompetenti u l-awtoritajiet regolatorji Ewropej skont ir-Regolament ECSP li tikkonċerna n-negozju jew il-kondizzjonijiet operattivi u affarijiet ekonomiċi jew personali oħra.

TAQSIMA VII

EMENDI GĦALL-ATT DWAR IS-SWIEQ FINANZJARJI

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

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

36. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat b'dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) fit-tifsira "korp tat-tmexxija" il-kliem "il-korp jew korpi ta' operatur tas-suq li jinhatru" għandhom jiġu sostitwiti bil-kliem "il-korp jew korpi ta' operatur tas-suq jew provditur ta' servizzi ta' rappurtagġ tad-data li jinhatru";

(ii) minnufih wara t-tifsira "provditur ta' servizzi ta' rappurtagġ tad-data" għandha tiżdied it-tifsira ġdida li ġejja:

"ir-Regolament dwar ir-Regim Pilota tad-DLT" tfisser ir-Regolament (UE) 2022/858 tal-Parlament Ewropew u tal-Kunsill tat-30 ta' Mejju 2022 dwar regim pilota għall-infrastrutturi tas-suq ibbażati fuq it-teknoloġija ta' registru distribwit, u

li jemenda r-Regolamenti (UE) Nru 600/2014 u (UE) Nru 909/2014 u d-Direttiva 2014/65/UE, kif emendata minn żmien għal żmien, u jinkludi kwalunkwe miżuri ta' implimentazzjoni li nħargu jew li jistgħu jinħargu tahtu;"

(iii) it-tifsira "strumenti finanzjarji" għandha tiġi sostitwita b'din it-tifsira ġdida li ġejja:

" "strumenti finanzjarji" tfisser dawk l-istrumenti speċifikati fit-Taqsima Ċ tal-Anness I tal-MiFID, inklużi dawk l-istrumenti maħruġa permezz ta' teknoloġija tar-registru distribwit;" u

(iv) minnufih wara t-tifsira "suq regolat", għandha tiżdied din it-tifsira ġdida li ġejja:

" "teknoloġija ta' registru distribwit" għandha l-istess tifsira bħal dik assenjata lilha fil-punt (1) tal-Artikolu 2 tar-Regolament dwar ir-Regim Pilota tad-DLT;" u

(b) fis-subartikolu (2) tiegħu l-kliem "CSDR, EMIR,", għandhom jiġu sostitwiti bil-kliem "CSDR, ir-Regolament dwar ir-Regim Pilota tad-DLT, EMIR,".

Emenda tal-artikolu 2A tal-Att prinċipali.

37. L-artikolu 2A tal-Att prinċipali għandu jiġi emendat b'dan li ġej:

(a) fis-subartikolu (2) tiegħu, il-kliem "CSDR, EMIR,", għandhom jiġu sostitwiti bil-kliem "CSDR, ir-Regolament dwar ir-Regim Pilota tad-DLT, EMIR,"; u

(b) fis-subartikolu (3) tiegħu, il-kliem "CSDR, EMIR", għandhom jiġu sostitwiti bil-kliem "CSDR, ir-Regolament dwar ir-Regim Pilota tad-DLT, EMIR".

TAQSIMA VIII

EMENDI GHALL-ATT DWAR SERVIZZI TA' INVESTIMENT

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

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

Emendi tal-artikolu 2 tal-Att prinċipali.

39. Is-subartikolu (1) tal-artikolu 2 tal-Att prinċipali għandu jiġi emendat b'dan li ġej:

(a) minnufih wara t-tifsira "ditta ta' investiment" tiegħu

għandha tiżdied din it-tifsira ġdida li ġejja:

" "ditta ta' investment prinċipali fl-UE" għandu jkollha l-istess tifsira bħal dik assenjata lil "ditta ta' investment prinċipali tal-Unjoni" fil-punt (56) tal-Artikolu 4(1) tal-IFR";

(b) minnufih wara t-tifsira "impriza prinċipali" tiegħu għandha tiżdied din it-tifsira ġdida li ġejja:

" "impriza ta' servizzi anċillari" tfisser impriza li l-attività prinċipali tagħha tikkonsisti fis-sjeda jew fil-ġestjoni ta' proprjetà, fil-ġestjoni ta' servizzi ta' pproċessar ta' data, jew f'attività simili li hija anċillari għall-attività prinċipali ta' ditta tal-investment waħda jew aktar;"

(c) fit-tifsira "Korp ta' amministrazzjoni" tiegħu l-kliem "il-korp jew korpi tad-detentur ta' liċenza" għandhom jiġu sostitwiti bil-kliem "il-korp jew korpi tad-detentur ta' liċenzja, inkluż ta' ditta ta' investment, operatur tas-suq jew provditur ta' servizzi ta' rappurtaġġ tad-data,";

(d) minnufih wara t-tifsira "Korp ta' amministrazzjoni" tiegħu għandha tiżdied din it-tifsira l-ġdida li ġejja:

" "kumpanija azzjonarja ta' investment prinċipali tal-UE" għandu jkollha l-istess tifsira bħal dik assenjata lil "kumpanija azzjonarja ta' investment prinċipali tal-Unjoni" fil-punt (57) tal-Artikolu 4(1) tal-IFR;"

(e) minnufih wara t-tifsira "prospett" tiegħu għandha tiżdied din it-tifsira l-ġdida li ġejja:

" "provditur ta' servizzi ta' rappurtaġġ tad-data" għandha l-istess tifsira bħal dik assenjata lilha fil-punt (36a) tal-Artikolu 2(1) tal-MiFIR";

(f) minnufih wara t-tifsira "rabtiet mill-qrib", għandha tiżdied it-tifsira ġdida li ġejja:

" "ir-Regolament dwar ir-Regim Pilota tad-DLT" tfisser ir-Regolament (UE) 2022/858 tal-Parlament Ewropew u tal-Kunsill tat-30 ta' Mejju 2022 dwar regim pilota għall-infrastrutturi tas-suq ibbażati fuq it-teknoloġija ta' registru distribwit, u li jemenda r-Regolamenti (UE) Nru 600/2014 u (UE) Nru 909/2014 u d-Direttiva 2014/65/UE, kif emendata minn żmien għal żmien, u jinkludi

kwalunkwe miżuri ta' implimentazzjoni li nħargu jew li jistgħu jinħargu tahtu;"

(g) minnufih wara t-tifsira "reklam ta' investment", tiegħu għandha tiżdied din it-tifsira l-ġdida li ġejja:

" "riskju sistemiku" tfisser riskju sistemiku kif imfisser fil-punt (10) tal-Artikolu 3(1) tas-CRD;"

(h) minnufih wara t-tifsira "supervizur konsolidanti" tiegħu għandha tiżdied din it-tifsira l-ġdida li ġejja:

