

ABBOZZ TA' LIĠI msejjah

ATT biex jipprovdi dwar provdituri ta' servizz lil kumpanniji u biex jemenda diversi liġijiet dwar is-servizzi finanzjarji.

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:-

TAQSIMA I

1. (1) It-titolu fil-qosor ta' dan l-Att huwa Att tal-2013 dwar Provdituri ta' Servizz lil Kumpanniji. Titolu fil-qosor u skop.

(2) L-għan ta' dan l-Att huwa biex jimplimenta l-Artikolu 36 tad-Direttiva 2005/60/KE tal-Parlament Ewropew u tal-Kunsill tad-29 ta' Ottubru 2005 dwar il-prevenzjoni tal-użu tas-sistema finanzjarja għall-fini ta' *money laundering* u l-iffinanzjar tat-terroriżmu, fil-qies li dak l-artikolu japplika għal provdituri ta' servizz lil kumpanniji.

(3) Għall-finijiet tal-Artikolu 36 tad-Direttiva 2005/60/KE imsemmi fis-subartikolu (2), l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa skont l-artikolu 3 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, għandha tkun l-awtorità kompetenti responsabbli għar-registrazzjoni u s-supervizjoni ta' provdituri ta' servizz lil kumpanniji. Kap. 330.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra: Tifsir.

"l-Awtorità" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa skont l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta; Kap. 330.

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Kap. 330.

"awtorità regolatorja barranija" tfisser awtorità f'xi pajjiż jew territorju barra minn Malta li tkun teżerċita xi funzjoni regolatorja jew superviżorja dwar servizzi finanzjarji li jkunu jikkorrispondu għal xi funzjoni tal-Awtorità kif imfissra fl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;

"gürisdizzjoni approvata" tfisser Stat ŻEE jew Stat Membru tal-UE jew kull gürisdizzjoni oħra li jkollha livell ugwali jew paragonabbli ta' regolament dwar provduri ta' servizz lil kumpanniji ma' dak li jkun jeżisti f'Malta;

"li topera f'Malta jew minn go Malta" tinkludi li jkun hemm jeżisti ufficiċju, fergħa, jew xi ċentru iehor ta' attivitajiet professjonali jew kummerċjali li jkollhom xorta regolari f'Malta, u ma tinkludix xi att wiehed jew aktar mhux konness u sporadiku;

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

"persuna registrata" tfissr persuna li tkun inhargitilha mill-Awtorità registrazzjoni biex taġixxi bħala provdatur ta' servizz lil kumpanniji skont dan l-Att;

"preskritt" tfisser preskritt b'regolamenti magħmulin taht dan l-Att;

"provduri ta' servizz lil kumpanniji" tfisser kull persuna fizika jew güridika li, fil-kummerċ, tipprovdi lil terzi xi wiehed minn dawn is-servizzi li ġejjin:

(a) il-formazzjoni ta' kumpanniji jew ta' entitajiet legali oħra;

(b) li taġixxi bħala, jew l-arrangament għal persuna oħra li taġixxi bħala, direttur jew segretarju ta' kumpannija, sieheb f'soċjetà jew f'xi pożizzjoni bħal dawk fir-rigward ta' entitajiet güridika oħra;

(c) li jiġi provdut ufficiċju registrat, korrisondenza kummerċjali jew indirizz amministrattiv u servizzi oħra li għandhom x'jaqsmu lil kumpannija, soċjetà jew xi entità güridika oħra.

(2) Kull riferenza f'dan l-Att għal xi liġi, jew dispozizzjoni tagħha, għandha tiftiehem bħala riferenza għal dik il-liġi jew dispozizzjoni hekk kif din tista' tkun isseħħ minn żmien għal żmien, u għandha tinkludi riferenza għal kull liġi li tidhol minflok dik il-liġi jew dispozizzjoni, u għal kull leġislazzjoni sussidjarja li ssir tahtha.

(3) Kliem u frażijiet li jintużaw f'dan l-Att b'riferenza għal xi liġi oħra għandu jkollhom, sakemm ikun meħtieġ biex jagħtu seħh lil dan l-Att u konsistentement mad-dispożizzjonijiet tiegħu, l-istess tifsir bħal ma għandhom fil-liġi li b'riferenza għaliha jintużaw fl-Att.

(4) F'dan l-Att u fir-regolamenti li jsiru taħtu, jekk ikun hemm xi nuqqas ta' qbil bejn it-test Ingliż u t-test Malti, jipprevalixxi t-test Ingliż.

3. (1) Kull min ikun residenti jew jopera f'Malta jew minn go Malta u jaġixxi bħala provditur ta' servizz lil kumpanniji, għandu japplika għal registrazzjoni mal-Awtorità skont dan l-Att:

Il-htieġa li provdituri ta' servizz lil kumpanniji jirreġistraw.

Izda dawn il-persuni li ġejjin ma jkunux meħtieġa jirreġistraw mal-Awtorità skont dan l-Att:

(a) persuna li jkollha *warrant*, jew l-ekwivalenti ta' dan, li jeżerċitaw il-professjoni ta' avukat, nutar pubbliku, prokuratur legali jew *accountant* pubbliku ċertifikat; u

(b) persuna awtorizzata li tagħxi bħala *trustee* jew li tipprovdi dmirijiet fiduċjarji oħra skont l-Att dwar *Trusts* u *Trustees*. Kap. 331.

(2) Persuna li jkollha xi liċenza oħra, awtorizzazzjoni jew rikonoxximent skont l-Att dwar Servizzi ta' Investiment li jkollha l-ħsieb li tipprovdi servizzi lil kumpanniji, fil-kummerċ, għandha tapplika għar-registrazzjoni u f'dak il-każ, l-Awtorità għandha tikkunsidra kull proċedura ta' diligenza dovuta li hija tkun diġà għamlet. Kap. 370.

(3) Il-persuni msemmija fis-subartikolu (1)(a) u (b) għandhom javżaw lll-Korp għall-Analisi ta' Informazzjoni Finanzjarja, imwaqqaf taħt l-Att kontra *Money Laundering*, li jkunu qegħdin jaġixxu bħala provdituri ta' servizz lil kumpanniji, fil-kummerċ, u li m'humix meħtieġa jirreġistraw mal-Awtorità taħt dan l-Att. Kap.373.

(4) Fil-każ ta' dubju raġonevoli dwar jekk it-twertiq ta' xi attività partikolari jkunx soġġett għal registrazzjoni skont dan l-Att, il-kwistjoni għandha tiġi deċiża b'mod konklussiv mill-Awtorità.

(5) (a) Kull min ikollu liċenza jew registrazzjoni biex jipprovdi servizz lil kumpanniji, maħruġa mill-awtorità regolatorja rilevanti f'ġurisdizzjoni approvata, m'għandux ikun soġġett għal registrazzjoni taħt dan l-Att, sakemm huwa javża lill-Awtorità, bil-miktub, bil-ħsieb li jkollu li jipprovdi servizz lil kumpanniji f'Malta mill-inqas ħamsa u erbgħin jum qabel ma jibda għaddej b'dawk l-attivitàjiet f'Malta u li huwa jirċievi mingħand l-Awtorità konferma

bil-miktub li din m'għandha ebda oġġezzjoni għal dan.

(b) Avviż mogħti taht dan is-subartikolu għandu jagħti indikazzjoni ta' x'ikunu l-attivitajiet proposti u miegħu għandha tintehmez kull informazzjoni tali li tista' tkun meħtieġa mill-Awtorità minn żmien għal żmien.

(ċ) Sal-limitu li l-Awtorità tistipula xi restrizzjonijiet jew kundizzjonijiet għal dawk l-attivitajiet, b'risposta tal-bidu għal xi avviż jew f'kull waqt ieħor, dawk ir-restrizzjonijiet u l-kundizzjonijiet għandhom jibdeu isehħu kif ikun hemm imsemmi fir-risposta jew b'avviż li jinhareg wara mill-Awtorità.

Applikazzjoni
għal
reġistrazzjoni.

4. Applikazzjoni għal reġistrazzjoni bħala provdatur ta' servizz lil kumpanniji skont l-artikolu 3 għandha ssir lill-Awtorità u:

(a) għandu jkun fiha jew ikollha mehmuż magħha dik l-informazzjoni u dawk id-dettalji u jkollha dik l-għamla skont ma tkun teħtieġ l-Awtorità;

(b) għandha tkun verifikata bil-mod u sal-limitu meħtieġ mill-Awtorità;

(ċ) għandha tkun turi l-indirizz f'Malta fejn l-applikant għar-reġistrazzjoni għandu jiġi notifikat b'kull avviż jew dokument ieħor meħtieġ jew awtorizzat li jiġi notifikat lillu skont dan l-Att; u

(d) għandu jkollu miegħu hlas għall-applikazzjoni li ma jingħatax lura, hekk kif jista' jiġi preskritt, irrispettivament minn jekk ir-reġistrazzjoni tingħatax jew le mill-Awtorità.

Setgħa tal-
Awtorità li
tirrofta jew
tagħti
reġistrazzjoni.

5. (1) L-Awtorità tista' tirreġistra jew tirrofta applikazzjoni għal reġistrazzjoni li ssir taht dan l-Att. Dik ir-reġistrazzjoni tista' tkun waħda ġenerali jew inkella tista' tkun ristretta għal xi attivitajiet speċifiċi partikolari. L-Awtorità m'għandhiex, mingħajr preġudizzju għall-artikolu 3, tagħti reġistrazzjoni li tkun saret applikazzjoni għaliha taht dan l-Att kemm il-darba ma tkunx sodisfatta li:

(a) l-applikant ikun persuna idonea u adatta biex tipprovdi s-servizzi involuti u li l-applikant ikun ser iħares u josserva l-ħtigiet ta' dan l-Att u kull regola magħmula tahtu u li jkunu japplikaw fil-każ tiegħu;

(b) meta l-applikant ikun persuna fiżika, dik il-persuna tkun residenti jew qegħda topera f'Malta;

(è) meta l-applikant ikun kumpannija jew xi tip ieħor ta' entità ġuridika:

(i) l-ġhanijiet tagħha jkunu jinkludu li din taġixxi bħala provditur ta' servizz lil kumpanniji u li twettaq attivitajiet ancillari jew incidentali għal dan, u li ma jkunux jinkludu ġhanijiet li ma jkunux kompatibbli mas-servizzi ta' provditur ta' servizz lil kumpanniji;

(ii) l-attivitajiet attwali tagħha jkunu kompatibbli mal-ġhanijiet tagħha skont is-subparagrafu (i);

(iii) id-diretturi tal-kumpannija ma jkunux anqas minn tnejn fil-ġhadd u jkunu individwi li jkunu persuni idoneji u adatti;

(iv) kull persuna li direttament jew indirettament tkun proprjetarja jew tikkontrolla 25% jew aktar mill-azzjonijiet jew mill-jeddijiet ta' votazzjoni fil-kumpannija, jew li xort'oħra tkun teżerçita kontroll fuq il-manigġar tal-kumpannija, tkun persuna idonea u adatta;

(v) isem il-kumpannija ma jkunx inkonsistenti mal-attivitajiet tiegħu kif indikati fis-subparagrafi (i) u (ii); u

(vi) meta l-kumpannija ma tkunx iffurmata u registrata f'Malta, din għandha tkun iffurmata, kostitwita jew inkorporata f'ġurisdizzjoni ta' fama. Għall-finijiet ta' dan is-subparagrafu, ġurisdizzjoni ta' fama għandu jkollha l-istess tifsira bħal ma għandha fir-Regolamenti kontra *Money Laundering* u Finanzjar ta' Terroriżmu. L.S. 373.01.

(2) Meta tkun qegħda tikkunsidra jekk għandhiex tagħti jew tirrofta registrazzjoni taħt dan l-Att, l-Awtorità għandha, b'mod partikolari, tqis:

(a) il-protezzjoni tal-investituri u tal-pubbliku ġenerali;

(b) il-protezzjoni tal-fama ta' Malta meta jitqiesu l-impenji internazzjonali ta' Malta;

(è) il-promozzjoni tal-kompetizzjoni u l-ġhażla.

(3) Meta tkun qegħda tagħti r-registrazzjoni, l-Awtorità tista' tassoġġetta lill-applikant għal dawk il-kondizzjonijiet li hija tista' tqis li jkunu adatti. Wara li tkun tat ir-registrazzjoni, l-Awtorità tista', minn żmien għal żmien, tiddel jew tirrevoka kull kondizzjoni li tiġi

hekk imposta jew inkella xort'ohra timponi kondizzjonijiet godda.

(4) L-Awtorità għandha tavża lil kull applikant bid-deċiżjoni tagħha dwar jekk tagħtix jew tirroftax ir-reġistrazzjoni li tkun saret applikazzjoni għaliha, fi żmien sitt xhur minn meta taslilha applikazzjoni kompleta, li jkollha magħha l-hlas preskritt għal dik l-applikazzjoni u li tkun saret skont id-dispożizzjonijiet applikabbli ta' dan l-Att u kull regola magħmula tahtu.

(5) Kull min tkun inghatatlu reġistrazzjoni skont dan l-Att għandu jkun soġġett għal hlas ta' reġistrazzjoni hekk kif jista' jigi preskritt, li għandu jithallas fid-data meta tingħata dik ir-reġistrazzjoni u, wara dan, għal hlas supervizorju, hekk kif jista' jigi preskritt, li jithallas ta' kull sena fl-anniversarju tad-data ta' dik ir-reġistrazzjoni.

(6) L-Awtorità għandha tistabbilixxi reġistru tal-provdituri ta' servizz lil kumpanniji kollha li jkunu ngħataw reġistrazzjoni skont dan l-Att. Ir-reġistru għandu jkun disponibbli għall-pubbliku fuq is-sit elettroniku tal-Awtorità u għandu jkun fih l-ismijiet tal-persuni li jkunu ngħataw dik ir-reġistrazzjoni, kif ukoll il-partikolaritajiet tagħhom fejn jista' jsir kuntatt magħhom, u dan għandu jigi aġġornat fuq bażi regolari.

(7) Provditur ta' servizz lil kumpanniji għandu javża lill-Awtorità b'kull tibdil jew ċirkostanza li tkun tinfluwixxi l-istatus tagħha bħala persuna reġistrata u, fil-każ ta' xi bidla fil-karta, statut, memorandum jew statut ta' assoċjazzjoni jew strument ieħor li bih titwaqqaf il-kumpannija, jew b'kull tibdil fid-diretturi jew membri tagħha, dak it-tibdil ma jkollu ebda effett qabel ma dan jigi notifikat u approvat mill-Awtorità.

6. L-Awtorità tista', f'kull waqt, tħassar reġistrazzjoni mogħtija skont dan l-Att meta:

(a) il-persuna reġistrata ma tibqax titqies bħala persuna idonea u adatta;

(b) il-persuna reġistrata tkun kisret xi dispożizzjoni ta' dan l-Att jew xi regoli magħmulin tahtu jew tkun naqset milli tissodisfa jew tħares xi obbligu jew kondizzjoni li dik il-persuna reġistrata jew ir-reġistrazzjoni jkunu soġġetti għalihom bis-saħħa ta' dan l-Att u ta' kull regola maħruġa tahtu;

(c) il-persuna reġistrata jew xi persuna li tkun qegħda taġixxi f'isem dik il-persuna reġistrata tkun xjentement ipprovdiet lill-Awtorità informazzjoni li tkun falza, mhux preċiża jew qarrieqa;

Setgħa li għandha l-Awtorità li tħassar reġistrazzjoni.

(d) il-persuna registrata tkun waqfet milli taġixxi bħala provditur ta' servizz lil kumpanniji;

(e) it-thassir ta' dik ir-registrazzjoni jitqies li jkun wiehed mixtieq għall-protezzjoni tal-pubbliku generali jew għall-fama ta' Malta;

(f) il-persuna registrata tkun hekk talbet li jsir;

(g) ikun hemm ċirkostanzi oħra li taħthom l-Awtorità kienet tkun prekluzja milli tagħti registrazzjoni taht dan l-Att jew meta l-Awtorità tkun xort'oħra irroftat li tagħti dik ir-registrazzjoni.

(2) L-Awtorità għandha tippubblika l-fatt li r-registrazzjoni ta' provditur ta' servizz lil kumpanniji tkun thassret.

(3) Kull min tithassarlu r-registrazzjoni tiegħu għandu, fi żmien sittin gurnata mid-data tat-thassir tar-registrazzjoni, jiżgura li s-servizzi li kien qed jagħti lil kumpanniji jew lil persuni ġuridiċi oħra skont ma tehtieg ir-registrazzjoni tiegħu jiġu trasferiti lil xi persuna oħra li tkun registrata kif imiss skont dan l-Att.

7. (1) Meta l-Awtorità tkun bi ħsiebha -

(a) tibdel xi kondizzjoni li r-registrazzjoni tkun soġġetta għaliha jew timponi xi kondizzjoni ġdida dwar dan; jew

(b) tirrofta applikazzjoni għal registrazzjoni jew thassar registrazzjoni,

Avviż li jinghata
dwar ċid
propost jew
thassir ta'
registrazzjoni.

hija għandha tagħti lill-applikant jew lill-persuna registrata, kif ikun il-każ, avviż bil-miktub dwar dak li tkun bi ħsiebha tagħmel, fejn tgħid x'ikunu r-raġunijiet għad-deċiżjoni tagħha.

(2) Avviż mogħti taht is-subartikolu (1) għandu jiddikjara li min jirċievi l-avviż jista', f'perjodu ta' żmien raġonevoli wara li jirċeviha skont ma jista' jingħad f'dak l-avviż, u dan ikun perjodu ta' mhux anqas minn tmienja u erbgħin siegħa u mhux aktar minn tletin jum, iressaq l-ilmenti tiegħu bil-miktub lill-Awtorità billi jagħti raġunijiet għaliex m'għandhiex tittiehed id-deċiżjoni proposta, u l-Awtorità għandha tqis kull ilment hekk magħmul qabel ma tasal biex tagħti deċiżjoni.

(3) L-Awtorità għandha, kemm jista' jkun malajr, tavża id-deċiżjoni finali tagħha bil-miktub lill-applikant jew lill-persuna registrata, skont ma jkun il-każ.

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Setgħat tal-Awtorità li tagħmel regoli.

8. (1) L-Awtorità tista' tohroġ regoli li jkunu japplikaw għal provdituri ta' servizz lil kumpanniji skont ma jkun meħtieġ, biex dan l-Att ikun jista' jsehh u tista', partikolarment, imma minghajr preġudizzju għall-generalità ta' dak imsemmi hawn qabel, b'dawk ir-regoli:

(a) tistipula l-htigiet, kondizzjonijiet u kriterji għat-twettiq ta' attivitajiet minn provdituri ta' servizz lil kumpanniji;

(b) tistipula l-imġiba, dmirijiet u obbligi tal-provdituri ta' servizz lil kumpanniji;

(ċ) tistipula r-responsabbiltajiet ta' provdituri ta' servizz lil kumpanniji lejn l-Awtorità u tipprovdi għall-format tal-applikazzjonijiet, prospetti, dikjarazzjonijiet jew avvizi li għandhom isiru jew jingħataw lill-Awtorità;

(d) tistipula l-kriterji li l-Awtorità għandha tikkunsidra meta tistabilixxi jekk persuna tkunx persuna idonea u adatta għall-fini ta' dan l-Att, inkluża indikazzjoni tat-tip u x-xorta ta' kwalifiki akkademiċi u l-esperjenza kif ukoll tal-oqsma ta' kompetenza addizzjonali li l-Awtorità tista' taċċetta meta tkun qegħda tistabilixxi jekk persuna tkunx tikkwalifika bhala persuna idonea u adatta;

(e) tistipula l-kriterji dwar meta persuna titqies mill-Awtorità bhala li qegħda twettaq l-attivitajiet ta' provditur ta' servizz lil kumpanniji, fil-kummerċ;

(f) tipprovdi dwar kull haġa oħra hekk kif l-Awtorità tista' tqis li tkun adatta fir-rigward ta' provdituri ta' servizz lil kumpanniji u kif imexxu l-attivitajiet tagħhom.

(2) Dawk ir-regoli għandhom ikunu jorbtu lill-provdituri ta' servizz lil kumpanniji.

Penali amministrattivi u mizuri oħra.

9. (1) Meta l-Awtorità tkun sodisfatta li l-imġiba tal-persuna reġistrata kienet tammonta għal ksur ta' xi dispożizzjoni tal-Att jew tar-regoli magħmulin tahtu, inkluż nuqqas ta' kooperazzjoni f'xi investigazzjoni, l-Awtorità tista', b'avviż bil-miktub u minghajr il-htieġa ta' ebda smiġh fil-qorti, timponi fuq il-persuna reġistrata u, jew fuq kull persuna oħra skont kif jista' jkun il-każ, penali amministrattiva li m'għandhiex tkun iżjed minn hamsa u għoxrin elf euro (€25,000) għal kull ksur jew nuqqas ta' tharis, skont kif jista' jkun il-każ.

(2) Penali amministrattiva li tiġi imposta kif hemm fis-subartikolu (1) tista' tiġi imposta fl-għamla ta' penali fissa, penali ta'

kuljum jew it-tnejn flimkien:

Izda meta tiġi imposta penali amministrattiva skont m'hemm fis-subartikolu (1) fuq bażi kumulattiva ta' kuljum, dik il-penali akkumulata m'għandhiex tkun iżjed minn hamsa u għoxrin elf euro (€25,000).

(3) Meta l-Awtorità timponi penali amministrattiva skont dan l-artikolu, dan għandu jkun mingħajr preġudizzju għal kull konsegwenza oħra tal-att jew tal-ommissjoni tal-hati taħt id-dritt ċivili jew kriminali.

(4) L-Awtorità għandha tiżvela, permezz ta' dikjarazzjoni pubblika, isem il-persuna li tinghata sanzjoni, il-ksur partikolari tad-dispożizzjoni tal-Att jew tar-regoli, u l-penali jew miżura amministrattiva li tkun ġiet imposta.

SETGHAT REGOLATORJI U INVESTIGATTIVI

10. (1) Minkejja kull dispożizzjoni oħra ta' dan l-Att, l-Awtorità tista', b'avviż bil-miktub, teħtieġ lil kull persuna li tkun jew li kienet qegħda taġixxi, jew li tidher bħala li tkun jew li kienet qegħda taġixxi, bħala provditur ta' servizz lil kumpanniji jew li kienet qegħda tipprovdi servizzi li jeħtieġu reġistrazzjoni skont dan l-Att, u kull persuna oħra li tidher li jkollha f'idejha informazzjoni rilevanti, li tagħmel kull haġa jew xi waħda minn dan li ġej:

Setgħa li tintalab informazzjoni.

(a) li tgħaddi lill-Awtorità, f'dak iż-żmien u post u f'dik l-għamla skont ma din tista' tispeċifika, dik l-informazzjoni u dokumentazzjoni skont ma din tista' tkun teħtieġ dwar kull attività bħal dawk kif hawn aktar qabel imsemmija;

(b) li tgħaddi lill-Awtorità kull informazzjoni jew dokumentazzjoni kif hawn aktar qabel imsemmija, u verifikati b'tali mod hekk kif din tista' tispeċifika;

(ċ) li tattendi quddiem l-Awtorità, jew quddiem persuna maħtura minnha, f'dak iż-żmien u post hekk kif din tista' tispeċifika, biex twieġeb għal xi mistoqsijiet u tipprovdi informazzjoni u dokumentazzjoni dwar kull attività bħal dawk kif hawn aktar qabel imsemmija.

(2) L-Awtorità tista' tiehu kopji ta' kull dokument mgħoddi jew provdut taħt dan l-artikolu.

(3) Meta persuna li tkun inħtieġet tipprovdi informazzjoni jew dokumentazzjoni taħt dan l-artikolu ma jkollhiex dik l-informazzjoni jew dokumentazzjoni rilevanti, hija għandha tiżvela lill-Awtorità fejn,

sa fejn tkun l-aħjar taf hi nnifisha, dik l-informazzjoni jew dokumentazzjoni tkun tinsab, u l-Awtorità tista' tehtieg lil kull persuna, sew jekk imsemmija kif hawn qabel imsemmi sew jekk le, li tidhrilha li jkollha f'idejha dik l-informazzjoni jew dokumentazzjoni, biex tipprovdha.

(4) Meta ssir xi dikjarazzjoni u tiġi provduta xi dokumentazzjoni bi tħaris ta' xi htieġa taħt dan l-artikolu, dawn jistgħu jintużaw bħala prova kontra l-persuna li tkun qeghda tagħmel id-dikjarazzjoni jew tipprovdid d-dokumentazzjoni, kif ukoll kontra kull persuna li jkollhom x'jaqsmu magħha.

Kap. 9.
Kap. 12.

Kap. 377.

(5) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 642(1) tal-Kodiċi Kriminali u fl-artikolu 588(1) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu japplikaw għal kull informazzjoni jew dokumentazzjoni, minkejja d-dispożizzjonijiet tal-Att dwar Segretezza Professionali.

(6) Is-setgħa li tenhtieg li tingieb dokumentazzjoni taħt id-dispożizzjonijiet ta' dan l-artikolu għandha tkun mingħajr preġudizzju għal kull preferenza jew inkarigu li jista' jiġi vantat minn persuna dwar dik id-dokumentazzjoni.

(7) Meta l-Awtorità tkun hatret lil xi persuna taħt is-subartikolu (1)(ċ), dik il-persuna għandu jkollha, għall-finijiet li twettaq il-funzjonijiet li għandhom x'jaqsmu ma' dik il-hatra, is-setgħat kollha mogħtija lill-Awtorità b'dan l-artikolu u kull htieġa li ssir minn dik il-persuna maħtura, din għandha titqies bħala, u jkollha l-istess forza u effett bħal, htieġa magħmula mill-Awtorità.

Setgħa li
jinħarġu
direttivi.

11. (1) Mingħajr preġudizzju għal kull setgħa mogħtija lilha b'dan l-Att, l-Awtorità tista', kull meta tqis li jkun hekk meħtieġ, tagħti, b'avviż bil-miktub, dawk id-direttivi li din tista' tqis xierqa fiċ-ċirkostanzi. Kull persuna li jingħatala l-avviż għandha tobdi, tħares u xort'oħra tagħti seħħ lil kull direttiva bħal dik fiż-żmien u bil-mod imsemmi fl-istess direttiva.

(2) Mingħajr preġudizzju għall-generalità tad-dispożizzjonijiet ta' qabel ta' dan l-artikolu, direttiva taħt dan l-artikolu tista' -

(a) tkun tehtieg li ssir jew li tonqos milli ssir kull haġa, jew inkella timponi kull projbizzjoni, restrizzjoni jew limitazzjoni, jew kull htieġa oħra, u tagħti setgħat, dwar kull transazzjoni jew għemil iehor, jew dwar kull attiv, jew dwar kull haġa oħra, tkun li tkun;

(b) tkun tehtieg li kull persuna li jkollha l-funzjonijiet

ta' provditur ta' servizz lil kumpanniji titneħħa jew li tidhol minflokha xi persuna oħra li tkun aċċettata mill-Awtorità;

(ċ) tkun teħtiegħ lil xi provditur ta' servizz lil kumpanniji itemm l-operazzjonijiet tiegħu u jagħlaq il-kummerċ tiegħu, skont dawk il-proċeduri u d-direzzjonijiet li jistgħu jiġu speċifikati fid-direttiva, li tista' tippovdi għall-ħatra ta' persuna biex tiegħu pussess u kontroll ta' kull dokument, *record*, attiv u proprjetà li jappartjenu lil jew li jkunu fil-pussess jew kontroll tal-provditur ta' servizz lil kumpanniji reġistrat.

(3) Is-setgħa li jingħataw direttivi taħt dan l-artikolu għandha tinkludi s-setgħa li tvarja, tibdel, iżżid magħha jew tirtira kull direttiva, kif ukoll is-setgħa li toħroġ direttivi ġodda jew aktar direttivi.

(4) Meta l-Awtorità tkun sodisfatta li ċ-ċirkostanzi jkunu hekk jeħtiegħu, din tista' f'kull waqt tippubblika kull direttiva li tkun ħarġet taħt xi dispożizzjoni ta' dan l-artikolu.

12. (1) Dwar provdituri ta' servizz lil kumpanniji, id-dispożizzjonijiet tal-artikolu 17 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw *mutatis mutandis*.

Skambju ta' informazzjoni u kollaborazzjoni. Kap. 330.

(2) L-Awtorità tista' teżerċita s-setgħat mogħtijin lilha bis-saħħa ta' dan l-Att fuq talba, jew għall-finijiet, li tiġi assistita awtorità regolatorja barranija:

(a) meta l-assistenza tenħtiegħ mill-awtorità regolatorja barranija għall-finijiet tal-eżerċizzju ta' xi funzjoni regolatorja tagħha waħda jew aktar; jew

(b) meta jkun hekk jenħtiegħ fil-kuntest tar-rabtiet internazzjonali ta' Malta; jew

(ċ) meta jkun hekk jenħtiegħ fil-kuntest tal-impenji li jeżistu f'diversi ftehim bilaterali jew multilaterali għall-iskambju ta' informazzjoni u għal għamliet oħra ta' kollaborazzjoni ma' awtoritajiet regolatorji barranin inkluża talba li ssir taħt memorandum ta' ftehim magħmul mal-Awtorità.

13. (1) Kull uffiċjal, impjegat jew aġent tal-Awtorità jista' jidhol, wara li jipproduċi, jekk hekk jenħtiegħ li jagħmel, prova tal-awtorità tiegħu, ġo xi fond okkupat minn persuna li tkun giet notifikata b'avviż taħt dan l-Att għall-fini li tinkiseb informazzjoni jew dokumenti li jkunu meħtieġa skont dak l-avviż, jew xort'oħra għall-fini tal-investigazzjoni, u li jiġu eżerċitati s-setgħat mogħtijin

Jedd li uffiċjal jidhol f'fond, eċċ.

lilha.

(2) Meta xi ufficjal, impjegat jew agent tal-Awtorità jkollu tassew jaħseb li, kieku dak l-avviż imsemmi fis-subartikolu (1) kellu jiġi notifikat dan ma kienx ser jithares jew li xi dokument li setgħu jkollhom x'jaqsmu magħhom kienu ser jitnehhew, jitbagħbsu jew jinquerdu, dik il-persuna tista' tidhol, ukoll jekk avviż kif hemm fis-subartikolu (1) ma jkunx ġie notifikat, wara li tipproduci, jekk tkun hekk tenhtieg li tagħmel, prova tal-awtorità li jkollha, go kull fond imsemmi fis-subartikolu (1) għall-fini li tikseb kull informazzjoni jew dokument speċifikat fl-awtorità, li jkunu informazzjoni jew dokumenti li setgħu kienu mehtieġa taht dak l-avviż kif hemm imsemmi fis-subartikolu (1).