"supervizur tal-grupp" tfisser l-awtorità supervizorja ta' Stat Membru jew ta' Stat taż-ŻEE, kompetenti u responsabbli għas-supervizjoni tal-konformità mat-test tal-kapital tal-grupp ta' ditti tal-investment prinċipali tal-UE u ditti tal-investment ikkontrollati minn kumpaniji azzjonarji ta' investment prinċipali tal-UE jew kumpaniji azzjonarji finanzjarji mħallta prinċipali tal-UE:

Iżda, għall-finijiet ta' din it-tifsira, "kumpaniji azzjonarji finanzjarji mħallta prinċipali tal-UE" għandu jkollha l-istess tifsira bħal dik assenjata lil "kumpanija azzjonarja finanzjarja mħallta prinċipali tal-Unjoni" fil-punt (58) tal-Artikolu 4(1) tal-IFR;"

(i) it-tifsira "strument" tiegħu għandha tiġi sostitwita b'din it-tifsira l-ġdida li ġejja:

" "strument" tfisser kwalunkwe strument, kuntratt jew dritt li jaq' taht it-Tieni Skeda u kemm jekk maħruġ f'Malta jew xort'oħra, inklużi dawk l-istrumenti maħruġa permezz ta' teknoloġija ta' registru distribwit;" u

(j) minnufih wara t-tifsira "sussidjarja" tiegħu għandha tiżdied din it-tifsira l-ġdida li ġejja:

" "teknoloġija ta' registru distribwit" għandha l-istess tifsira bħal dik assenjata lilha fil-punt (1) tal-Artikolu 2 tar-Regolament dwar ir-Regim Pilota tad-DLT;"

Emenda tal-artikolu 2A tal-Att prinċipali.

40. L-artikolu 2A tal-Att prinċipali għandu jiġi emendat b'dan li ġejj:

(a) fis-subartikolu (2) tiegħu, il-kliem "tas-CRR, tad-MiFID" għandhom jiġu sostitwiti bil-kliem "tas-CRR, tar-

Regolament dwar ir-Regim Pilota tad-DLT, tad-MiFID"; u

(b) fis-subartikolu (3) tiegħu, il-kliem "mid-Direttiva AIFM, mill-MiFID" għandhom jiġu sostitwiti bil-kliem "mid-Direttiva AIFM, mir-Regolament dwar ir-Regim Pilota tad-DLT, mill-MiFID".

41. Minnufih wara s-subartikolu (5) tal-artikolu 8A tal-Att prinċipali, għandu jiżdied dan is-subartikolu l-gdid li ġej:

Emenda tal-artikolu 8A tal-Att prinċipali.

"(6) L-awtorità kompetenti għandha tinforma lill-ABE mingħajr dewmien bi kwalunkwe deċiżjoni meħuda skont is-subartikoli (1), (3), u (4)."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 148 tat-12 ta' Lulju, 2023.

ANĠLU FARRUGIA

Speaker

RAYMOND SCICLUNA

Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

14th July, 2023

ACT No. XXV of 2023

AN ACT to provide for the establishment of a framework for crowdfunding service providers for business and the requirements for the provision of crowdfunding services, for the organisation, authorisation and supervision of crowdfunding service providers, for the operation of crowdfunding platforms as well as for transparency and marketing communications in relation to the provision of crowdfunding services in the European Union.

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:-

ARRANGEMENT OF THE ACT

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**PART I
PRELIMINARY**

1. (1) The short title of this Act is the Crowdfunding Service Providers Act, 2023. Short title, applicability and purpose.

(2) The applicability and purpose of this Act is to implement the relevant provisions of the ECSP Regulation as herein defined, and they shall be interpreted and applied accordingly.

2. (1) In this Act, unless the context otherwise requires: Interpretation.

"admitted instruments for crowdfunding purposes" shall have the same meaning as that assigned to it in paragraph (n) of Article 2(1) of the ECSP Regulation;

"client" shall have the same meaning as that assigned to it in paragraph (g) of Article 2(1) of the ECSP Regulation;

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

"crowdfunding offer" shall have the same meaning as that assigned to it in paragraph (f) of Article 2(1) of the ECSP Regulation;

"crowdfunding platform" shall have the same meaning as that assigned to it in paragraph (d) of Article 2(1) of the ECSP Regulation;

"crowdfunding project" shall have the same meaning as that assigned to it in paragraph (l) of Article 2(1) of the ECSP Regulation;

"crowdfunding service provider" shall have the same meaning as that assigned to it in paragraph (e) of Article 2(1) of the ECSP Regulation;

"crowdfunding service" shall have the same meaning as that assigned to it in paragraph (a) of Article 2(1) of the ECSP Regulation;

"ECSP Regulation" means Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937, as may be amended from time to time, and includes any

implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;

"ESMA" means the European Securities and Markets Authority, established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010;

"European regulatory authority" means the body or bodies designated by a Member State or EEA State other than Malta in accordance with Article 29 of the ECSP Regulation to carry out the functions and duties provided for in the ECSP Regulation;

"individual portfolio management of loans" shall have the same meaning as that assigned to it in paragraph (c) of Article 2(1) of the ECSP Regulation;

"investor" shall have the same meaning as that assigned to it in paragraph (i) of Article 2(1) of the ECSP Regulation;

"loan" shall have the same meaning as that assigned to it in paragraph (b) of Article 2(1) of the ECSP Regulation;

"management body" means the body or bodies of a licence holder which are appointed in accordance with national law and are empowered to set the strategy, objectives and overall direction of the licence holder, and oversee and monitor management decision making, and includes the persons who effectively direct the business of the licence holder;

"marketing communications" shall have the same meaning as that assigned to it in paragraph (o) of Article 2(1) of the ECSP Regulation;

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

"overseas regulatory authority" means an authority in a country or territory outside Malta that is not a Member State or EEA State which exercises any regulatory or supervisory function in relation to financial services corresponding to a function of the competent authority as defined in the Malta Financial Services Authority Act;

"project owner" shall have the same meaning as that assigned to it in paragraph (h) of Article 2(1) of the ECSP Regulation;

"qualifying shareholding" means a direct or indirect holding in a company which represents ten *per centum* (10%) or more of the share capital or of the voting rights referred to in Articles 9 and 10 of Directive 2004/109/EC of the European Parliament and of the Council of the 15 December 2004 on the harmonization of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC taking into account the conditions regarding the aggregation thereof laid in that Directive, or which makes it possible to exercise a significant influence over the management of the company in which that holding subsists, and "qualifying shareholder" shall be construed accordingly;

"Regulation (EU) No 1095/2010" means Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, as may be amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;

"Rules" means Rules issued by the competent authority in accordance with this Act;

"transferable securities" shall have the same meaning as that assigned to it in paragraph (m) of Article 2(1) of the ECSP Regulation;

"working days" means days which shall not include Saturdays and the days referred to in the National Holidays and other Public Holidays Act. Cap. 252.

(2) Words and expressions used in this Act which are also used in the ECSP Regulation but which are not defined herein, shall have the same meaning as that assigned to them in the ECSP Regulation.

(3) In this Act and in any regulations made hereunder, if there is any conflict between the English and the Maltese texts, the English text shall prevail.

3. The provisions of this Act and any regulations or Rules issued thereunder shall not apply to: Applicability.

(a) crowdfunding services that are provided to project

owners that are consumers, as defined in point (a) of Article 3 of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC;

(b) other services related to a crowdfunding service and that are provided in accordance with national law;

(c) crowdfunding offers with a consideration of more than five million euro (€5,000,000), which shall be calculated over a period of twelve (12) months as the sum of:

(i) the total consideration of offers of transferable securities and admitted instruments for crowdfunding purposes and amounts raised by means of loans through a crowdfunding platform by a particular project owner; and

(ii) the total consideration of offers to the public of transferable securities made by the project owner referred to in sub-paragraph (i) in its capacity as an offeror pursuant to the exemption under Article 1(3) or Article 3(2) of Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC.

Competent authority.

4. (1) The competent authority shall carry out its functions under this Act and, in particular, shall ensure compliance with the provisions of the ECSP Regulation, this Act and any regulations and Rules issued thereunder.

(2) The competent authority shall also carry out the functions and duties as competent authority for all purposes of the ECSP Regulation.

PART II AUTHORISATION REQUIREMENTS

Authorisation as a crowdfunding service provider.

5. (1) Without prejudice to Article 18 of the ECSP Regulation, no crowdfunding services shall be provided in Malta unless they are provided by a legal person which is duly authorised by the competent authority or any European regulatory authority as a crowdfunding services provider.

(2) No legal person established in Malta shall provide, or hold itself out as providing, crowdfunding services unless it is duly

authorised by the competent authority as a crowdfunding services provider.

(3) Notwithstanding anything contained in any other law, a legal person shall not require any authorisation, including a licence under the Banking Act, any exemption or any dispensation in connection with the provision of crowdfunding services in the following situations: Cap. 371.

(a) for project owners that in respect of loans facilitated by the crowdfunding service provider accept funds from investors; or

(b) for investors that grant loans to project owners facilitated by the crowdfunding service provider:

Provided that this sub-article shall not apply where a crowdfunding service provider, a project owner or an investor is authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

6. (1) A legal person established in Malta intending to provide crowdfunding services shall apply to the competent authority for authorisation as a crowdfunding service provider. Application for authorisation.

(2) The application referred to in sub-article (1) shall contain all the information set out in Article 12(2) of the ECSP Regulation.

(3) The competent authority shall, within twenty-five (25) working days of receipt of the application referred to in sub-article (1), assess whether that application is complete by verifying that the information referred to in sub-article (2) has been submitted. Where the application is not complete, the competent authority shall set a deadline by which the prospective crowdfunding service provider shall provide the missing information.

(4) Where an application referred to in sub-article (1) remains incomplete after the deadline referred to in sub-article (3), the competent authority may refuse to review the application and, in the event of such refusal, shall return the submitted documents to the prospective crowdfunding service provider.

(5) Where an application referred to in sub-article (1) is complete, the competent authority shall immediately notify the

prospective crowdfunding service provider thereof.

(6) The competent authority shall, within three (3) months from the date of receipt of a complete application, assess whether the prospective crowdfunding service provider complies with the requirements set out in the ECSP Regulation, and in this Act and any regulations and Rules issued thereunder, and shall adopt a fully reasoned decision granting or refusing to grant authorisation as a crowdfunding service provider:

Provided that the assessment to be carried out in terms of this sub-article shall take into account the nature, scale and complexity of the crowdfunding services that the prospective crowdfunding service provider intends to provide.

(7) The competent authority shall notify the prospective crowdfunding service provider of its decision to grant or refuse to grant authorisation as a crowdfunding service provider within three (3) working days of the date of the said decision.

(8) In granting an authorisation under this article, the competent authority may subject a crowdfunding service provider to such conditions as it may deem appropriate and having granted such an authorisation, it may, from time to time, vary or revoke any condition so imposed or impose new conditions.

(9) The competent authority shall establish a register of all holders of an authorisation as a crowdfunding service provider which shall be publicly available. This register shall also specify the crowdfunding services which every crowdfunding service provider is authorised to provide and shall be updated on a regular basis.

Scope of
authorisation.

7. (1) An authorisation as a crowdfunding service provider granted by the competent authority in terms of article 6 shall specify the crowdfunding services which the crowdfunding service provider is authorised to provide.

(2) A crowdfunding service provider intending to extend its business to additional crowdfunding services not foreseen at the time of the authorisation granted to it under article 6 shall submit a request for the extension of its authorisation to the competent authority by complementing and updating the information referred to in article 6(2):

Provided that a request for the extension of an authorisation made in terms of this sub-article shall be processed in accordance with Article 12(4) to (11) of the ECSP Regulation.

8. (1) The competent authority may refuse to grant authorisation as a crowdfunding service provider if there are objective and demonstrable grounds for believing that the management body of the prospective crowdfunding service provider may pose a threat to its effective, sound and prudent management and business continuity, and to the adequate consideration of the interest of its clients and the integrity of the market.

Refusal of authorisation.

(2) Without prejudice to sub-article (1), the competent authority shall not grant an authorisation as a crowdfunding service provider unless:

(a) it is satisfied that the applicant complies with the requirements set out in the ECSP Regulation, and in this Act and any regulations and Rules issued thereunder;

(b) it is satisfied that the applicant and its qualifying shareholders, members, directors and officers are fit and proper persons to provide crowdfunding services;

(c) without prejudice to paragraph (b), it is satisfied that the members of the management body of the applicant are of sufficiently good repute, possess sufficient knowledge, skills and experience and commit sufficient time to perform their functions as such with the applicant; and

(d) the applicant has its registered office and, or its head office in Malta.

9. (1) The competent authority may at any time withdraw an authorisation granted under article 6 if:

Withdrawal of authorisation.

(a) the crowdfunding service provider has not used its authorisation within eighteen (18) months of the date of granting of the authorisation;

(b) the crowdfunding service provider has expressly renounced its authorisation;

(c) the crowdfunding service provider has not provided crowdfunding services for nine (9) successive months and is also no longer involved in the administration of existing contracts that are the result of initial matching of business funding interests through the use of its crowdfunding platform;

(d) the crowdfunding service provider has obtained its authorisation by irregular means, including making false statements in its application for authorisation;

(e) the crowdfunding service provider no longer meets the conditions under which the authorisation was granted or in any other circumstances where the competent authority would have been precluded from issuing an authorisation, or entitled to refuse to grant such authorisation, under the ECSP Regulation or this Act;

(f) the crowdfunding service provider has seriously infringed any provisions of the ECSP Regulation, this Act and, or any regulations or Rules issued thereunder;

(g) the competent authority has been furnished by or on behalf of the crowdfunding service provider with information which is false, inaccurate or misleading;

(h) the competent authority considers it desirable to withdraw the authorisation of the crowdfunding service provider for the protection of investors and the general public, and the reputation of Malta taking into account Malta's international commitments; and, or

(i) the crowdfunding service provider is either declared bankrupt, or goes into liquidation, or makes a composition with its creditors, or is otherwise dissolved.