(3) Għall-finijiet ta' kull azzjoni meħuda taht id-dispożizzjonijiet ta' dan l-artikolu, l-Awtorità tista' titlob l-assistenza tal-Kummissarju tal-Pulizija, li jista' għal dak l-għan jeżerċita dawk is-setgħat li jkunu vestiti fih għall-prevenzjoni ta' reati u l-infurzar tal-liġi u l-bonordni.

Setgħa ta' għemil ta' regolamenti.

14. (1) Il-Ministru jista', bil-parir tal-Awtorità, jagħmel regolamenti sabiex ikunu jistgħu jitwettqu aħjar id-dispożizzjonijiet kollha ta' dan l-Att, u jista', partikolarment, imma mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi, permezz ta' dawk ir-regolamenti:

(a) jirregola aktar l-attivitajiet ta' provduri ta' servizz lil kumpanniji kif ukoll is-servizzi provduti u l-attivitajiet imwettqa jew f'dak li hu konness magħhom jew li għandu x'jaqsm magħhom, billi jipprovdi dwar kull haġa li jidhirlu li tkun spedjenti;

(b) jeżenta kull attività jew klassi ta' persuni mill-htigiet tal-artikoli 3 u 4 u jimponi kondizzjonijiet li jqis li jkunu xierqa għal eligibilità mill-eżenzjoni;

(ċ) jipprovdi dwar u jirregola l-ħlas li jsir minn persuna, skont kif ikun il-każ, dwar ħlasijiet għal applikazzjoni, registrazzjoni jew supervizzjoni u dwar kull ħlas ieħor li jsir lill-Awtorità għal kull haġa li jiġi provdut dwarha, b'dan l-Att jew tahtu jew taht kull regolament magħmul taht dan l-artikolu, hekk kif jista' jiġi preskritt;

(d) jittrasponi, jimplimenta u jagħti seħħ lid-dispożizzjonijiet u htigiet ta' Direttivi, Regolamenti u kull miżura legislattiva oħra tal-Unjoni Ewropea li tkun tehtieg li tigi trasposta u, jew implimentata, hekk kif dawn jistgħu jiġu

emendati minn żmien għal żmien, inkluża kull miżura li timplimenta li tkun inharġet jew tista' tinhareġ tahtom dwar provdituri ta' servizz lil kumpanniji u oħrajn hekk kif jista' jiġi speċifikat fihom jew dwar kull haġa oħra li tinkwadra fil-kuntest ta' dan l-Att;

(e) jipprovdi li ma tkun tapplika ebda dispożizzjoni f'xi liġi oħra dwar affarijiet li jkunu jinkwadraw taht dawn ir-regolamenti;

(f) jippreskrivi kull haġa oħra li tista' jew li għandha tiġi preskritta.

(2) Regolamenti li jsiru taht id-dispożizzjonijiet ta' dan l-Att jistgħu jsiru bl-ilsien Ingliż biss.

SANZJONIJIET U APPELLI

15. (1) Kull min jikser jew jonqos milli jħares xi dispożizzjoni ta' dan l-Att, jew jikser jew jonqos milli jħares xi Reati. registrazzjoni, kondizzjoni, obbligu, ħtieġa, direttiva jew ordni magħmulin jew mogħtijin taht xi dispożizzjoni ta' dan l-Att, ikun ħati ta' reat.

(2) Kull min għall-finijiet ta', jew skont, xi dispożizzjoni ta' dan l-Att jew ta' regoli jew regolamenti magħmulin tahtu, jew ta' xi kondizzjoni, obbligu, ħtieġa, direttiva jew ordni magħmulin jew mogħtijin kif imsemmi hawn qabel, jgħaddi informazzjoni jew jagħmel xi dikjarazzjoni li jkun jaf li mhix preċiża, li hi falza jew qarrieqa f'xi aspekk materjali tagħha, ikun ħati ta' reat.

(3) Kull min, bil-ħsieb li jaħrab milli jinkixef mill-għemil ta' xi reat taht dan l-Att, ineħħi, jeqred, jaħbi jew jagħmel xi alterazzjoni bi frodi f'xi ktieb, dokument jew karta oħra, ikun ħati ta' reat.

(4) Kull min bil-ħsieb ifixkel lil xi persuna li tkun qegħda teżerċita xi drittijiet mogħtijin lilha b'dan l-Att ikun ħati ta' reat.

(5) Kull min jaġixxi jew jagħti lil min x'jifhem li qiegħed jaġixxi bħala provditur ta' servizz lil kumpanniji f'Malta mingħajr ma jkun registrat għaldaqstant mill-Awtorità, meta hekk meħtieġ li jkun b'dan l-Att, ikun ħati ta' reat.

(6) Kull min ikun ħati ta' reat taht is-subartikoli (1), (2), (3), (4) u, jew (5) u, hlief għal xi piena oghla li tista' tiġi provduta taht kull liġi oħra, jeħel, meta jinsab ħati, multa ta' mhux iżjed minn erba' mija u sitta u sittin elf euro (€466,000) jew żmien ta' prigunerija ta' mhux iżjed minn erba' snin, jew dik il-multu u prigunerija flimkien.

C 258

(7) Meta reat skont is-subartikoli (1) sa (5) jitwettaq minn korp jew xi assoċjazzjoni ohra ta' persuni, sew magħqud sew mhux magħqud, kull persuna li fil-waqt tal-għemil tar-reat kienet direttur, *manager*, jew xi uffiċjal iehor bħal dawk ta' dak il-korp jew ta' dik l-assoċjazzjoni, jew li tkun tat lil wiehed x'jifhem li kienet qeghda taġixxi f'xi kapaċità bħal dik, tkun hatja ta' dak ir-reat, kemm-il darba ma ġgibx prova li r-reat sar bla ma hija kienet taf bih u li hija tkun eżercitat kull diligenza dovuta biex tipprevjeni l-għemil ta' dak ir-reat.

(8) Mingħajr preġudizzju għas-subartikolu (7), meta r-reat isir minn korp jew xi assoċjazzjoni ohra ta' persuni, sew magħqud sew mhux magħqud, jew minn xi persuna minn ġewwa u għall-benefiċċju ta' dak il-korp jew assoċjazzjoni, dawn ukoll jehlu penali amministrattiva li ma tistax tkun iżjed minn ħamsa u għoxrin elf euro (€25,000).

Appelli.
Kap. 330.

16. (1) F'dan l-artikolu it-Tribunal dwar Servizzi Finanzjarji tffisser it-tribunal imwaqqaf taht l-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta.

(2) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, jista' jsir appell quddiem it-Tribunal dwar Servizzi Finanzjarji dwar:

(a) kull nuqqas li jitgħarraf applikant jew provditur ta' servizz lil kumpanniji registrat biċ-ċhid tal-applikazzjoni tiegħu jew bit-thassir tar-registrazzjoni tiegħu skont l-artikolu 7;

(b) kull penali amministrattiva imposta taht l-artikolu 9 u l-artikolu 15(8);

(ċ) kull ċhid ta' applikazzjoni għal registrazzjoni jew thassir ta' registrazzjoni skont l-artikoli 5 u 6;

Kap. 330.

(d) kull direttiva mogħtija taht l-artikolu 11 jew taht l-artikolu 16(2)(b) tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;

(e) il-bdil ta' kull kundizzjoni jew li tiġi imposta xi kondizzjoni ġdida skont l-artikolu 7.

Kap. 330.

(3) Id-dispożizzjonijiet tal-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, għandu jkun japplika *mutatis mutandis* għal appelli li jistgħu jingiebu quddiem it-Tribunal dwar Servizzi Finanzjarji skont dan l-artikolu.

**SKWALIFIKA BĦALA PROVDITUR TA' SERVIZZ
LIL KUMPANNIJI**

17. Persuna m'għandhiex tikkwalifika għal reġistrazzjoni bħala provditur ta' servizz lil kumpanniji jekk dik il-persuna:

(a) tkun soġġetta għal xi skwalifika taħt l-artikolu 142(1) tal-Att dwar il-Kumpanniji;

Persuni li mhumieq kwalifikati jaġixxu bħala provdituri ta' servizz lil kumpanniji. Kap. 386.

(b) tkun insabet haġja ta' xi reat taħt l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, l-Att dwar Servizzi ta' Investiment, l-Att dwar il-Kummerċ Bankarju, l-Att dwar Istituzzjonijiet Finanzjarji, l-Att dwar l-Intermedjarji fl-Assigurazzjoni, l-Att dwar is-Swieq Finanzjarji, l-Att dwar il-Kummerċ tal-Assigurazzjoni, l-Att dwar il-Prevenzjoni ta' Abbuż fis-Swieq Finanzjarji, l-Att kontra *Money Laundering*, l-Att dwar *Trusts* u *Trustees*, u kull regolament magħmul taħthom;

Kap. 330.

Kap. 370.

Kap. 371.

Kap. 376.

Kap. 487.

Kap. 345.

Kap. 403.

Kap. 476.

Kap. 373.

Kap. 331.

(ċ) ikun minuri; jew

(d) ikun soġġett għal ordni ta' skwalifika taħt l-artikolu 320 tal-Att dwar il-Kumpanniji.

Kap. 386.

DISPOŻIZZJONIJIET TRANSITORJI

18. (1) Kull min, fid-data meta jidhol fis-seħh dan l-Att, ikun qiegħed iwettaq is-servizzi ta' provditur ta' servizz lil kumpanniji fil-kuntest tal-interpretazzjoni ta' dan l-Att, għandu, fi żmien tliet xhur mid-data tad-dhul fis-seħh ta' dan l-Att, jaġmel applikazzjoni għand l-Awtorità għal reġistrazzjoni skont m'hemm fl-artikolu 4.

Dispożizzjonijiet transitorji.

(2) L-Awtorità għandha taċċetta l-applikazzjonijiet kollha msemmija fis-subartikolu (1) u għandha tipproċessa dawk l-applikazzjonijiet fi żmien sitt xhur minn meta taslilha applikazzjoni kompleta, inkluż li tircievi kull dokumentazzjoni li tingħata b'sostenn u d-drittijiet li jistgħu jinhtiegu mill-Awtorità fl-ipproċessar ta' dik l-applikazzjoni.

TAQSIMA II

EMENDI FL-ATT DWAR L-AWTORITÀ GĦAS-SERVIZZI
FINANZJARJI TA' MALTA

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

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

Emenda tal-
artikolu 4 tal-
Att prinċipali.

20. Fis-subartikolu (2) tal-artikolu 4 tal-Att prinċipali, minflok il-kliem "organizzazzjonijiet internazzjonali u entitajiet oħra" għandhom jidhlu l-kliem "organizzazzjonijiet internazzjonali, l-Awtorità Ewropea dwar Titoli u Swieq (ESMA), l-Awtorità Ewropea dwar il-Banek (EBA) u kulleġġi tas-supervizuri, l-Awtorità Ewropea dwar Pensjonijiet tal-Assigurazzjoni u tax-Xogħol (EIOPA), il-Bord Ewropew dwar ir-Riskju Sistemiku (ESRB) u entitajiet oħra".

Emenda tal-
artikolu 16 tal-
Att prinċipali.

21. Minnufih wara s-subparagrafu (ii) tal-paragrafu (a) tas-subartikolu (2) tal-artikolu 16 tal-Att prinċipali għandu jiżdied il-proviso ġdid li ġej:

"Izda dawk ir-Regoli għandhom ikunu jorbtu lid-detenturi ta' liċenza u lil oħrajn skont ma jiġi speċifikat fihom;"

Emenda tal-
artikolu 17 tal-
Att prinċipali.

22. L-artikolu 17 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu:

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

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

"(b) awtoritajiet ta' infurzar jew regolatorji lokali jew barranin, korpi jew entitajiet oħra, jew *network* jew raggruppament li jkun fih awtoritajiet ta' infurzar jew regolatorji lokali jew barranin bħal dawk, korpi jew entitajiet oħra, jew it-tnejn li huma, għall-fini li jiġu prevenuti, mikxufa, investigati jew issir prosekuzzjoni tal-għemil ta' reati li jammontaw għal jew x'aktarx jammontaw għal reat kriminali taħt xi liġi jew għal reat jew ksur ta' xorta regolatorja, sew f'Malta jew barra minn Malta;"

(b) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (4);

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

"(3) L-obbligu tas-sigriet professjonali m'għandux jipprevjeni lill-Awtorità milli tiskambja jew tittrasmetti informazzjoni kunfidenzjali lill-Awtorità Ewropea dwar Titoli u Swieq (ESMA), lill-Awtorità Ewropea dwar il-Banek (EBA) u lil kulleġġi ta' supervizuri, lill-Awtorità Ewropea dwar Pensjonijiet tal-Assigurazzjoni u tax-Xogħol (EIOPA), jew lill-Bord Ewropew dwar ir-Riskju Sistemiku (ESRB), bla ħsara għal kondizzjonijiet u restrizzjonijiet li joħorgu mil-ligijiet tal-Unjoni Ewropea."; u

(d) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "ma' awtoritajiet regolatorji barranin għandu jitqies bhala wiehed kunfidenzjali" għandhom jidhlu l-kliem "ma' awtoritajiet regolatorji barranin jew ma' korpi oħra kif previst f'dan l-artikolu għandu jitqies bhala wiehed kunfidenzjali".

23. L-artikolu 18 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 18 tal-Att prinċipali.

(a) minflok in-nota marginali "Komunikazzjonijiet mal-Bank Ċentrali ta' Malta." għandhom jidhlu l-kliem "Komunikazzjonijiet mal-Bank Ċentrali ta' Malta u ma' korpi oħra."; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "tizvela informazzjoni lil banek ċentrali barranin u lil awtoritajiet oħra responsabbli għal *policy* monetarja" għandhom jidhlu l-kliem "tizvela informazzjoni lil banek ċentrali barranin, lis-Sistema Ewropea ta' Banek Ċentrali, lill-Bank Ċentrali Ewropew u lil awtoritajiet oħra responsabbli għall-politika monetarja".

TAQSIMA III

EMENDI FL-ATT DWAR IS-SWIEQ FINANZJARJI

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

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

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Emenda tal-artikolu 2 tal-Att prinċipali.

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

(a) minnufih wara t-tifsira "Direttiva dwar Offerti ta' *Takeover*" għandha tiżdied it-tifsira ġdida li ġejja:

" "Direttiva dwar il-Prospett" tfisser id-Direttiva 2003/71/KE tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Novembru 2003 fuq il-prospett li għandu jiġi ppubblikat meta titoli jiġu offruti lill-pubbliku jew jiġu ammessi għall-kummerċ u li temenda d-Direttiva 2001/34/KE, kif emendata minn żmien għal żmien, u tinkludi kull miżura ta' implimentazzjoni li tkun giet jew li tista' tinhareġ taħta;" u

(b) minnufih wara t-tifsira "Direttiva dwar it-Trasparenza" għandhom jiżdiedu dawn it-tifsiriet ġodda li ġejjin:

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

"ESRB" tfisser il-Bord Ewropew dwar ir-Riskju Sistemiku mwaqqaf bir-Regolament (UE) Nru 1092/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 fuq is-sorveljanza makro-prudenti tal-Unjoni Ewropea tas-sistema finanzjarja u li twaqqaf Bord Ewropew dwar ir-Riskju Sistemiku;".

Emenda tal-artikolu 4 tal-Att prinċipali.

26. Fin-nota marginali mal-artikolu 4 tal-Att prinċipali, minflok il-kliem "Applikazzjoni għal rikonossiment." għandhom jidhlu l-kliem "Applikazzjoni għal awtorizzazzjoni."

Emenda tal-artikolu 8 tal-Att prinċipali.

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

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "ordni li jirrevoka l-awtorizzazzjoni", għandhom jidhlu l-kliem "ordni li jirrevoka l-ordni ta' awtorizzazzjoni"; u

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

"(5) L-awtorità kompetenti għandha tavża lill-ESMA b'kull ordni li jirrevoka."