(2) Without prejudice to sub-article (1), the competent authority may at any time withdraw an authorisation granted under article 6:

Cap. 376.

(a) where the crowdfunding service provider is also a payment service provider as defined in article 2(1) of the Financial Institutions Act and it, or its managers, employees or third parties acting on its behalf, have infringed the provisions of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, as transposed in national law, in respect of money laundering or terrorist financing; or

Cap. 376.

Cap. 376.

(b) where the crowdfunding service provider or a third party acting on its behalf has its licence allowing for the provision of payment services as defined in article 2(1) of the Financial Institutions Act or investment services as defined in article 2(1) of the Investment Services Act has been withdrawn

or cancelled, as applicable, and that crowdfunding service provider or third party has failed to remedy the situation within forty (40) calendar days.

10. (1) Where the competent authority proposes to:

(a) refuse an application for authorisation as a crowdfunding service provider or to withdraw the authorisation of a crowdfunding service provider; or

(b) vary any condition to which the licence is subject or to impose a condition thereon,

Notification of proposed refusal, variation, or withdrawal of an authorisation.

it shall give the prospective crowdfunding service provider or the crowdfunding service provider, as applicable, notice in writing of its intention to do so, while setting out the reasons for the decision it proposes to take.

(2) Every notice given under sub-article (1) shall state that the recipient of the notice may, within such reasonable period after the service thereof as may be stated in the notice, make representations in writing to the competent authority giving reasons why the proposed decision should not be taken, and the competent authority shall consider any representation so made before arriving at a final decision.

(3) Subject to the provisions of article 6, the competent authority shall as soon as practicable notify its final decision in writing to any of the persons to whom notice is to be given under sub-article (1).

11. (1) Where a crowdfunding service provider authorised under this Act intends to provide crowdfunding services in a Member State or EEA State other than Malta, it shall submit to the competent authority the following information:

Cross-border provision of crowdfunding services.

(a) a list of the Member States and, or EEA States in which the crowdfunding service provider intends to provide crowdfunding services;

(b) the identity of the natural and legal persons responsible for the provision of the crowdfunding services in those Member States and, or EEA States;

(c) the starting date of the intended provision of the crowdfunding services by the crowdfunding service provider; and

(d) a list of any other activities provided by the crowdfunding service provider not covered by the ECSP Regulation.

(2) The competent authority shall, within ten (10) working days of receipt of the information referred to in sub-article (1), communicate that information to the European regulatory authority of the Member States and, or EEA States in which the crowdfunding service provider intends to provide crowdfunding services as referred to in sub-article (1).

(3) The competent authority shall thereafter inform without delay the crowdfunding service provider of the communication referred to in sub-article (2).

PART III ONGOING OBLIGATIONS

Changes in information.

12. A crowdfunding service provider, or any person having responsibility for the day to day administration or management of such crowdfunding service provider, shall provide the competent authority with details of any changes in the information provided under the ECSP Regulation, this Act, or any regulations or Rules issued thereunder as soon as such crowdfunding service provider or such person becomes aware of such changes.

Responsibility for the key investment information sheet.

13. (1) The project owner or the members of its administrative, management or supervisory bodies, as the case may be, shall be responsible for the information to be provided in the key investment information sheet in terms of Article 23 of the ECSP Regulation and the translation of the said information.

(2) Without prejudice to the generality of sub-article (1), the persons referred to in the said sub-article shall ensure that:

(a) the information to be provided in the key investment information sheet is not false, misleading or inaccurate; and

(b) the key investment information sheet does not omit key information needed to aid investors when considering whether to finance the crowdfunding project.

Responsibility for the key investment information sheet at platform level.

14. (1) The crowdfunding service provider shall be responsible for the information to be provided in the key investment information sheet at platform level in terms of Article 24 of the ECSP Regulation and the translation of the said information.

(2) Without prejudice to the generality of sub-article (1), the

persons referred to in the said sub-article shall ensure that:

(a) the information to be provided in the key investment information sheet is not false, misleading or inaccurate; and

(b) the key investment information sheet at platform level does not omit key information needed to aid investors when considering whether to invest through individual portfolio management of loans.

15. Where a crowdfunding service provider disseminates, in terms of Article 27 of the ECSP Regulation, marketing communications about its services, it shall comply with relevant requirements as may be specified in Rules issued for these purposes. Marketing communications.

PART IV REGULATORY AND INVESTIGATORY POWERS

16. (1) The Minister, acting on the advice of the competent authority, may make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing may, by such regulations, in particular, do any of the following: Minister's power to make regulations.

(a) provide for and regulate the payment by any person or body, as the case may be, of authorisation or other fees and such other charges 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;

(b) exempt any person, service or activity from any one or more of the provisions of this Act, subject to such variations, additions, adaptations and modifications as may be prescribed and subject to such conditions or other requirements, including other forms of authorisation and notification procedures, as may be prescribed;

(c) transpose, implement and give effect to the provisions and requirements of the ECSP Regulation;

(d) transpose, implement and give effect to the provisions and requirements of European Union Directives, European Union 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 authorised persons 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, such provisions in any such regulations shall prevail;

(e) assign powers and functions to the competent authority for the purposes of this Act;

(f) to provide for the exercise of powers and the performance of functions assigned to the competent authority under this Act;

(g) provide for any matter relating to the operation of a contingency fund which may be established by a crowdfunding service provider for its activity related to the individual portfolio management of loans;

(h) prescribe anything that is to be or which may be prescribed;

(i) provide for and regulate the payment by any person of authorisation or other fees and such other charges payable to the competent authority in respect of any matter provided for, by or under the ECSP Regulation, this Act and any regulations or Rules issued thereunder, including the fees and charges in respect of any permission, licence, authorisation, exemption or other benefit, as well as any fees and charges in respect of the competent authority's regulatory, supervisory or investigative functions under the ECSP Regulation, this Act, and any regulations or Rules issued thereunder, as may be prescribed;

(j) provide for the establishment and imposition of administrative penalties and other administrative measures on crowdfunding service providers or others as may be specified therein;

(k) prescribe that a breach of any regulations made under this Act may amount to a criminal offence as may be specified, and such regulations may impose punishments in respect of any breach, consisting of a fine (*multa*) not exceeding five hundred thousand euro (€500,000) or imprisonment for a term not exceeding three (3) years or both such fine and imprisonment in the case of a natural person; and a fine (*multa*) not exceeding eight hundred thousand euro (€800,000) in the case of a legal person; and a higher fine (*multa*) may be imposed

on such natural or legal person, as the case may be, where deemed necessary or appropriate for any breach or failure of compliance with any EU Directive or EU Regulation or with any regulations made under this article to transpose or to give effect to any EU Directive or EU Regulation; and

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

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

(3) Where regulations have been made in terms of this article, the competent authority may issue Rules for the better carrying out of, and implementation of the provisions of the regulations.

(4) Regulations made under this Act and any amendment or revocation of such regulations, may be published in the English language only.

(5) The exercise of any of the powers assigned under this article shall be subject to any obligations or rights arising from Malta's international commitments.

17. (1) The competent authority may, from time to time, issue and publish Rules which shall be binding on all persons authorised by it or falling under its regulatory or supervisory functions and others as may be specified therein. Power to issue Rules.

(2) Without prejudice to the generality of sub-article (1), Rules issued by the competent authority may:

(a) lay down additional requirements and conditions in relation to persons authorised by it, seeking its approval, or falling under the regulatory or supervisory functions of the competent authority, their activities, the conduct of their business, their relations with customers, the public and other parties, their responsibilities to the competent authority, reporting requirements, financial and other resources, and related requirements, and any other matters as the competent authority may consider appropriate;

(b) provide for the statements and notices that shall be made or given for any purposes in regard to which the competent authority exercises supervisory or regulatory

functions, and the form and contents thereof;

(c) prescribe the information that such persons are to submit to the competent authority;

(d) transpose, implement and give effect to the provisions and requirements of the ECSP Regulation;

(e) transpose, implement and give effect to the provisions and requirements of European Union Directives, European Union 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 authorised persons and others as may be specified therein; and, or

(f) regulate any matter that is incidental to or connected with any of the matters mentioned above as the competent authority may consider appropriate in the performance of its functions.

(3) Rules may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different cases, circumstances or purposes and may grant to the competent authority such powers of adaptation of the Rules, as may also be so specified.

Powers of the competent authority.

18. (1) Without prejudice to any other powers conferred to it by this Act or any other law, the competent authority shall have the following powers:

(a) to suspend a crowdfunding offer for a maximum of ten (10) consecutive working days on any single occasion where there are reasonable grounds for suspecting that any of the provisions of the ECSP Regulation, this Act and any regulations or Rules issued thereunder have been infringed;

(b) to prohibit or suspend marketing communications, or to require a crowdfunding service provider or a third party designated to perform functions in relation to the provision of crowdfunding services to cease or suspend marketing communications, for a maximum of ten (10) consecutive working days on any single occasion where there are reasonable grounds for believing that any of the provisions of the ECSP Regulation, this Act and any regulations or Rules issued thereunder have been infringed;

(c) to prohibit a crowdfunding offer where the competent authority finds that any of the provisions of the ECSP Regulation, this Act and any regulations or Rules issued thereunder have been infringed or where there are reasonable grounds for suspecting that they would be infringed;

(d) to suspend, or to require a crowdfunding service provider to suspend, the provision of crowdfunding services for a maximum of ten (10) consecutive working days on any single occasion where there are reasonable grounds for believing that any of the provisions of the ECSP Regulation, this Act and any regulations or Rules issued thereunder have been infringed;

(e) to prohibit the provision of crowdfunding services where the competent authority finds that any of the provisions of the ECSP Regulation, this Act and any regulations or Rules issued thereunder have been infringed;

(f) to make public the fact that a crowdfunding service provider or a third party designated to perform functions in relation to the provision of crowdfunding services is failing to comply with its obligations;

(g) to disclose, or to require a crowdfunding service provider or a third party designated to perform functions in relation to the provision of crowdfunding services to disclose, all material information which may have an effect on the provision of the crowdfunding service in order to ensure investor protection or the smooth operation of the market;

(h) to suspend, or to require a crowdfunding service provider or a third party designated to perform functions in relation to the provision of crowdfunding services to suspend, the provision of crowdfunding services where the competent authority considers that the crowdfunding service provider's situation is such that the provision of the crowdfunding service would be detrimental to investors' interests;

(i) to transfer existing contracts to another crowdfunding service provider in cases where a crowdfunding service provider's authorisation is withdrawn in accordance with article 9(1)(c), subject to the agreement of the clients and the receiving crowdfunding service provider:

Provided that the crowdfunding service provider to which the existing contracts are transferred in accordance with this paragraph shall be authorised by the competent authority to

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provide crowdfunding services; and, or

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(j) to make an application to the court for the dissolution and winding up by the court of a crowdfunding service provider where it appears to the competent authority that a crowdfunding service provider 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.

(2) Any measures adopted in exercise of the powers of the competent authority under this article shall be proportionate, duly justified and taken in accordance with article 24.

Power to require information.

19. (1) The competent authority may, by notice in writing, require:

(i) any person who is or was providing, or who appears to be or to have been providing crowdfunding services, and third parties designated to perform functions in relation to the provision of crowdfunding services, and the natural or legal persons that control them or are controlled by them;

(ii) the auditors and managers of crowdfunding service providers and third parties designated to perform functions in relation to the provision of crowdfunding services; and, or

(iii) any other person who appears to be in possession of relevant information,

to do all or any of the following:

(a) to furnish to the competent authority, at such time and place and in such form as it may specify, such information and documentation as it may require, including the power to require existing telephone and existing data traffic records;

(b) to furnish to the competent authority any information or documentation as it may require verified in such manner as it may specify;

(c) to attend before the competent authority, or before a person appointed by it, at such time and place as it may specify, to answer questions and provide such information and documentation as it may require;

(d) to give the competent authority any assistance which it may require and which that person is reasonably able to give.

(2) A natural or legal person making the information available to the competent authority in accordance with this article shall not be considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to the provision of such information.

(3) The competent authority may take copies of any documents furnished, provided or to which it has access under this article.

(4) Where the person required to provide information or documentation under this article does not have the relevant information or documentation, he shall disclose to the competent authority where, to the best of his knowledge, that information or documentation is found, and the competent authority may require any person, whether indicated as aforesaid or not, who appears to it to be in possession of that information or documentation, to provide it.

(5) A statement made and documentation provided in pursuance of any requirement under this article may be used in evidence against the person making the statement or providing the documentation as well as against any person to whom they relate.

(6) The provisions of this article shall not apply to information or documentation which is privileged in accordance with the provisions of article 642(1) of the Criminal Code.

Cap. 9.

(7) Where the competent authority has appointed a person under sub-article (1)(c), such person shall, for the purposes of carrying out his functions under his appointment, have all the powers conferred on the competent authority by this article and a requirement imposed by him shall be deemed to be and have the same force and effect as a requirement of the competent authority.

20. (1) The competent authority may, whenever it deems it necessary or expedient, appoint an inspector to investigate and report on the affairs of any persons referred to in article 19(1)(i) to (iii).

Power to
appoint
inspectors.

(2) An inspector appointed under sub-article (1):

(a) may, if he thinks it necessary or expedient for the purposes of an investigation, investigate the affairs of any person mentioned in sub-article (1);

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(b) shall have and may exercise all the powers conferred on the competent authority by article 18, and any requirement made by him shall be deemed to be and have the same force and effect as a requirement of the competent authority;

(c) may, and if so directed by the competent authority shall, make interim reports and on the conclusion of his investigation shall make a final report to the competent authority.

(3) In appointing an inspector under sub-article (1), the competent authority may direct that the investigation shall be carried out within such time and shall be confined to such specific or general matters as the competent authority may deem fit.