Żjieda ta' artikolu ġdid mal-Att prinċipali.

28. Minnufih wara l-artikolu 10A tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"L-awtorità kompetenti għandha tagħmel lista meta tkun Stat Membru domestiku ta' suq regolat.

10B. L-awtorità kompetenti għandha tagħmel lista tas-swieq regolati li għalihom hi tkun l-iStat Membru domestiku u għandha tghaddi dik il-lista lil Stati Membri oħra, Stati ŻEE u l-ESMA. Għandha ssir notifikazzjoni simili dwar kull tibdil li jsir f'dik il-lista."

29. L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 11 tal-Att prinċipali.

(a) fil-paragrafu (e) tiegħu, minflok il-kliem "mad-Direttiva dwar Offerti ta' *Takeover*.", għandhom jidhlu l-kliem "mad-Direttiva dwar Offerti ta' *Takeover*"; u

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

"(f) li tikkoopera mal-ESMA għall-finijiet tad-Direttiva dwar il-Prospett, kif hemm fir-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010."

30. Minnufih wara s-subartikolu (9) tal-artikolu 16 tal-Att prinċipali għandu jżied dan is-subartikolu ġdid li ġej: Emenda tal-artikolu 16 tal-Att prinċipali.

"(10) L-Awtorità dwar l-Elenku għandha tavża lill-ESMA bl-approvazzjoni tal-prospett u ta' kull suppliment relattiv fl-istess hin li dik l-approvazzjoni tiġi avżata lill-applikant, u għandha tipprovdi lill-ESMA kopja ta' dak il-prospett u ta' kull suppliment relattiv."

31. Fil-paragrafu (ċ) of subartikolu (1) tal-artikolu 17 tal-Att prinċipali, minflok il-kliem "u tgharraf b'dan lill-awtoritajiet regolatorji Ewropej", għandhom jidhlu l-kliem, "u tgharraf lill-ESMA u lill-awtoritajiet regolatorji Ewropej". Emenda tal-artikolu 17 tal-Att prinċipali.

32. Minnufih wara l-artikolu 21 tal-Att prinċipali għandhom jżiedu dawn l-artikoli ġodda li ġejjin: Żjieda ta' artikoli ġodda mal-Att prinċipali.

"Kooperazzjoni ma' awtoritajiet regolatorji Ewropej oħra.

21A. L-Awtorità dwar l-Elenku għandha tikkoopera ma' awtoritajiet regolatorji Ewropej oħra kull meta dan ikun meħtieġ għall-fini li twettaq dmirijietha u li teżercita s-setgħat tagħha taħt id-Direttiva dwar il-Prospett u d-Direttiva dwar it-Trasparenza. Hija għandha tagħti l-għajnuna meħtieġa lil awtoritajiet regolatorji Ewropej oħra, partikolarment billi tiskambja informazzjoni u tikkoopera f'kull funzjoni investigattiva jew superviżorja.

Referenza ta' każijiet lill-ESMA.

21B. L-Awtorità dwar l-Elenku tista' tirreferi lill-ESMA każijiet meta talba għal kooperazzjoni, partikolarment għall-iskambju ta' informazzjoni, tkun giet miċhuda jew ma jkun sar xejn dwarha fi żmien raġonevoli.

Obbligu ta' segretezza professjonali.

21Ċ. L-obbligu tas-sigriet professjonali m'għandux jipprevjeni lill-Awtorità dwar l-Elenku milli tiskambja informazzjoni kunfidenzjali jew milli tittrasmetti informazzjoni kunfidenzjali lil awtoritajiet regolatorji Ewropej oħra, lill-ESMA jew lill-ESRB, bla hsara għal impedimenti li jkollhom x'jaqsmu ma' informazzjoni speċifika dwar xi ditta u l-effetti fuq pajjiżi terzi kif previst fir-Regolament (UE) Nru 1095/2010 u fir-Regolament (UE) Nru 1092/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 dwar is-sorveljanza makroprudenti tal-Unjoni Ewropea tas-sistema finanzjarja u dwar it-twaqqif ta' Bord Ewropew dwar ir-Riskju Sistematiċu rispettivament. Informazzjoni skambjata bejn l-Awtorità dwar l-Elenku u awtoritajiet regolatorji Ewropej oħra, l-ESMA jew l-ESRB għandha tkun koperta bl-obbligu ta' segretezza professjonali, li jkunu soġġetti għaliha l-persuni impjegati jew li qabel kienu impjegati mill-awtorità kompetenti li tkun qegħda tirċievi l-informazzjoni.

Avviz li
jinhata lill-
ESMA.

21D. L-Awtorità dwar l-Elenku għandha tavża lill-ESMA dwar kull ftehim ta' kooperazzjoni li tagħmel u li jkun jipprovdi għall-iskambju ta' informazzjoni mal-awtoritajiet regolatorji jew korpi li jkunu jistgħu jagħmlu dan bis-saħħa tal-ligijiet rispettivi tagħhom, biex iwettqu hidmiet taht id-Direttiva dwar it-Trasparenza."

33. Is-subartikolu (1) tal-artikolu 49 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 49 tal-
Att prinċipali.

(a) fil-paragrafu (e) tiegħu, minflok il-kliem, "inkluża kull miżura ta' implimentazzjoni li tkun inharget jew li tista' tinhareg taħtha u relatati ma' aġenziji li jiggradaw il-kreditu, swieq regolati u, jew l-ammissibbiltà għall-elenku ta' strumenti finanzjarji u lil oħrajn kif jista' jiġi speċifikat fihom jew ma' xi haġa oħra li taqa' taht it-termini ta' dan l-Att.", għandhom jidhlu l-kliem "inkluża kull miżura ta' implimentazzjoni li tkun inharget jew li tista' tinhareg taħtha, u inklużi dawk relatati ma' aġenziji li jiggradaw il-kreditu, swieq regolati, swieq ta' komoditajiet, kontropartijiet ċentrali, depożitarji ta' titoli ċentrali, *market making*, *short selling*, transazzjonijiet f'derivattivi OTC, repositorji kummerċjali u, jew l-ammissibbiltà għall-elenku ta' strumenti finanzjarji dwarhom u oħrajn kif jista' jiġi speċifikat fihom jew ma' xi haġa oħra li taqa' taht id-dispożizzjonijiet ta' dan l-Att"; u

(b) minnufih wara l-paragrafu (e) tiegħu għandu jidied dan il-paragrafu ġdid li ġej:

"(f) sabiex jirregola l-operazzjoni u, jew ir-registrazzjoni tal-kontropartijiet ċentrali li joperaw f'Malta jew minn go Malta."

TAQSIMA IV

EMENDI FL-ATT DWAR SERVIZZI TA' INVESTIMENT

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

Emendi fl-Att
dwar Servizzi
ta' Investment.
Kap. 370.

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

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok it-tifsira "awtorità kompetenti"

għandu jidhol dan li ġej:

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

(ii) minflok it-tifsira "awtorità regolatorja Ewropea" għandu jidhol dan li ġej:

" "awtorità regolatorja Ewropea" tfisser dak il-korp jew korpi msemmija minn Stat Membru jew Stat ŻEE li ma jkunx Malta skont l-Artikolu 44 tad-Direttiva AIFM, l-Artikolu 48 tad-Direttiva MIFID u l-Artikolu 97 tad-Direttiva UCITS biex iwettqu kull wiehied mid-dmirjiet li hemm provdut dwarhom taht id-dispożizzjonijiet differenti ta' dawk id-Direttivi;"

(iii) minnufih wara t-tifsira "detentur ta' liċenza" għandha tidhol din it-tifsira ġdida li ġejja:

" "Direttiva AIFM" tfisser id-Direttiva 2011/61/UE tal-Parlament Ewropew u tal-Kunsill tat-8 ta' Ġunju 2011 dwar *Managers* ta' Fond ta' Investiment Alternattiv u li temenda d-Direttivi 2003/41/KE u 2009/65/KE u r-Regolamenti (KE) Nru 1060/2009 u (UE) Nru 1095/2010, kif emendati minn żmien għal żmien, u tinkludi kull miżura li timplimenta li tkun inħarġet jew tista' tinħareġ tahtom;"

(iv) minnufih wara t-tifsira " "dokument" jew "dokumentazzjoni" " għandhom jiżdiedu dawn it-tifsiriet godda li ġejjin:

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

"ESRB" tfisser il-Bord Ewropew dwar ir-Riskju Sistemiku mwaqqaf bir-Regolament (UE) Nru 1092/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 fuq is-sorveljanza makro-prudenti magħmula mill-Unjoni Ewropea fuq is-sistema finanzjarja u li jwaqqaf

Bord Ewropew dwar ir-Riskju Sistematiċi;

"Fond ta' Investiment Alternattiv jew AIF" tfisser skema ta' investiment kollettiv, inklużi sottofondi tagħhom, li tikseb kapital mingħand għadd ta' investituri, bil-għan li tinvestih skont *policy* ta' investiment definita għal benefiċċju ta' dawk l-investituri, u li ma tikkwalifikax bħala Skema UCITS skont id-Direttiva UCITS;"

(v) minnufih wara t-tifsira "Kumpannija ta' Investiment Ewropew", għandha tiżdied din it-tifsira ġdida li ġejja:

" "Kumpannija ta' Maniġġar Ewropew" għandha l-istess tifsira kif mogħti lilha f'regolamenti magħmulin taħt dan l-Att;"

(vi) minnufih wara t-tifsira "liċenza għal skema ta' investiment kollettiv", għandha tiżdied din it-tifsira ġdida li ġejja:

" "*Manager* ta' Fond ta' Investiment Alternattiv jew AIFM" tfisser persuna ġuridika li x-xogħol regolari tagħha jkun il-maniġġar ta' xi AIF waħda jew aktar;"

(vii) minnufih wara t-tifsira "reklam ta' investiment", għandha tiżdied din it-tifsira ġdida li ġejja:

" "Regolament (UE) Nru 1095/2010" tirreferi għar-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jwaqqaf Awtorità Supervizorja Ewropea (Awtorità Ewropea dwar Titoli u Swieq), li jemenda d-Deciżjoni Nru 716/2009/KE u jhassar id-Deciżjoni tal-Kummissjoni 2009/77/KE;" u

(viii) minnufih wara t-tifsira "sussidjarja", għandha tiżdied din it-tifsira ġdida li ġejja:

" "UCITS" tfisser impriża għal investiment kollettiv f'titoli trasferibbli kif hemm fid-Direttiva UCITS kif hawn imfissra;" u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem "jimplimenta d-disposizzjonijiet tad-Direttiva MIFID u tad-Direttiva UCITS", għandhom jidhlu l-kliem "jimplimenta d-

disposizzjonijiet tad-Direttiva AIFM, tad-Direttiva MIFID u tad-Direttiva UCITS, u ta' kull Regolamenti tal-UE jew Direttivi dwar servizzi finanzjarji".

Emenda tal-
artikolu 2A tal-
Att prinċipali.

36. L-artikolu 2A tal-Att prinċipali għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tal-istess artikolu, u minnufih wara s-subartikolu (1) għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(2) L-awtorità kompetenti għandha wkoll twettaq id-dmirijiet ta' awtorità kompetenti għall-finijiet kollha tad-Direttiva AIFM, tad-Direttiva MIFID u tad-Direttiva UCITS, u l-Kummissjoni tal-Unjoni Ewropea, l-ESMA u l-awtoritajiet regolatorji Ewropej għandhom jiġu mgħarrfa b'dan kollu.

(3) Mingħajr preġudizzju għal kull dmir ieħor li johroġ minn dan l-Att, mid-Direttiva AIFM, mid-Direttiva MIFID jew mid-Direttiva UCITS, l-awtorità kompetenti għandha:

(a) tavża lill-ESMA bl-ilment u bil-proċeduri ta' rimedju li huma disponibbli f'Malta;

(b) tavża lill-Kummissjoni tal-Unjoni Ewropea, lill-ESMA u lill-awtoritajiet regolatorji Ewropej l-oħrajn li kull kuntatt għandu jsir magħha kif hemm fl-artikolu 17(1) u li hi l-Awtorità appuntata biex tirċievi talbiet għall-iskambju ta' informazzjoni jew kooperazzjoni skont dan l-Att;

(ċ) tibgħat lill-ESMA u lill-Kummissjoni tal-Unjoni Ewropea, lista tal-kategoriji ta' *bonds* imsemmija fl-Artikolu 54(1) tad-Direttiva UCITS flimkien mal-kategoriji ta' emittenti awtorizzati, kif hemm fil-liġijiet u fl-arranġamenti superviżorji msemmija f'dak is-subparagrafu, għall-ħruġ ta' *bonds* li josservaw il-kriterji stipulati fl-Artikolu 54 tad-Direttiva UCITS. Għandu jintehmez ma' dawk il-listi avviz li jkun jispeċifika l-istatus tal-garanziji offerti;

(d) tiżgura li kull informazzjoni riċevuta taħt it-tielet paragrafu tal-artikolu 51 tad-Direttiva UCITS u li tingabar dwar il-kumpanniji ta' manigġar jew investment kollha li huma jissorveljaw tkun aċċessibbli lill-ESMA kif hemm fl-Artikolu 35 tar-Regolament (UE) Nru 1095/2010, u lill-ESRB kif hemm fl-Artikolu 15 tar-Regolament (UE) Nru 1092/2010 għall-fini tal-monitoraġġ ta' riskji sistemici f'livell tal-Unjoni Ewropea;

(e) bla ħsara għall-kondizzjonijiet stipulati fl-

Artikolu 35 tar-Regolament (UE) Nru 1095/2010, tippovdi lil ESMA u lil ESRB b'informazzjoni aggregata dwar l-attivitajiet tal-AIFMs li jkunu jaqgħu taħt ir-responsabbiltà tagħhom;

(f) tippovdi lil ESMA u lil awtoritajiet regolatorji Ewropej oħra kull informazzjoni meħtieġa għall-finijiet li twettaq dmirijietha taħt id-Direttiva AIFM."

37. Minnufih wara s-subartikolu (9) tal-artikolu 6 tal-Att prinċipali, għandu jiżdied dan is-subartikolu ġdid li ġej: Emenda tal-artikolu 6 tal-Att prinċipali.

"(10) L-awtorità kompetenti għandha tavża lill-ESMA kull meta tinhareġ liċenza għal servizzi ta' investiment mill-awtorità kompetenti kif hawn f'dan l-artikolu."

38. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 7 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu -

(i) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(ċ) jekk l-awtorità kompetenti tkun ingħatat mid-detentur ta' liċenza jew f'ismu tagħrif li jkun falz, mhux preċiż jew qarrieqi, jew jekk id-detentur ta' liċenza jkun kiseb il-liċenza billi jkun għamel dikjarazzjonijiet qarrieqa jew b'kull mezz irregolari ieħor; jew";

(ii) fil-paragrafu (f) tiegħu, minflok il-kliem "detentur ta' liċenza;", għandhom jidhlu l-kliem "detentur ta' liċenza; u";

(iii) fil-paragrafu (g) tiegħu, minflok il-kliem "ta' dik il-liċenza; u", għandhom jidhlu l-kliem "ta' dik il-liċenza."; u

(iv) il-paragrafu (h) tiegħu għandu jiġi mħassar; u

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

"(4) L-awtorità kompetenti għandha tavża lill-ESMA dwar kull thassir għal liċenza għal servizzi ta' investiment kif hemm fis-subartikolu (1)."

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Emenda tal-artikolu 12 tal-Att prinċipali.