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(4) For the purposes of this article, inspectors may include an advocate, a person authorised to carry on the profession of accountant or auditor in terms of the Accountancy Profession Act, or a person considered by the competent authority as possessing suitable expertise to exercise such function.

(5) The competent authority shall have the power to order that all expenses of, and incidental to, an investigation carried out pursuant to this article be paid by the person referred to in sub-article (1).

Right of entry.

21. (1) Any officer, employee or agent of the competent authority, on producing, if required, evidence of his authority, shall have the power to enter any premises occupied by a person on whom a notice has been served in terms of article 19 or whose affairs are being investigated in terms of article 20, for the purpose of obtaining therefrom the information or documents required by that notice, or otherwise for the purpose of carrying out on-site inspections or investigations, and of exercising any of the powers conferred by the said articles.

(2) Where any officer, employee or agent of the competent authority has cause to believe that if such notice as is referred to in sub-article (1) were served, it would not be complied with or that any documents to which it could relate would be removed, tampered with or destroyed, such officer, employee or agent shall have the power, on producing, if required, evidence of his authority, to enter any premises referred to in sub-article (1) for the purpose of obtaining therefrom any information or documents specified in the authority, being information or documents that could have been required under such notice as is referred to in sub-article (1).

(3) For the purposes of any action taken under the provisions

of this article, the competent authority may request the assistance of the Commissioner of Police, who may for such purpose exercise such powers as are vested in him by law.

22. (1) Without prejudice to any other powers conferred to it by this Act or any other law, the competent authority may, whenever it deems it necessary, give by notice in writing, such directives as it may deem appropriate in the circumstances; and any person to whom, or to which the notice is given shall obey, comply with and otherwise give effect to any such directive within the time and in the manner stated in the directive or subsequent directives:

Power to issue directives.

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.

(2) The power to issue directives under this article shall also include the power to vary, alter, add to or withdraw any directive, as well as the power to issue subsequent new directives.

(3) Where the competent authority is satisfied that the circumstances so warrant, it may at any time make public any directive it has given in accordance with this article.

23. (1) The competent authority may impose administrative penalties and other administrative measures as mentioned in sub-article (2), where it considers that:

Administrative penalties and other measures.

(a) a person's conduct amounts to an infringement of any of the provisions of the ECSP Regulation, this Act or any regulations or Rules issued thereunder; or

(b) a person has contravened or failed to comply with any condition, obligation, requirement or directives made or given by the competent authority under any of the provisions of the ECSP Regulation, this Act or any regulations or Rules issued thereunder, including failure to co-operate with an investigation or an inspection or any request made by the competent authority under article 19.

(2) The competent authority shall have the power to impose the following administrative penalties and other administrative measures for the infringements indicated in sub-article (1):

(a) a public statement indicating the natural or legal person responsible for the infringement, and the nature of such infringement;

(b) an order requiring the natural or legal person to cease the conduct constituting the infringement and to desist from a repetition of that conduct;

(c) a ban preventing any member of the management body of the legal person responsible for the infringement, or any other natural person held responsible for the infringement, from exercising management functions in crowdfunding service providers;

(d) administrative penalties which shall not exceed twice the amount of the benefit derived from the infringement where that benefit can be determined, even if it exceeds the maximum amounts set out in paragraph (e);

(e) in the case of a legal person, administrative penalties which shall not exceed five hundred thousand euro (€500,000), or of up to five *per centum* (5%) of the total annual turnover of that legal person according to the last available financial statements approved by the management body:

Provided that where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant Union law in the area of accounting according to the last available consolidated financial statements approved by the management body of the ultimate parent undertaking;

(f) in the case of a natural person, administrative penalties which shall not exceed five hundred thousand euro (€500,000).

(3) Administrative penalties that may be imposed by the competent authority in accordance with this article, may be imposed

in the form of a fixed penalty, a daily penalty, or both.

(4) Administrative penalties and other administrative measures taken by the competent authority in terms of this article shall be effective, proportionate, dissuasive and duly justified.

(5) The provisions of article 16(4) of the Malta Financial Services Authority Act shall apply *mutatis mutandis* with respect to any administrative penalty imposed by the competent authority under this article. Cap. 330.

(6) Without prejudice to the provisions of this article, where obligations imposed in terms of the ECSP Regulation, this Act or any regulations or Rules issued thereunder, apply to a legal person, in the event of an infringement of any provision thereof, administrative penalties and other measures may also be imposed, subject to the conditions laid down in national law, on the members of the administrative, management or supervisory bodies of the legal entity concerned, and on other individuals who are responsible for the infringement under national law.

(7) The imposition by the competent authority of an administrative penalty or any other administrative measure in terms of this article shall be without prejudice to any other consequence emanating from the act or omission of the offender in terms of civil or criminal law:

Provided that in all cases where the competent authority imposes an administrative penalty in respect of anything done or omitted to be done by any person, and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

24. In the case of administrative penalties or other measures imposed by the competent authority in accordance with the provisions of this Act, the competent authority shall take into account the extent to which the infringement is intentional or results from negligence and all other relevant circumstances, including, where appropriate:

Relevant
circumstances.

- (a) the gravity and the duration of the infringement;
- (b) the degree of responsibility of the natural or legal person responsible for the infringement;
- (c) the financial strength of the natural or legal person responsible for the infringement, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;

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(d) the importance of profits gained or losses avoided by the natural or legal person responsible for the infringement, insofar as these can be determined;

(e) the losses for third parties caused by the infringement, insofar as these can be determined;

(f) the level of cooperation of the natural or legal person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;

(g) previous infringements by the natural or legal person responsible for the infringement; and

(h) the impact of the infringement on investors' interests.

Notice of administrative penalties and other measures.

25. (1) If the competent authority proposes to impose an administrative penalty or any other measure on any person under article 23, it shall give such person a notice in writing of its intention to do so, setting out the reasons for the decision it proposes to take.

(2) Every notice given under sub-article (1) shall specify that the recipient of the notice may, within such reasonable period after the service thereof, as may be specified in the notice, make representations in writing to the competent authority giving reasons why the proposed decision should not be taken, and the competent authority shall consider any representation so made before arriving at a final decision.

(3) The competent authority shall as soon as practicable, notify its final decision in writing to any person to whom notice is to be given under sub-article (1).

Publication of decisions.

26. (1) The competent authority shall publish any decision imposing an administrative penalty or any other measure, in accordance with the provisions of the ECSP Regulation, this Act or any regulations or Rules issued thereunder, on its website immediately after the person subject to that decision has been informed of that decision.

(2) The information published pursuant to sub-article (1) shall specify the type and nature of the breach, the identity of the person subject to the decision and any other information which the competent authority deems relevant.

(3) The provisions of sub-articles (1) and (2) shall not apply to

decisions of the competent authority imposing measures that are of an investigatory nature.

(4) Where the competent authority considers, following a case-by-case assessment, that the publication of the identity of the legal person subject to the decision, or the identity or personal data of a natural person, would be disproportionate, or where such publication may jeopardise an ongoing investigation, the competent authority shall:

(a) defer the publication of the decision to impose a penalty or a measure until the moment where the reasons for non publication cease to exist;

(b) publish the decision to impose a penalty or a measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures an effective protection of the personal data concerned:

Provided that, in this case, the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication shall cease to exist;

(c) not publish the decision to impose a penalty or measure in the event that the options laid down in paragraphs (a) and (b) are considered to be insufficient to ensure the proportionality of the publication of such a decision with regard to measures which are deemed to be of a minor nature.

(5) Where the decision is subject to an appeal before a national judicial, administrative or other authority, the competent authority shall also publish immediately on its website such information and any subsequent information on the outcome of such an appeal. Any decision annulling a decision subject to appeal shall also be published.

(6) Any decision that is published in accordance with this article shall remain accessible on the website of the competent authority for a period of at least five (5) years after its publication:

Provided that personal data contained in any such decision shall be retained on the website of the competent authority only for the period which is necessary, in accordance with the applicable data protection legislation.

PART V
COOPERATION WITH OTHER AUTHORITIES

Cooperation
with European
regulatory
authorities.

27. (1) The competent authority shall act as the contact point in terms of and for the purposes of Article 29(2) of the ECSP Regulation.

(2) The competent authority shall cooperate with other European regulatory authorities whenever necessary for the purpose of carrying out its duties and exercising its powers under the ECSP Regulation. It shall render the necessary assistance to other European regulatory authorities, in particular by exchanging information and cooperating in any investigatory, supervisory or enforcement activity.

(3) A European regulatory authority may request information from the competent authority, in which case the competent authority shall, without undue delay, provide the requested information required for the purposes of the ECSP Regulation:

Provided that if the competent authority is not able to supply the required information immediately, it shall notify the requesting European regulatory authority of the reasons.

(4) A European regulatory authority may request the cooperation of the competent authority in carrying out its supervisory functions or for an on-site verification or in an investigation, in which case the competent authority shall, within the framework of its powers:

(a) carry out the on-site inspection or investigation itself;

(b) allow the European regulatory authority which submitted the request to participate in an on-site inspection or investigation;

(c) allow the European regulatory authority which submitted the request to carry out the on-site inspection or investigation itself;

(d) appoint auditors or experts to carry out the on-site inspection or investigation; or

(e) share specific tasks related to supervisory activities with other competent authorities.

(5) Notwithstanding the foregoing provisions, the competent authority may refuse to act on a request for information or a request to

cooperate with an investigation made by a European regulatory authority in any of the following circumstances:

(a) where complying with the request is likely to adversely affect its own investigation, enforcement activities or a criminal investigation;

(b) where judicial proceedings have already been initiated in respect of the same actions and against the same natural or legal persons before the authorities of Malta; or

(c) where a final judgment has already been delivered in relation to such natural or legal persons for the same actions in Malta.

(6) Where the competent authority finds that any of the requirements under the ECSP Regulation have not been satisfied or has reason to believe that to be the case, it shall inform the European regulatory authority of the entity or entities suspected of such infringement of its findings in a detailed manner.

28. (1) Where a crowdfunding service provider provides crowdfunding services in Malta, the competent authority shall, where it has clear and demonstrable grounds for believing that irregularities have been committed by the crowdfunding service provider or by third parties designated to perform functions in relation to the provision of crowdfunding services or that the crowdfunding service provider or third parties have infringed their obligations under the ECSP Regulation, notify the European regulatory authority which granted authorisation to the crowdfunding service provider and ESMA of such irregularities or infringements.

Precautionary measures.

(2) Where, despite the measures taken by the European regulatory authority referred to in sub-article (1), the crowdfunding service provider or third party designated to perform functions in relation to the provision of crowdfunding services persists in infringing the ECSP Regulation, the competent authority shall, after informing the said European regulatory authority and ESMA, take all appropriate measures in order to protect investors and shall inform the European Commission and ESMA of such measures without undue delay.

29. (1) The competent authority shall cooperate with ESMA for the purposes of the ECSP Regulation in accordance with Regulation (EU) No 1095/2010.

Cooperation with ESMA.

(2) In the case of an on-site inspection or investigation with cross-border effect, the competent authority may request ESMA to

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coordinate the inspection or investigation, as the case may be.

(3) The competent authority shall without delay provide ESMA with all information necessary to carry out its duties, in accordance with Article 35 of Regulation (EU) No 1095/2010.

Cooperation
with other
authorities.

30. Where a crowdfunding service provider engages in activities other than crowdfunding services, the competent authority shall cooperate with the authorities responsible for overseeing such other activities as provided for in the relevant European Union legislation or national law, as applicable.

PART VI APPEALS, SANCTIONS AND CONFIDENTIALITY

Appeals.
Cap. 330.

31. (1) In this article the Financial Services Tribunal means the Tribunal established under article 21 of the Malta Financial Services Authority Act.

Cap. 330.

(2) Any person who is aggrieved by a decision of the competent authority under the ECSP Regulation or this Act, or any regulations or Rules issued thereunder, may appeal against such decision to the Tribunal within such period and under such conditions as are established under article 21 of the Malta Financial Services Authority Act.

Cap. 330.

(3) Without prejudice to sub-article (2), any person who is aggrieved by the competent authority's failure to take a decision in respect of an application for authorisation to act as a crowdfunding service provider which contains all the information required under the provisions in force within six (6) months of its submission, may appeal against such failure to decide to the Tribunal within such period and under such conditions as are established in terms of article 21 of the Malta Financial Services Authority Act.

(4) An appeal against a decision of the competent authority shall not suspend the operation of that decision:

Provided that a decision of the competent authority to withdraw the authorisation of a crowdfunding service provider shall not become operative until the expiration of the period within which an appeal lies under this article and, if an appeal is filed within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or on the date on which the appeal is abandoned.

Cap. 330.

(5) Subject to the provisions of this article, the provisions of article 21 of the Malta Financial Services Authority Act shall apply

mutatis mutandis to appeals that may be brought before the Tribunal under this article.

32. (1) Any person who contravenes or fails to comply with any of the provisions of articles 5(1), 5(2), 19(1), 19(4), 22(1) or 34(1), or of article 19(1) or 19(4) as applied by article 20, or contravenes or fails to comply with any condition, obligation, requirement, directive or order made or given under any of the provisions of the ECSP Regulation or this Act, or under any regulations made under this Act, shall be guilty of an offence. Offences.

(2) Any person who for the purposes of, or pursuant to, any of the provisions of the ECSP Regulation, this Act or of any regulations or Rules issued thereunder, or any condition, obligation, requirement, directive or order made or given as aforesaid, furnishes information or makes a statement which he knows to be inaccurate, false or misleading in any material respect, or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect, shall be guilty of an offence.

(3) Any person who is knowingly a party to the provision of any crowdfunding service with a fraudulent intent or for a fraudulent purpose, shall be guilty of an offence.

(4) Any person who with intent to avoid detection of the commission of an offence under this Act removes, destroys, conceals or fraudulently alters any book, document or other paper, shall be guilty of an offence.