39. Fil-paragrafu (k) tas-subartikolu (1) tal-artikolu 12 tal-Att prinċipali, minflok il-kliem, "tad-Direttiva MIFID u Direttiva UCITS;", għandhom jidhlu l-kliem "tad-Direttiva AIFM, tad-Direttiva MIFID, u tad-Direttiva UCITS;".

Emenda tal-artikolu 13 tal-Att prinċipali.

40. Is-subartikolu (1) tal-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (v) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (vi); u

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

"(v) lil awditur ta' detentur ta' liċenza; jew".

Emenda tal-artikolu 15 tal-Att prinċipali.

41. Is-subartikolu (2) tal-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "jew kull htieġa oħra,", għandhom jidhlu l-kliem "jew kull htieġa oħra, inkluża kull htieġa li toħroġ mill-liġijiet tal-Unjoni Ewropea,";

(b) fil-paragrafu (ċ) tiegħu, minflok il-kliem "fir-rigward ta' detentur ta' liċenza titneħħa jew titneħħa u tinbidel;", għandhom jidhlu l-kliem "fir-rigward ta' detentur ta' liċenza tiġi projbita, temporanjament jew xort'oħra, sospiza milli twettaq attivitajiet li tista' tinħargilhom liċenza taht l-Att, jew titneħħa jew titneħħa u tinbidel"; u

(ċ) fil-paragrafu (f) tiegħu, minflok il-kliem "fl-implimentazzjoni tad-Direttiva MIFID u tad-Direttiva UCITS;", għandhom jidhlu l-kliem "fl-implimentazzjoni tad-Direttiva AIFM, tad-Direttiva MIFID u tad-Direttiva UCITS;".

Emenda tal-artikolu 16A tal-Att prinċipali.

42. Minnufih wara s-subartikolu (4) tal-artikolu 16A tal-Att prinċipali, għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

"(5) Meta l-awtorità kompetenti tkun għamlet dikjarazzjoni pubblika skont is-subartikolu (4), hija għandha fl-istess waqt tirrapporta dak il-fatt lill-ESMA.

(6) L-awtorità kompetenti għandha ta' kull sena ttiprovdi lill-ESMA l-informazzjoni miġbura dwar il-miżuri amministrattivi u s-sanzjonijiet kollha imposti kif hawn f'dan l-artikolu u għandha meta tiġi hekk mitluba ttiprovdi l-informazzjoni meħtieġa dwar l-applikazzjoni ta' miżuri amministrattivi u l-impożizzjoni ta' penalitajiet fil-każ ta' xi

ksur tad-dispożizzjonijiet adottati fl-implimentazzjoni tad-Direttiva AIFM."

43. Fl-artikolu 16B tal-Att prinċipali, minflok il-kliem "dispożizzjonijiet li jittrasponu d-Direttiva MIFID u d-Direttiva UCITS", għandhom jidhlu l-kliem "dispożizzjonijiet li jittrasponu d-Direttiva AIFM, id-Direttiva MIFID u d-Direttiva UCITS",

Emenda tal-artikolu 16B tal-Att prinċipali.

44. L-artikolu 17 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 17 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "id-Direttiva MIFID u d-Direttiva UCITS", kull fejn dawn jinsabu f'dak is-subartikolu (2), għandhom jidhlu l-kliem "id-Direttiva AIFM, id-Direttiva MIFID u d-Direttiva UCITS";

(ii) minflok il-kliem "Regoli ta' Servizzi ta' Investiment maħruġin taħtha.", għandhom jidhlu l-kliem "Regoli ta' Servizzi ta' Investiment maħruġin taħtha:", u minnufih wara għandu jizdied dan il-proviso ġdid li ġej:

"Izda l-awtorità kompetenti għandha tikkomunika informazzjoni lil awtoritajiet regolatorji Ewropej oħrajn meta dan ikun rilevanti għall-monitoraġġ u b'risposta għall-implikazzjonijiet potenzjali tal-attivitajiet ta' xi AIFM individwali jew AIFMs kollettivament, għall-istabbiltà ta' ditti ta' investiment sistematikament rilevanti u l-funzjonament b'ordni ta' swieq fejn AIFMs ikunu attivi. ESMA u ESRB għandhom jiġu mgħarrfa b'dak li jkun qiegħed jiġri.";

(b) fis-subartikolu (8) tiegħu, minflok il-kliem "Is-subartikolu (7) u l-artikolu 26" għandhom jidhlu l-kliem "Is-subartikolu (7) ta' dan l-artikolu u l-artikolu 26";

(c) fis-subartikolu (9) tiegħu:

(i) minflok il-kliem "li jmorru kontra d-dispożizzjonijiet tad-Direttiva MIFID jew tad-Direttiva UCITS", għandhom jidhlu l-kliem "li jmorru kontra d-dispożizzjonijiet tad-Direttiva AIFM, tad-Direttiva MIFID jew tad-Direttiva UCITS";

(ii) minflok il-kliem "lill-punt ta' riferiment fl-

Istat Membru l-ieħor jew Stat ŻEE", għandhom jidhlu l-kliem "lill-punt ta' riferiment fl-Istat Membru l-ieħor jew Stat ŻEE u lill-ESMA:", u minnufih wara għandu jizzied dan il-proviso għdid li ġej:

"Izda meta dawk l-atti suspetti jkunu ġew jew ikunu suspettati li jkunu saru minn xi AIFM bi ksur tad-Direttiva AIFM, l-awtorità kompetenti għandha wkoll tgħarraf lill-Istat Membru domestiku u lill-Istat Membru ospiti tal-AIFM, kif ikun il-każ, bl-iktar mod speċifiku possibbli."; u

(d) fis-subartikolu (11) tiegħu:

(i) minflok il-kliem "li jkunu jmorru kontra d-disposizzjonijiet tad-Direttiva MIFID jew tad-Direttiva UCITS", għandhom jidhlu l-kliem "li jkunu jmorru kontra d-disposizzjonijiet tad-Direttiva AIFM, tad-Direttiva MIFID jew tad-Direttiva UCITS"; u

(ii) minflok il-kliem "għandha tinforma lill-awtorità regolatorja Ewropea li tkun qegħda tavża", għandhom jidhlu l-kliem "għandha tinforma lill-awtorità regolatorja Ewropea li tkun qegħda tavża u lill-ESMA".

Emenda tal-artikolu 17A tal-Att prinċipali.

45. L-artikolu 17A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "jew f'xi investigazzjoni:", għandhom jidhlu l-kliem "jew f'xi investigazzjoni fit-territorju tal-awtorità regolatorja fil-qafas tas-setgħat relattivi:";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "kif hemm fl-Artikolu 101(5) tad-Direttiva UCITS", għandhom jidhlu l-kliem "kif hemm fl-Artikolu 54(2) tad-Direttiva AIFM u fl-Artikolu 101(5) tad-Direttiva UCITS"; u

(ii) minflok il-kliem "għall-kontroll totali ta' dak l-Istat Membru.", għandhom jidhlu l-kliem "għall-kontroll totali ta' dak l-Istat Membru li fit-territorju tiegħu tkun qegħda ssir dik il-verifika jew investigazzjoni."; u

(c) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem "kif hemm fl-Artikolu 101(5) tad-Direttiva UCITS", għandhom jidhlu l-kliem "kif hemm fl-Artikolu 54(2) tad-

Direttiva AIFM u fl-Artikolu 101(5) tad-Direttiva UCITS".

46. L-artikolu 17B tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 17B tal-Att prinċipali.

(a) minflok il-kliem "nominati bħala punti ta' riferiment taħt l-artikolu 56(1) tad-Direttiva MIFID, jew mal-awtoritajiet regolatorji Ewropej", għandhom jidhlu l-kliem "nominati bħala punti ta' riferiment taħt l-Artikolu 44 tad-Direttiva AIFM, jew mal-awtoritajiet regolatorji Ewropej nominati bħala punti ta' riferiment taħt l-Artikolu 56(1) tad-Direttiva MIFID, jew mal-awtoritajiet regolatorji Ewropej"; u

(b) minflok il-kliem "F'każ bħal dak hawn qabel imsemmi, l-awtorità kompetenti għandha tavża lill-awtorità regolatorja Ewropea skont dan, fejn kemm jista' jkun tipprovdi informazzjoni dettaljata biex tiġġustifika dak ir-rifjut.", għandhom jidhlu l-kliem "F'każ ta' rifjut bħal dak, l-awtorità kompetenti għandha tavża lill-awtorità regolatorja Ewropea u lill-ESMA b'dan kollu, filwaqt illi kemm jista' jkun tipprovdi informazzjoni dettaljata dwar dak ir-rifjut."

47. L-artikolu 17D tal-Att prinċipali għandu jiġi enumerat mill-gdid bħala l-artikolu 17F.

Enumerazzjoni mill-gdid tal-artikolu 17D tal-Att prinċipali.

48. Minnufih wara l-artikolu 17Ċ tal-Att prinċipali, għandhom jizjeddu dawn l-artikoli godda li ġejjin:

Żjieda ta' artikoli godda mal-Att prinċipali.

"Referenza li ssir lill-ESMA.

17D. L-awtorità kompetenti tista' tirreferi lill-ESMA sitwazzjonijiet meta talba li jkollha x'taqsam ma' xi punt minn dawn li ġejjin tkun giet miċhuda jew ma jkun sar xejn dwarha fi żmien raġonevoli:

(a) għall-iskambju ta' informazzjoni kif previst fl-artikolu 17;

(b) għall-għemil ta' xi attività ta' superviżjoni, verifika jew investigazzjoni fuq il-post, kif previst fl-artikolu 17A; u

(ċ) għall-ksib ta' awtorizzazzjoni sabiex l-uffiċjali tagħha jakkumpanjaw lil dawk tal-awtorità regolatorja Ewropea kif previst fl-artikolu 17A.

Kooperazzjoni
mal-ESMA.

17E. (1) L-awtorità kompetenti għandha tikkoopera mal-ESMA għall-finijiet tad-Direttiva AIFM, tad-Direttiva MIFID u tad-Direttiva UCITS skont ir-Regolament (UE) Nru 1095/2010.

(2) Fil-każ ta' nuqqas ta' qbil bejn l-awtorità kompetenti u awtorità regolatorja Ewropea dwar xi stima, azzjoni jew ommissjoni li jkunu jappartjenu lil xi waħda minn daww l-awtoritajiet, f'oqsma fejn id-Direttiva AIFM tkun teħtieg kooperazzjoni jew koordinazzjoni bejn awtoritajiet minn aktar minn Stat Membru wiehed, l-awtorità kompetenti tista' tirreferi l-kwistjoni lil ESMA.

(3) L-awtorità kompetenti għandha, mingħajr dewmien, tipprovdi lill-ESMA kull informazzjoni meħtiegħa biex twettaq dmirijietha taħt id-Direttiva AIFM, id-Direttiva MIFID u d-Direttiva UCITS skont l-Artikolu 35 tar-Regolament (UE) Nru 1095/2010."

Zieda ta'
artikolu ġdid
mal-Att
prinċipali.

49. Minnufih wara l-artikolu 17F, kif enumerat mill-ġdid, tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"L-awtorità
kompetenti
għandha
tgharraf lill-
Kummissjoni u
lill-ESMA
dwar kull
diffikultà
ġenerali.

17G. L-awtorità kompetenti għandha tgharraf lill-Kummissjoni tal-Unjoni Ewropea u lill-ESMA dwar kull diffikultà ġenerali li:

(a) id-detentur ta' liċenza għal servizzi ta' investiment jiltaqa' magħha meta jkun qiegħed jistabbilixxi lulu nnifsu jew jipprovdi servizzi ta' investiment u, jew iwettaq attivitajiet ta' investiment f'xi pajjiż jew territorju barrani; u

(b) l-UCITS jiltaqgħu magħhom meta jkunu qegħdin ibiegħu l-unitajiet tagħhom f'xi pajjiż jew territorju barrani."

Emenda tal-
artikolu 26 tal-
Att prinċipali.

50. L-artikolu 26 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fl-ewwel proviso mas-subartikolu (1) tiegħu, minflok il-kliem "jew operaturi fis-swieq:", għandhom jidhlu l-kliem "jew operaturi fis-swieq, inkluż l-iskambju jew it-

trasmissjoni ta' informazzjoni kunfidenzjali lill-ESMA jew lill-ESRB."; u

(b) fis-subartikolu (3) tiegħu -

(i) minflok il-kliem "Id-dispożizzjonijiet ta' dan l-artikolu u tal-artikoli 17 u 17D" għandhom jidhlu l-kliem "Id-dispożizzjonijiet ta' dan l-artikolu u tal-artikoli 17 u 17F"; u

(ii) minflok il-kliem "għat-twettiq tal-funzjonijiet tagħhom:" għandhom jidhlu l-kliem "għat-twettiq tal-funzjonijiet tagħhom. Bl-istess mod, l-awtorità kompetenti jkollha jedd tircievi dik l-informazzjoni li tista' tkun teħtieg għall-fini li twettaq il-funzjonijiet tagħha taħt id-Direttiva MIFID:".

TAQSIMA V

EMENDI FL-ATT DWAR IL-KUMMERĊ BANKARJU

51. Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kummerċ Bankarju, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emendi fl-Att
dwar il-
Kummerċ
Bankarju.
Kap. 371.

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

Emenda tal-
artikolu 2 tal-
Att prinċipali.

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

" "EBA" tfisser l-Awtorità Ewropea dwar il-Banek imwaqqfa bir-Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010;"

(b) fit-tifsira "istituzzjoni ta' kreditu prinċipali tal-UE" -

(i) minflok il-kliem "jew ta' kumpannija *holding* finanzjarja stabbilita f'xi Stat Membru:", għandhom jidhlu l-kliem "jew ta' kumpannija *holding* finanzjarja jew ta' kumpannija *holding* finanzjarja mhallta stabbilita f'xi Stat Membru:"; u

(ii) fit-tieni paragrafu tagħha, fit-tifsira "istituzzjoni ta' kreditu prinċipali fi Stat Membru", minflok il-kliem, "jew ta' kumpannija *holding* finanzjarja stabbilita fl-istess Stat Membru:", għandhom jidhlu l-

kliem, "jew ta' kumpannija *holding* finanzjarja jew ta' kumpannija *holding* finanzjarja mhallta stabbilita fl-istess Stat Membru";

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

" "kumpannija *holding* finanzjarja mhallta" tfisser impriza prinċipali, li ma tkunx entità regolata, li flimkien mas-sussidjarji tagħha, li mill-inqas waħda minnhom tkun entità regolata li jkollha l-uffiċċju reġistrat tagħha fl-Unjoni Ewropea jew fiż-ŻEE, u entitajiet oħra, tikkostitwixxi konglomerat finanzjarju";

(d) minnufih wara t-tifsira ġdida "kumpannija *holding* finanzjarja mhallta tal-UE", għandha tiżdied din it-tifsira ġdida li ġejja:

" "kumpannija *holding* finanzjarja prinċipali mhallta" tfisser kumpannija *holding* finanzjarja prinċipali mhallta fi Stat Membru, li hi nnifisha mhix sussidjarja ta' xi istituzzjoni ta' kreditu awtorizzata f'xi Stat Membru jew ta' xi kumpannija *holding* finanzjarja oħra jew ta' kumpannija *holding* finanzjarja mhallta stabbilita f'xi Stat Membru:

Għall-fini ta' din it-tifsira, "kumpannija *holding* finanzjarja prinċipali mhallta fi Stat Membru" tfisser kumpannija *holding* finanzjarja mhallta li hi nnifisha mhix sussidjarja ta' xi istituzzjoni ta' kreditu awtorizzata fl-istess Stat Membru, jew ta' xi kumpannija *holding* finanzjarja jew ta' kumpannija *holding* finanzjarja mhallta stabbilita fl-istess Stat Membru";

(e) fit-tifsira "kumpannija *holding* finanzjarja prinċipali tal-UE" -

(i) minflok il-kliem, "jew ta' kumpannija *holding* finanzjarja oħra stabbilita f'xi Stat Membru:", għandhom jidhlu l-kliem, "jew ta' kumpannija *holding* finanzjarja oħra jew ta' kumpannija *holding* finanzjarja mhallta stabbilita f'xi Stat Membru."; u

(ii) fit-tieni paragrafu tagħha, fit-tifsira "kumpannija *holding* finanzjarja prinċipali fi Stat Membru", minflok il-kliem "jew ta' kumpannija *holding* finanzjarja stabbilita fl-istess Stat Membru:", għandhom

jidhlu l-kliem "jew ta' kumpannija *holding* finanzjarja jew ta' kumpannija *holding* finanzjarja mhallta stabbilita fl-istess Stat Membru;";

(f) minflok it-tifsira "Stat Membru" għandu jidhhol dan li ġej:

" "Stat Membru" tfisser Stat Membru tal-Unjoni Ewropea u tinkludi Stat ŻEE;";

(g) fit-tifsira "supervizur konsolidatur", minflok il-kliem "kontrollati minn kumpannija *holding* finanzjarji prinċipali tal-UE;"; għandhom jidhlu l-kliem "kontrollati minn kumpannija *holding* finanzjarji prinċipali tal-UE jew minn kumpannija *holding* finanzjarji mhallta tal-UE;".

53. Is-subartikolu (1) tal-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 3 tal-Att prinċipali.

(a) il-paragrafu (b) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (ċ); u

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

"(b) Il-Ministru, li jaġixxi bil-parir tal-awtorità kompetenti, jista' jagħmel regolamenti biex jittrasponi, jimplementa u jagħti seħħ lid-dispożizzjonijiet u l-htigiet ta' Direttivi, Regolamenti u kull miżura legiſlattiva oħra tal-Unjoni Ewropea li tkun teħtieġ li tiġi trasposta u, jew implimentata, hekk kif dawn jistgħu jiġu emendati minn żmien għal żmien, inkluża kull miżura ta' implimentazzjoni li tkun inħarġet jew li tista' tinħarġ taħthom u li jkollha x'taqsam mad-detenturi ta' liċenzi u ma' oħrajn skont ma jista' jiġi speċifikat fihom;".

54. Fis-subartikolu (2) tal-artikolu 4A tal-Att prinċipali, minflok il-kliem "Kumitat ta' Supervizuri Bankarji Ewropej" kull fejn dawn jinsabu, għandhom jidhlu l-kliem "EBA".

Emenda tal-artikolu 4A tal-Att prinċipali.

55. Is-subartikolu (2) tal-artikolu 6 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

Emenda tal-artikolu 6 tal-Att prinċipali.

"(2) L-applikazzjonijiet kollha għal liċenza għandhom ikunu f'dik il-forma u għandu jkollhom magħhom dik l-informazzjoni, u għandhom ikunu konformi ma' daww il-htigiet li jistgħu jiġu preskritti minn żmien għal żmien permezz ta' xi Regola Bankarja. Daww il-htigiet għandhom jiġu notifikati lill-

Kummissjoni tal-Unjoni Ewropea u lill-EBA:

Iżda applikazzjoni tista' tiġi biss irtirata b'avviż bil-miktub lill-awtorità kompetenti fi żmien qabel ma liċenza tkun ġiet mogħtija jew miċhuda."

Emenda tal-
artikolu 7 tal-
Att prinċipali.

56. Fis-subartikolu (8) tal-artikolu 7 tal-Att prinċipali, minflok il-kliem "L-awtorità kompetenti għandha tavża lill-Kummissjoni tal-Unjoni Ewropea b'kull liċenza li tinħareġ", għandhom jidhlu l-kliem "L-awtorità kompetenti għandha tavża lill-EBA dwar kull liċenza li tinħareġ".

Emenda tal-
artikolu 9 tal-
Att prinċipali.

57. Fis-subartikolu (7) tal-artikolu 9 tal-Att prinċipali, minflok il-kliem "L-awtorità kompetenti għandha tavża lill-Kummissjoni ta' l-Unjoni Ewropea b'kull revoka ta' liċenza", għandhom jidhlu l-kliem "L-awtorità kompetenti għandha tinnotifika lill-Kummissjoni tal-Unjoni Ewropea u lill-EBA ir-raġunijiet għar-revoka ta' liċenza".

Emenda tal-
artikolu 11A tal-
Att prinċipali.

58. Fis-subartikolu (2) tal-artikolu 11A tal-Att prinċipali, minflok il-kliem "L-awtorità kompetenti għandha tavża lill-Kummissjoni Ewropea", għandhom jidhlu l-kliem "L-awtorità kompetenti għandha tinnotifika lill-Kummissjoni tal-Unjoni Ewropea, lill-EBA".

Emenda tal-
artikolu 16A tal-
Att prinċipali.

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

(a) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2)(a); u

(b) minnufih wara l-paragrafu (a) of subartikolu (2), kif enumerat mill-ġdid, għandu jiżdied dan il-paragrafu ġdid li ġej:

"(b) Għall-finijiet li jiġi stabbilit il-livell adatt ta' fondi tagħha stess abbażi tar-reviżjoni u l-valutazzjoni li jsiru kif hemm fl-artikolu 17D, l-awtorità kompetenti għandha tevalwa jekk tkunx meħtieġa l-impożizzjoni ta' xi htieġa speċifika ta' fondi tagħha stess li tkun aktar mill-livell minimu biex taqbad riskji li istituzzjoni ta' kreditu tkun jew tista' tiġi esposta għalihom, b'konsiderazzjoni mogħtija lil dan li ġej:

(i) l-aspetti kwantitattivi u kwalitattivi tal-proċess ta' valutazzjoni tal-istituzzjonijiet ta' kreditu msemmija fl-artikolu 17C;

(ii) l-arranġamenti, proċessi u mekkaniżmi tal-istituzzjonijiet ta' kreditu

msemmija fl-artikolu 17B;

(iii) l-eżitu tar-reviżjoni u l-valutazzjoni li jkunu saru skont l-artikolu 17D."

60. Fil-paragrafu (ċ) tas-subartikolu (1) tal-artikolu 17 tal-Att prinċipali, minflok il-kliem "l-awtorità kompetenti għandha tordna lill-istituzzjoni ta' kreditu, b'eskluzjoni ta' istituzzjoni ta' flus elettronici, biex tiegħu dawk il-miżuri meħtieġa", għandhom jidhru l-kliem "l-awtorità kompetenti għandha tordna lill-istituzzjoni ta' kreditu biex tiegħu dawk il-miżuri meħtieġa".

Emenda tal-artikolu 17 tal-Att prinċipali.

61. L-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 25 tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) L-awtorità kompetenti tista' wkoll, abbażi tal-obbligi internazzjonali ta' Malta, tiżvela informazzjoni lil awtoritajiet regolatorji barranin u lill-EBA skont id-Direttiva dwar Htiġiet Kapitali, Direttivi oħra tal-Unjoni Ewropea li japplikaw għal istituzzjonijiet ta' kreditu, u l-Artikoli 31 u 35 tar-Regolament (UE) Nru 1093/2010. Dik l-informazzjoni għandha tkun soġġetta għas-sigriet professjonali kif previst taht dan l-Att u regolamenti magħmulin tahtu."; u

(b) is-subartikolu (6) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem minn "L-awtorità kompetenti tista' wkoll, wara li ssirilha talba" sal-kliem "msemmija hawn qabel, taht il-ligi:", għandu jidhol dan li ġej:

"L-awtorità kompetenti tista' wkoll, wara li ssirilha talba bil-miktub, tiżvela -

(a) lill-Bank Ċentrali, lil banek ċentrali tas-sistema Ewropea ta' banek ċentrali, banek ċentrali barranin oħra, korpi oħra li jkollhom funzjoni simili fil-kwalità tagħhom ta' awtoritajiet monetarji meta dik l-informazzjoni tkun rilevanti għall-eżerċizzju tal-hidmiet statutorji rispettivi tagħhom, inkluża t-tmexxija ta' politika monetarja u l-provdiment ta' likwidità

relatata, is-sorveljanza ta' hlas, sistemi ta' *clearing* u ta' hlas assaldu u l-harsien tal-istabbiltà tas-sistema finanzjarja;

(b) meta jkun xieraq, lil awtoritajiet oħra responsabbli għas-sorveljanza ta' sistemi ta' hlas;

(c) lill-Bord Ewropew dwar ir-Riskju Sistematu, meta l-informazzjoni tkun rilevanti għall-eżerċizzju ta' hidmiet statutorji taħt ir-Regolament (UE) Nru 1092/2010 tal-Parlament Ewropew,

kull informazzjoni li tkun fil-pussess tal-awtorità kompetenti jew aċċessibbli għall-awtorità kompetenti, meħtieġa għat-twettiq tad-dmirijiet tal-Bank Ċentrali u tal-awtoritajiet l-oħra msemmija hawn qabel, taħt il-liġi:"; u

(ii) fl-ewwel proviso li hemm miegħu, minflok il-kliem "sistemi ta' *clearing* u hlas assaldu, u l-harsien tal-istabbiltà tas-sistema finanzjarja:", għandhom jidhlu l-kliem "sistemi ta' *clearing* u ta' hlas ta' titoli, u l-harsien tal-istabbiltà tas-sistema finanzjarja, u għandha wkoll tikkomunika l-informazzjoni lill-Bord Ewropew dwar ir-Riskju Sistematu taħt ir-Regolament (UE) Nru 1092/2010, meta dik l-informazzjoni tkun rilevanti għall-eżerċizzju tal-hidmiet statutorji tagħha:".

Emenda tal-
artikolu 25A tal-
Att prinċipali.

62. L-artikolu 25A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "għandha tikkomunika b'inizjattiva tagħha nnifisha kull informazzjoni essenzjali." għandhom jidhlu l-kliem "għandha tikkomunika b'inizjattiva tagħha nnifisha kull informazzjoni essenzjali:", u minnufih wara għandu jidher dan il-proviso ġdid li ġej:

"Izda meta l-awtorità kompetenti tkun responsabbli għal superviżjoni fuq bażi konsolidata, ta' istituzzjonijiet ta' kreditu prinċipali u ta' istituzzjonijiet ta' kreditu kontrollati minn kumpanniji *holding* finanzjarji prinċipali mħallta tal-UE, hija għandha ttipprovdi lill-awtoritajiet regolatorji barranin li jissorveljaw is-sussidjarji ta' dawn l-impreżi prinċipali kull informazzjoni rilevanti. Meta tkun

qeghda tistabbilixxi l-limitu tal-informazzjoni rilevanti, għandha titqies l-importanza ta' dawk is-sussidjarji fi hdan is-sistema finanzjarja fl-Istati Membri ta' dawk l-awtoritajiet regolatorji barranin.";

(b) minflok il-paragrafu (i) tas-subartikolu (2) tiegħu għandu jidhol dan li ġej:

"(i) l-identifikazzjoni tal-istruttura ġuridika u l-governanza u l-istruttura organizzattiva tal-grupp, inklużi l-entitajiet regolati kollha, sussidjarji mhux regolati u fergħat sinifikanti li jappartjenu lill-grupp, l-imprizi prinċipali, skont l-artikoli 7(1)(d) u 17B tal-Att u l-Artikolu 73(3) tad-Direttiva dwar Htigit Kapitali,";

(ċ) is-subartikoli (6) sa (12) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (7) sa (13) rispettivament;

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

"(6) (a) L-awtorità kompetenti għandha tikkoopera mal-EBA għall-finijiet tad-Direttiva dwar Htigit Kapitali, kif hemm fir-Regolament (UE) Nru 1093/2010, u għandha ttiprovdi lill-EBA kull informazzjoni meħtieġa biex twettaq dmirijietha taht id-Direttiva dwar Htigit Kapitali u skont l-Artikolu 35 tal-imsemmi Regolament (UE) Nru 1093/2010.

(b) L-awtorità kompetenti tista' tirreferi lill-EBA sitwazzjonijiet meta:

(i) awtorità regolatorja barranija ma tkunx wasslet informazzjoni essenzjali; jew

(ii) talba għal kooperazzjoni, partikolarment għall-iskambju ta' informazzjoni rilevanti, tkun ġiet miċhuda jew ma jkun sar xejn dwarha fi żmien raġonevoli.";

(e) fis-subartikolu (7) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "L-awtorità kompetenti tista', permezz ta' ftehim bilaterali, tiddelega r-responsabbiltajiet tagħha", għandhom jidhlu l-kliem "L-awtorità kompetenti tista', permezz ta' ftehim bilaterali, kif hemm fl-Artikolu 28 tar-Regolament (UE) Nru 1093/2010, tiddelega r-responsabbiltà tagħha", u

minflok il-kliem "Il-Kummissjoni għandha tinzamm mgħarrfa bl-eżistenza u l-kontenut ta' kull ftehim bħal dak.", għandhom jidhlu l-kliem "L-EBA għandha tinzamm mgħarrfa bl-eżistenza u l-kontenut ta' kull ftehim bħal dak."; u

(f) fil-paragrafu (a) tas-subartikolu (11) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "u kompatibilità mal-liġi Komunitarja Ewropea,", għandhom jidhlu l-kliem "u kompatibilità mal-Liġi tal-Unjoni Ewropea,".

Emenda tal-
artikolu 25B tal-
Att prinċipali.

ġej:

63. L-artikolu 25B tal-Att prinċipali għandu jiġi emendat kif

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "u istituzzjonijiet ta' kreditu kontrollati minn kumpanniji *holding* finanzjarji prinċipali tal-UE, hija għandha twettaq dawn il-funzjonijiet li ġejjin:" għandhom jidhlu l-kliem "u istituzzjonijiet ta' kreditu kontrollati minn kumpanniji *holding* finanzjarji prinċipali tal-UE jew minn kumpanniji *holding* finanzjarji prinċipali mħallta, hija għandha twettaq dawn il-funzjonijiet li ġejjin:";

(b) is-subartikoli (2) sa (7) għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) sa (8) rispettivament;

(c) minnufih wara s-subartikolu (1) tiegħu, għandu jidjed dan is-subartikolu ġdid li ġej:

"(2) Meta, dwar l-iskambju ta' informazzjoni fil-kuntest tad-dispożizzjonijiet ta' dan l-artikolu, awtorità regolatorja barranija ma tikkoperax mal-awtorità kompetenti daqstant daqs kemm ikun meħtieġ fit-twettiq tal-funzjonijiet elenkati fis-subartikolu (1), l-awtorità kompetenti tista' tirreferi l-kwistjoni lill-EBA, li tista' taġixxi skont l-Artikolu 19 tar-Regolament (UE) Nru 1093/2010.";

(d) minflok is-subartikolu (5) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(5) L-awtorità kompetenti fir-rwol tagħha bħala supervizur konsolidatur għandha, bla ħsara għall-artikolu 25, twissi malajr kemm jista' jkun prattiku lill-EBA, lill-Bord Ewropew dwar ir-Riskju Sistematiċi, lill-banek ċentrali fis-sistema ta' banek ċentrali Ewropej, u lil daww id-dipartimenti tal-gvern responsabbli għal liġijiet fuq is-supervizjoni ta' istituzzjonijiet ta' kreditu msemmija fis-subartikolu (8) u għandha tikkomunika kull informazzjoni

li tkun essenzjali għat-twertieq tal-ħidmiet tagħhom relattivi, meta jkun hemm xi sitwazzjoni ta' emerġenza, inkluża sitwazzjoni kif imfissra fl-Artikolu 18 tar-Regolament (UE) Nru 1093/2010, jew sitwazzjoni ta' żviluppi kuntrarji fis-swieq finanzjarji, li potenzjalment jipperikolaw il-likwidità fis-suq u l-istabbiltà tas-sistema finanzjarja f'xi Stat Membru meta jkunu ġew awtorizzati l-entitajiet ta' xi grupp jew meta jkun hemm stabbilti ferġat sinifikanti.";

(e) fis-subartikolu (6) tiegħu, kif enumerat mill-ġdid, minflok il-kliem, "din għandha, malajr kemm jista' jkun prattiku, twissi lill-awtoritajiet regolatorji barranin msemmija fl-Artikoli 125 u 126 tad-Direttiva dwar Ғtigiet Kapitali.", għandhom jidhlu l-kliem "din għandha, malajr kemm jista' jkun prattiku, twissi lill-awtoritajiet regolatorji barranin msemmija fl-Artikoli 125 u 126 tad-Direttiva dwar Ғtigiet Kapitali u lill-EBA."; u

(f) minnufih wara s-subartikolu (8) tiegħu, kif enumerat mill-ġdid, għandu jżidded dan is-subartikolu ġdid li ġej:

"(9) Meta l-awtorità kompetenti tkun responsabbli għas-supervizjoni fuq bażi konsolidata, din għandha tipprovdi lill-awtoritajiet regolatorji barranin involuti u lill-EBA kull informazzjoni dwar il-grupp bankarju skont l-artikoli 7(1)(d) u 17B tal-Att u l-Artikolu 73(3) tad-Direttiva dwar Ғtigiet Kapitali, partikolarment dawk dwar l-istruttura ġuridika u l-governanza u l-istruttura organizzattiva tal-grupp.".

64. Fis-subartikolu (1) tal-artikolu 25Ċ tal-Att prinċipali, minflok il-kliem "*holding company* b'attività mħallta jew is-sussidjarja tagħha li tkun tinsab fi Stat Membru ieħor" għandhom jidhlu l-kliem "kumpannija *holding* b'attività mħallta, kumpannija *holding* finanzjarja mħallta, jew is-sussidjarja tagħha li tkun tinsab fi Stat Membru ieħor".

Emenda tal-artikolu 25Ċ tal-Att prinċipali.

TAQSIMA VI

EMENDI FL-ATT DWAR ISTITUZZJONIJIET FINANZJARJI

65. Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar Istituzzjonijiet Finanzjarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi fl-Att dwar Istituzzjonijiet Finanzjarji. Kap. 376.

C 284

Emenda tal-artikolu 3 tal-Att prinċipali.

66. Fit-test Inġliż tal-paragrafu (b) tas-subartikolu (7) tal-artikolu 3 tal-Att prinċipali, minflok il-kliem "money laundering or terrorist financing", għandhom jidhlu l-kliem "money laundering or the funding of terrorism".

Emenda tal-artikolu 8A tal-Att prinċipali.

67. It-test Inġliż tal-artikolu 8A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) of subartikolu (1) tiegħu, minflok il-kliem "money laundering and terrorist financing", għandhom jidhlu l-kliem "money laundering and the funding of terrorism"; u

(b) fil-proviso mas-subartikolu (5) tiegħu, minflok il-kliem "money laundering or terrorist financing", kull fejn dawn jinsabu, għandhom jidhlu l-kliem "money laundering or the funding of terrorism".

Emenda tal-artikolu 21 tal-Att prinċipali.

68. Fil-paragrafu (g) tal-artikolu 21 tal-Att prinċipali, minflok il-kliem "ta' l-artikolu 25A", għandhom jidhlu l-kliem "tal-artikolu 6(8)".

TAQSIMA VII

EMENDI FL-ATT DWAR IL-KUMPANNIJI

Emenda tal-Att dwar il-Kumpanniji. Kap. 386.

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

Emenda tal-artikolu 2 tal-Att prinċipali.

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

(a) fis-subparagrafu (iv) tiegħu, minflok il-kliem "jew li l-korrispettiv totali tal-offerta fil-Komunità ma jaqbizx" għandhom jidhlu l-kliem "jew li l-korrispettiv totali tal-offerta fl-Unjoni Ewropea u fiż-ŻEE ma jaqbizx";

(b) fis-subparagrafu (v) tiegħu, minflok il-kliem "il-korrispettiv totali tal-offerta fi Stat Membru jew Stat taż-ŻEE," għandhom jidhlu l-kliem "il-korrispettiv totali tal-offerta fl-Unjoni Ewropea u fiż-ŻEE,"; u

(ċ) fis-subparagrafu (vi) tiegħu, minflok il-kliem "il-korrispettiv totali tal-offerta fi Stat Membru jew Stat taż-ŻEE," għandhom jidhlu l-kliem "il-korrispettiv totali tal-offerta fl-Unjoni Ewropea u fiż-ŻEE,".

71. Fl-artikolu 68 tal-Att prinċipali, minflok il-kliem "jiġi sottoskritt minn tal-anqas tnejn min-nies, u ma jinħariġx ċertifikat ta' registrazzjoni dwarha." għandhom jidhlu l-kliem "ma jiġix sottoskritt minn tal-anqas tnejn min-nies, jew fil-każ ta' kumpannija magħmula minn membru wieħed kostitwita skont l-artikolu 212, minn dak il-membri wieħed, u ma jinħariġx ċertifikat ta' registrazzjoni dwarha."

Emenda tal-artikolu 68 tal-Att prinċipali.

72. L-artikolu 70 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 70 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "jew l-abbrevjazzjoni tagħhom "p.l.c." għandhom jidhlu l-kliem "jew l-abbrevjazzjoni tagħhom "p.l.c.": u minnufih wara dan għandu jiżdied dan il-proviso ġdid li ġej:

"Izda meta l-kumpannija pubblika tkun 'societas europaea' kif hemm fir-Regolament tal-Kunsill (KE) Nru. 2157/2001 tat-8 ta' Ottubru 2001 fuq Statut għal Kumpannija Ewropea, minflok il-kliem "*public limited company*" jew l-abbrevjazzjoni tagħhom "p.l.c.", qabel l-isem tal-kumpannija pubblika jew warajh għandu jkun hemm l-abbrevjazzjoni "SE".";

(b) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem "il-kliem "*investment company with fixed share capital*" jista' jintuza l-kliem "*investment company*" "INVCO" ", għandhom jidhlu l-kliem "il-kliem "*investment company with fixed share capital*" tista' tintuza t-taqsis "INVCO" ";

(ċ) fit-tieni proviso mas-subartikolu (4) tiegħu, minflok il-kliem "ir-Registratur għandu jagħti każ tan-negozju jew in-negozju propost tal-kumpannija, tal-protezzjoni ta' ismijiet ta' ndividwi", għandhom jidhlu l-kliem "ir-Registratur għandu jagħti każ, fost affarijiet oħra, tan-negozju jew tan-negozju propost tal-kumpannija, tal-protezzjoni ta' ismijiet ta' persuni"; u

(d) fis-subartikolu (6) tiegħu:

(i) fil-paragrafu (ċ) tiegħu, minflok il-kliem "taht isem jew titolu li jispicċa bil-kliem "*investment company with fixed share capital*", "*investment company*" jew "INVCO" jew tqassir jew imitazzjoni tagħhom", għandhom jidhlu l-kliem "taht isem jew titolu li jkun fih il-kliem "*investment company with fixed share capital*" jew "INVCO" jew tqassir jew imitazzjoni tagħhom"; u

(ii) fil-paragrafu (d) tiegħu, minflok il-kliem "taht isem jew titolu li jispiċċa bil-kliem", għandhom jidhlu l-kliem "taht isem jew titolu li jkun fih il-kliem".

Emenda tal-artikolu 82 tal-Att prinċipali.

73. Fil-proviso li hemm mas-subartikolu (2) tal-artikolu 82 tal-Att prinċipali, minflok il-kliem "jistgħu, flimkien mal-metodu ta' awtentikazzjoni mniżżel fis-subartikolu (1), jiġu awtentikati minn individwu speċifikament awtorizzat għal dan l-għan permezz ta' memorandum," għandhom jidhlu l-kliem "jistgħu jiġu awtentikati minn direttur, mis-segretarju tal-kumpannija, minn uffiċjal awtorizzat tal-kumpannija jew minn individwu speċifikament awtorizzat għal dak l-għan b'memorandum,".

Emenda tal-artikolu 85 tal-Att prinċipali.

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

(a) minnufih wara s-subartikolu (1) tiegħu, għandu jizdied dan il-proviso ġdid li ġej:

"Izda l-memorandum jew l-istatut, jew riżoluzzjoni straordinarja tal-kumpannija tista' tippermetti jew li:

(a) il-bord tad-diretturi jorogħ ishma sa dak l-ammont massimu li jista' jiġi speċifikat f'dak il-memorandum jew statut, jew riżoluzzjoni straordinarja, hekk li l-permess ikun għal perjodu massimu ta' hames snin, li jiġġedded b'riżoluzzjoni ordinarja għal perjodi massimi oħra ta' hames snin kull wieħed; jew li

(b) il-laqgħa ġenerali tawtorizza b'riżoluzzjoni ordinarja lill-bord tad-diretturi jorogħ ishma sa dak l-ammont massimu li jista' jiġi speċifikat f'dak il-memorandum jew statut, jew f'dik ir-riżoluzzjoni straordinarja, hekk li l-permess ikun għal perjodu massimu ta' hames snin, li jiġġeddu b'riżoluzzjoni ordinarja għal perjodi massimi oħra ta' hames snin kull wieħed.";

(b) is-subartikolu (2) tiegħu għandu jithassar, u s-subartikoli (3), (4), (5) u (6) għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (2), (3), (4) u (5) rispettivament;

(ċ) minflok is-subartikolu (2) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(2) Meta jkun hemm diversi klassijiet ta' azzjonijiet, kull riżoluzzjoni minn dawk imsemmija fis-

subartikolu (1) għandha tkun soġġetta għal vot separat għal kull klassi ta' azzjonisti li l-jeddijiet tagħhom jintlaqtu b'dik ir-riżoluzzjoni, u d-dispożizzjonijiet dwar il-maġġoranza meħtieġa għar-riżoluzzjoni għandhom ikunu japplikaw għal kull klassi.";

(d) fis-subartikolu (3) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "imsemmija fis-subartikoli (1), (2) u (3)", għandhom jidhlu l-kliem "imsemmija fis-subartikoli (1) u (2)";

(e) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "Id-dispożizzjonijiet tas-subartikoli minn (1) sa (4)", għandhom jidhlu l-kliem "Id-dispożizzjonijiet tas-subartikoli minn (1) sa (3)"; u

(f) minflok is-subartikolu (5) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(5) Meta zieda fil-kapital azzjonarju maħruġ ma tittehidx kollha, dak il-ħruġ għandu jitqies bħala li ma kellux seħħ:

Izda jekk il-kondizzjonijiet tal-ħruġ ikunu hekk jipprovdu, il-kapital azzjonarju maħruġ għandu jiżdied bl-ammont tas-sottoskrizzjonijiet li jkunu daħlu."

75. Fit-tieni proviso mal-artikolu 89 tal-Att prinċipali, minflok il-kliem "Izda wkoll il-paragrafu (e) għandu jkun japplika wkoll għal kumpannija b'responsabbiltà limitata mwaqqfa barra mill-Komunità li jkollha s-sigurtajiet tagħha mqegħda", għandhom jidhlu l-kliem "Izda wkoll il-paragrafu (e) għandu jkun japplika wkoll għal kumpannija mwaqqfa barra mill-Unjoni Ewropea u ż-żona ŻEE li jkollha s-sigurtajiet tagħha mqegħda".

Emenda tal-artikolu 89 tal-Att prinċipali.

76. Fil-paragrafu (d) tas-subartikolu (1) tal-artikolu 106 tal-Att prinċipali, minflok il-kliem "ma għandux ikun iżjed minn għaxra fil-mija tal-kapital azzjonarju maħruġ;", għandhom jidhlu l-kliem "ma għandux ikun iżjed minn ħamsin fil-mija tal-kapital azzjonarju maħruġ;".

Emenda tal-artikolu 106 tal-Att prinċipali.

77. Fil-proviso mas-subartikolu (3) tal-artikolu 107 tal-Att prinċipali, minflok il-kliem "ma jista' jsir mill-kumpannija matul dan iż-żmien.", għandhom jidhlu l-kliem "ma jista' jsir mill-kumpannija matul dan iż-żmien:", u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

Emenda tal-artikolu 107 tal-Att prinċipali.

"Izda wkoll dan is-subartikolu ma għandux japplika meta l-kumpannija tkun kisbet l-azzjonijiet xort'ohra milli għal

korrispettiv ta' valur."

Emenda tal-artikolu 182 tal-Att prinċipali.

78. L-ewwel proviso tal-paragrafu (b) tas-subartikolu (3) tal-artikolu 182 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Iżda għall-iskop li jiġi stabbilit jekk kumpannija tkunx tiġġestixxi xi negozju jew ikollhiex xi interess kummerċjali barra minn Malta kif imsemmi hawn qabel, l-interessi jew *holdings* miżmuma fil-kumpannija msemmija f'dan is-subartikolu, u d-dħul derivat minnhom, għandhom jitqiesu, għall-għanijiet ta' dan is-subartikolu, bħala li jikkostitwixxu interessi kummerċjali barra minn Malta:".

Emenda tal-artikolu 183 tal-Att prinċipali.

79. Fis-subartikolu (1) tal-artikolu 183 tal-Att prinċipali, minflok il-kliem "preskritt bl-artikolu 182." għandhom jidhlu l-kliem "preskritt bl-artikolu 182. Meta kopja tal-kontijiet annwali, ir-rapport tal-awdituri u r-rapport tad-diretturi jiġu konsenjati lir-Regjistratur b'xi mezz elettroniku, mingħajr preġudizzju għall-htigiet tal-artikoli 176(3), 178(3) u 179(6), dik il-kopja elettronika għandha tigi awtentikata skont l-artikolu 82."

Emenda tal-artikolu 184 tal-Att prinċipali.

80. Fis-subartikolu (2) tal-artikolu 184 tal-Att prinċipali, minflok il-kliem "b'xi mezz elettroniku, flimkien mal-mod ta' kif jiġi ffirmat hekk kif imnizzel f'dan is-subartikolu, dak il-prospett annwali jista' jiġi wkoll iffirmat minn individwu speċifikament awtorizzat" għandhom jidhlu l-kliem "b'xi mezz elettroniku jista' jiġi ffirmat minn direttur wiehed jew mis-segretarju tal-kumpannija jew minn individwu speċifikament awtorizzat".

Emenda tal-artikolu 185 tal-Att prinċipali.

81. Fil-proviso mas-subartikolu (6) tal-artikolu 185 tal-Att prinċipali, minflok il-kliem "li thejji kontijiet konsolidati skont l-artikolu 174.", għandhom jidhlu l-kliem "li thejji kontijiet konsolidati skont l-artikoli 172 u 174."

Emenda tal-artikolu 187 tal-Att prinċipali.

82. L-artikolu 187 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "*il-middle rate* uffiċjali ta' għeluq dak il-jum maħruġ mill-Bank Ċentral ta' Malta.", għandhom jidhlu l-kliem "ir-rata ta' kambju medjana ta' referenza euro uffiċjali pubblikata mill-Bank Ċentrali Ewropew, jew ir-rata ta' kambju medjana indikattiva pubblikata mill-Bank Ċentrali ta' Malta, kif ikun il-każ, għal dik id-data."; u

(b) fis-subartikolu (4) tiegħu, minflok il-kliem "*il-middle rate* uffiċjali ta' għeluq dak il-jum maħruġ mill-Bank Ċentral ta' Malta.", għandhom jidhlu l-kliem "ir-rata ta' kambju

medjana ta' referenza euro ufficjali pubblikata mill-Bank Ċentrali Ewropew, jew ir-rata ta' kambju medjana indikattiva pubblikata mill-Bank Ċentrali ta' Malta, kif ikun il-każ."

83. Fil-proviso mal-artikolu 210 tal-Att prinċipali, minflok il-kliem "jew inkella tkun maħsuba sabiex ma tagħtix lill-awdituri l-jeddijiet li huma għandhom permezz tad-disposizzjonijiet ta' l-artikolu 155", għandhom jidhlu l-kliem "jew inkella tkun maħsuba sabiex ma tagħtix lill-awdituri l-jeddijiet li jattendu u li jinstemgħu f'kull laqgħa ġenerali tal-kumpannija f'kull parti tax-xogħol tal-laqgħa li tolqothom bhala awdituri".

Emenda tal-artikolu 210 tal-Att prinċipali.

84. Fis-subartikolu (1) tal-artikolu 212 tal-Att prinċipali, minflok il-kliem "l-attività tal-kummerċ ewlenija" għandhom jidhlu l-kliem "l-attività ewlenija tagħha".

Emenda tal-artikolu 212 tal-Att prinċipali.

85. L-artikolu 225 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 225 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Il-Ministru għandu jahtar lil xi individwu biex ikun ir-riċevitur ufficjali" għandhom jidhlu l-kliem "Il-Ministru, li jaġixxi fuq il-parir tal-awtorità kompetenti taht l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, għandu jahtar lil xi ufficjal anzjan ta' dik l-Awtorità biex ikun ir-riċevitur ufficjali";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "Il-Ministru jista' jawtorizza bil-miktub lil xi individwu biex jassisti lir-riċevitur ufficjali", għandhom jidhlu l-kliem "Il-Ministru, li jaġixxi fuq il-parir tal-awtorità kompetenti taht l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, jista' jawtorizza bil-miktub lil xi individwu biex jassisti lir-riċevitur ufficjali";

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

"(3) Ir-rimunerazzjoni, spejjeż imġarrba jew infiq li jsir mir-riċevitur ufficjali fit-twertiq tal-funzjonijiet tiegħu għandhom jithallsu mill-attiv tal-kumpannija."; u

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

"(4) Minkejja kull haġa kuntrarja li tinsab f'kull liġi oħra, ir-riċevitur ufficjali u kull individwu ieħor awtorizzat biex jassisti kif hemm fis-subartikolu (2), ikun eżenti minn kull responsabbiltà li tkun, inkluża kull

responsabbiltà għal danni, għal kull ma jsir jew jonqos milli jsir fit-twettiq jew fit-twettiq mistenni tal-funzjonijiet tiegħu taht dan l-Att jew taht kull liġi oħra, jew xort'oħra fl-eżerċizzju tad-dmirijiet uffiċjali tiegħu, kemm-il darba l-att jew l-ommissjoni ma jintwerewx li jkunu saru jew naqsu milli jsiru, kif jista' jkun il-każ, b'intenzjoni hażina."

Emenda tal-artikolu 229 tal-Att prinċipali.

86. L-artikolu 229 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Ir-riċevitur uffiċjali, bis-saħħa tal-kariga tiegħu u wara li jiġi notifikat mill-Qorti, isir l-istralċjarju tal-kumpannija u jkompli fil-kariga sakemm persuna oħra ssir stralċjarju taht d-dispożizzjonijiet ta' dan it-titolu u għandha tkun l-istralċjarju matul kull vakanza."; u

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Ir-riċevitur uffiċjali għandu, fi żmien erbatax-il gurnata minn meta jiġi notifikat mill-Qorti, jikkonsenja kopja awtentikata ta' dik in-notifika lir-Registratur għar-registrazzjoni."

Emenda tal-artikolu 241 tal-Att prinċipali.

87. Fis-subartikolu (2) tal-artikolu 241 tal-Att prinċipali, minflok il-kliem "Jekk xi stralċjarju jzomm għal iktar minn għaxart ijiem somma li tkun iżjed minn erba' mija u ħamsa u sittin euro u sebgħa u tmenin ċenteżmu (465.87)", għandhom jidhlu l-kliem "Jekk xi stralċjarju jzomm għal iktar minn għaxart ijiem, ħlief f'kont bankarju msemmi fis-subartikolu (1), somma li tkun iżjed minn ħames mitt euro (500)".

Emenda tal-artikolu 258 tal-Att prinċipali.

88. L-artikolu 258 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (h) tiegħu, minflok il-kliem "kull infiq meħtieġ magħmul mill-istralċjarju" għandhom jidhlu l-kliem "kull infiq meħtieġ magħmul mir-riċevitur uffiċjali jew mill-istralċjarju";

(ii) fil-paragrafu (i) tiegħu, minflok il-kliem "ir-rimunerazzjoni ta' kull persuna mpjegata mill-istralċjarju"

għandhom jidhlu l-kliem "ir-rimunerazzjoni ta' kull persuna impjegata mir-riċevitur uffiċjali jew mill-istralċjarju"; u

(iii) fil-paragrafu (j) tiegħu, minflok il-kliem "ir-rimunerazzjoni tal-istralċjarju." għandhom jidhlu l-kliem "ir-rimunerazzjoni tar-riċevitur uffiċjali jew tal-istralċjarju."; u

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

"(3) Għall-finijiet tas-subartikolu (2), "riċevitur uffiċjali" għandha tinkludi lil kull individwu awtorizzat mill-Ministru skont l-artikolu 225(2)."

89. Is-subartikolu (4) tal-artikolu 374 tal-Att prinċipali għandu jġi mħassar. Emenda tal-artikolu 374 tal-Att prinċipali.

90. L-artikolu 425 tal-Att prinċipali għandu jġi emendat kif ġej: Emenda tal-artikolu 425 tal-Att prinċipali.

(a) is-subartikolu (6) tiegħu għandu jġi mħassar; u

(b) is-subartikoli (7), (8) u (9) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (6), (7) u (8) rispettivament.

TAQSIMA VIII

EMENDI FL-ATT DWAR IL-KUMMERĈ TAL-ASSIGURAZZJONI

91. Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda mal-Att dwar il-Kummerċ tal-Assigurazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali". Emendi fl-Att dwar il-Kummerċ tal-Assigurazzjoni. Kap. 403.

92. L-artikolu 4 tal-Att prinċipali għandu jġi emendat kif ġej: Emenda tal-artikolu 4 tal-Att prinċipali.

(a) is-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (4) u (5) rispettivament; u

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

"(3) L-awtorità kompetenti tista' tagħmel regoli dwar l-assigurazzjoni hekk kif dawn jistgħu jkunu

meħtieġa bil-għan li jiġu implimentati l-linji gwida u r-rakkomandazzjonijiet mahruġin mill-Awtorità Ewropea dwar Pensjonijiet tal-Assigurazzjoni u tax-Xogħol, taħt l-Artikolu 16 tar-Regolament (UE) Nru. 1094/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jstabbilixxi Awtorità Supervizorja Ewropea (l-Awtorità Ewropea dwar Pensjonijiet tal-Assigurazzjoni u tax-Xogħol) li temenda Deċiżjoni Nru. 716/2009/KE u tħassar id-Deċiżjoni tal-Kummissjoni 2009/79/KE, dwar miżuri interim għat-tnejjja tal-implimentazzjoni tad-Direttiva 2009/138/KEC tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2009 fuq il-bidu u l-prosegwiment tal-kummerċ ta' Assigurazzjoni u Riassigurazzjoni (Solvency II) (*recast*).".

TAQSIMA IX

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

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

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

Emenda tal-artikolu 2 tal-Att prinċipali.

94. Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, minnufih wara t-tifsira "entità emittenti", għandha tiżdied din it-tifsira ġdida li ġejja:

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

Emenda tal-artikolu 20 tal-Att prinċipali.

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

(a) fis-subartikolu (3) tiegħu, minnufih wara l-kliem "għal skop ta' twettiq tad-dmirijiet tagħha fl-investigazzjoni u kxif skond id-Direttiva dwar l-Abbuż fis-Suq", għandhom jizdiedu l-kliem, "inkluża talba mill-awtorità barranija għall-akkumpanjament ta' uffiċjali, impjegati jew aġenti oħra tal-awtorità kompetenti matul xi investigazzjoni,"; u

(b) minnufih wara s-subartikolu (6) tiegħu, għandu jizdied dan is-subartikolu ġdid li ġej:

"(7) Mingħajr preġudizzju għall-Artikolu 258 tat-

Trattat dwar il-Funzjonament tal-Unjoni Ewropea, meta talba għal informazzjoni, koordinazzjoni ta' sforzi jew xi għamla oħra ta' kollaborazzjoni, inkluża talba għall-akkumpanjament ta' uffiċjali tal-awtorità barranija matul xi investigazzjoni kif hemm fid-Direttiva dwar l-Abbuż fis-Suq, li ssir mill-awtorità kompetenti lil awtorità barranija skont dan l-artikolu ma jsir xejn dwarha fi żmien raġonevoli jew inkella tiġi miċhuda, l-awtorità kompetenti tista' tirreferi dik iċ-ċaħda jew nuqqas ta' azzjoni lill-ESMA f'perjodu ta' żmien raġonevoli."

96. Minnufih wara l-artikolu 20 tal-Att prinċipali, għandu jizdied dan l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Att prinċipali.

"Kollaborazzjoni mal-ESMA.

20A. L-awtorità kompetenti għandha tikkollabora mal-ESMA għall-finijiet tad-Direttiva dwar l-Abbuż fis-Suq kif hemm fir-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010, u partikolarment għandha tibgħat lill-ESMA, mingħajr ebda dewmien, kull informazzjoni meħtieġa biex l-ESMA tkun tista' twettaq dmirijietha skont l-Artikolu 35 tal-imsemmi Regolament."

97. L-artikolu 22 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 22 tal-Att prinċipali.

(a) fis-subartikolu (3) tiegħu, minflok il-kliem "Mal-konkluzjoni ta' xi proċedimenti ta' appell skond l-artikolu 23, jew malli jiskadi t-terminu biex isir appell, l-awtorità kompetenti tista'", għandhom jidhlu l-kliem "L-awtorità kompetenti tista'";

(b) is-subartikolu (5) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (6);

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

"(5) Meta l-awtorità kompetenti tkun żvelat xi miżura amministrattiva jew sanzjoni lill-pubbliku skont is-subartikolu (3), hija għandha fl-istess hin tirrapporta dak il-fatt lill-ESMA."; u

(d) minnufih wara s-subartikolu (6) tiegħu, kif enumerat mill-ġdid, għandu jizdied dan is-subartikolu ġdid li ġej:

"(7) L-awtorità kompetenti għandha ta' kull sena tipprowdi lill-ESMA informazzjoni aggregata dwar kull miżura amministrattiva u sanzjoni imposta skont dan l-Att u kull regolament li japplika magħmul taħt dan l-Att."

TAQSIMA X

EMENDI FL-ATT DWAR IS-SECURITISATION

Emendi fl-Att
dwar is-
Securitisati-
on.
Kap. 484.

98. Din it-Taqsima temenda u għandha tingara u tiftiehem haġa waħda mal-Att dwar is-*Securitisati-
on*, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda tal-
artikolu 5 tal-
Att prinċipali.

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

(a) minflok il-kliem "meħuda mill-mezz tas-*securitisati-
on*, il-mezz tas-*securitisati-
on* m'għandu" għandhom jidhlu l-kliem "meħuda mill-mezz tas-*securitisati-
on*, imma mingħajr preġudizzju għall-artikolu 5A, il-mezz tas-*securitisati-
on* m'għandu";

(b) minflok il-kliem "l-Att dwar Istituzzjonijiet Finanzjarji, u l-Att dwar il-Kummerċ tal-Assigurazzjoni.", għandhom jidhlu l-kliem "l-Att dwar Istituzzjonijiet Finanzjarji, u salv dak li hemm provdut fl-artikolu 5A. l-Att dwar il-Kummerċ tal-Assigurazzjoni.", u

(ċ) il-proviso li hemm miegħu għandu jiġi sostitwit b'dan li ġej:

Kap. 123. "Izda ebda haġa li tinsab f'dan l-
Kap. 372. artikolu m'għandha taffettwa xi
disposizzjoni tal-Att dwar it-Taxxa fuq
l-*Income*, u l-Att dwar l-
Amministrazzjoni tat-Taxxa.";

Żieda ta'
artikolu ġdid
mal-Att
prinċipali.

100. Minnufih wara l-artikolu 5 tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Meta dan l-Att ma japplikax. Kap. 403.

5A. Kemm-il darba ma jgix provdut xort'oħra fl-Att dwar il-Kummerċ tal-Assigurazzjoni jew f'regolamenti mahruġin taħtu, id-dispożizzjonijiet ta' dan l-Att m'għandhomx japplikaw għal mezz għal għan speċifiku tar-riassigurazzjoni mwaqqaf u regolat b'regolamenti mahruġin taħt l-Att dwar il-Kummerċ tal-Assigurazzjoni skont l-artikolu 64 ta' dak l-Att:

Kap. 123.
Kap. 372.

Izda ebda haġa li tinsab f'dan l-artikolu m'għandha tolqot xi dispożizzjoni tal-Att dwar it-Taxxa fuq l-*Income*, u l-Att dwar l-Amministrazzjoni tat-Taxxa dwar dawk il-mezzi ta' *securitisation*.";

GHANIJIET U RAĠUNIJIET

L-għan ta' dan l-Abbozz huwa biex jipprovdi dwar Att ġdid, l-Att dwar Provdituri ta' Servizz lil Kumpanniji, li jimplementa l-Artikolu 36 tad-Direttiva 2005/60/KE tal-Parlament Ewropew u tal-Kunsill tad-29 ta' Ottubru 2005 fuq il-prevenzjoni tal-użu tas-sistema finanzjarja għall-fini ta' *money laundering* u l-iffinanzjar tat-terroriżmu, fil-qies li dak l-artikolu japplika għal provdituri ta' servizz lil kumpanniji. Dak l-Att jistabbilixxi reġim għal reġistrazzjoni mal-Awtorità għas-Servizzi Finanzjarji ta' Malta minn persuna li tkun residenti jew li tkun qegħda topera f'Malta jew minn Malta u li taġixxi bħala provditur ta' servizz lil kumpanniji, fil-kummerċ.

L-Abbozz għandu l-għan ukoll li jittrasponi d-dispożizzjonijiet tad-Direttiva 2010/78/UE tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li temenda d-Direttivi 98/26/KE, 2002/87/KE, 2003/6/KE, 2003/41/KE, 2003/71/KE, 2004/39/KE, 2004/109/KE, 2005/60/KE, 2006/48/KE, 2006/49/KE u 2009/65/KE dwar is-setgħat li għandha l-Awtorità Supervizorja Ewropea (Awtorità Ewropea dwar il-Banek), l-Awtorità Supervizorja Ewropea (Awtorità Ewropea dwar Pensjonijiet tal-Assigurazzjoni u tax-Xogħol) u l-Awtorità Supervizorja Ewropea (Awtorità Ewropea dwar Titoli u Swieq.

Iktar minn hekk, dan l-Abbozz iservi wkoll l-għan li jittrasponi

d-dispożizzjonijiet tad-Direttiva 2011/61/UE tal-Parlament Ewropew