(5) Any person who intentionally obstructs a person exercising rights or powers conferred by this Act shall be guilty of an offence.

(6) The provisions of this Act or any regulations issued thereunder shall not affect any criminal proceedings that may be competent under any other law.

33. (1) A natural person guilty of an offence under the provisions of article 32 shall be liable on conviction to a fine (*multa*) not exceeding five hundred thousand euro (€500,000) or to a term of imprisonment not exceeding three (3) years, or to both such fine and imprisonment, unless such fine or term of imprisonment is otherwise imposed in regulations made under article 16(1)(k). Punishments.

(2) A legal person guilty of an offence under the provisions of article 31 shall be liable on conviction to a fine (*multa*) not exceeding eight hundred thousand euro (€800,000), unless such fine is otherwise imposed in regulations made under article 16(1)(k).

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Confidentiality.

34. (1) Information obtained by the competent authority or by its officers, employees or agents, whether current or former, or by inspectors, auditors and experts formerly or currently engaged by the competent authority for the purposes of, or pursuant to, any of the provisions of the ECSP Regulation, this Act, or of any regulations or Rules issued thereunder, or in the discharge of any functions under any of the said provisions, or by any other person who works or has worked for the competent authority or for any third party to whom the competent authority has delegated any of its functions or powers, shall be treated as confidential and protected by the duty of professional secrecy, and shall not be disclosed to any other person, except in the following cases:

(a) where the authority, body or person communicating information to the competent authority consents thereto;

(b) where the disclosure of the information is necessary for any legal proceedings;

(c) where the information is provided to such other local or European or overseas regulatory, judicial or enforcement authorities in the pursuance of serious concerns of a regulatory or criminal nature; and, or

(d) where the disclosure of the information is permitted or required by European Union legislation or national law.

(2) The information referred to in sub-article (1) shall include all information exchanged between the competent authority and European regulatory authorities under the ECSP Regulation that concerns business or operational conditions and other economic or personal affairs.

PART VII

AMENDMENTS TO THE FINANCIAL MARKETS ACT

Amendments to the Financial Markets Act. Cap. 345.

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

Amendment of article 2 of the principal Act.

36. Article 2 of the principal Act shall be amended by the following:

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

(i) immediately after the definition "Directives", there shall be added the following new definition:

" "distributed ledger technology" shall have the same meaning as that assigned to it in point (1) of Article 2 of the DLT Pilot Regime Regulation;"

(ii) immediately after the new definition "distributed ledger technology", there shall be added the following new definition:

" "DLT Pilot Regime Regulation" means Regulation (EU) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology, and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;" and

(iii) the definition "financial instruments" shall be substituted by the following new definition:

" "financial instruments" means those instruments specified in Section C of Annex I of MiFID, including such instruments issued by means of distributed ledger technology;" and

(iv) in the definition "management body" the words "body or bodies of a market operator which are appointed" shall be substituted by the words "body or bodies of a market operator or data reporting services provider which are appointed"; and

(b) in sub-article (2) thereof, the words "CSDR, EMIR," shall be substituted by the words "CSDR, DLT Pilot Regime Regulation, EMIR,".

37. Article 2A of the principal Act shall be amended by the following:

Amendment of article 2A of the principal Act.

(a) in sub-article (2) thereof, the words "CSDR, EMIR," shall be substituted by the words "CSDR, the DLT Pilot Regime Regulation, EMIR,"; and

(b) in sub-article (3) thereof, the words, "CSDR, EMIR" shall be substituted by the words "CSDR, the DLT Pilot Regime Regulation, EMIR".

PART VIII
AMENDMENTS TO THE INVESTMENT SERVICES ACT

Amendments to
the Investment
Services Act.
Cap. 370.

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

Amendment of
article 2 of the
principal Act.

39. Sub-article (1) of article 2 of the principal Act shall be amended by the following:

(a) immediately after the definition "ancillary services" thereof there shall be added the following new definition:

" "ancillary services undertaking" means an undertaking, the principal activity of which consists of owning or managing property, managing data processing services, or a similar activity which is ancillary to the principal activity of one or more investment firms;"

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

" "data reporting services provider" shall have the same meaning as that assigned to it in point (36a) of Article 2(1) of MiFIR;"

(c) immediately after the definition "Directive 2013/34/EU" thereof there shall be added the following new definition:

" "distributed ledger technology" shall have the same meaning as that assigned to it in point (1) of Article 2 of the DLT Pilot Regime Regulation;"

(d) immediately after the new definition "distributed ledger technology" thereof there shall be added the following new definition:

" "DLT Pilot Regime Regulation" means Regulation (EU) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology, and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;"

(e) immediately after the definition "EU parent institution" thereof there shall be added the following new definition:

" "EU parent investment firm" shall have the same meaning as that assigned to "Union parent investment firm" in point (56) of Article 4(1) of the IFR";

(f) immediately after the new definition "EU parent investment firm" thereof there shall be added the following new definition:

" "EU parent investment holding company" shall have the same meaning as that assigned to "Union parent investment holding company" in point (57) of Article 4(1) of the IFR";

(g) immediately after the definition "financial institution" thereof there shall be added the following new definition:

" "group supervisor" means the supervisory authority of a Member State or an EEA State, competent and responsible for the supervision of compliance with the group capital test of EU parent investment firms and investment firms controlled by EU parent investment holding companies or EU parent mixed financial holding companies;

Provided that, for the purposes of this definition, "EU parent mixed financial holding companies" shall have the same meaning as that assigned to "Union parent mixed financial holding company" in point (58) of Article 4(1) of the IFR";

(h) the definition "instrument" thereof shall be substituted by the following new definition:

" "instrument" means any instrument, contract or right falling within the Second Schedule and whether or otherwise issued in Malta, including such instruments issued by means of distributed ledger technology"; and

(i) in the definition "management body" thereof the words "body or bodies of a licence holder" shall be substituted by the words "body or bodies of a licence holder, including of an investment firm, a market operator or a data reporting

services provider,"; and

(j) immediately after the definition "subsidiary" thereof there shall be added the following new definition:

" "systemic risk" means systemic risk as defined in point (10) of Article 3(1) of the CRD;".

Amendment of article 2A of the principal Act.

40. Article 2A of the principal Act shall be amended by the following:

(a) in sub-article (2) thereof, the words "the CRR, the MIFID" shall be substituted by the words "the CRR, the DLT Pilot Regime Regulation, the MIFID"; and

(b) in sub-article (3) thereof, the words "the AIFM Directive, the MiFID," shall be substituted by the words "the AIFM Directive, the DLT Pilot Regime Regulation, the MIFID".

Amendment of article 8A of the principal Act.

41. Immediately after sub-article (5) of article 8A of the principal Act, there shall be added the following new sub-article:

"(6) The competent authority shall inform the EBA without delay of any decision taken pursuant to sub-articles (1), (3) and (4).".

Passed by the House of Representatives at Sitting No. 148 of the 12th July, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives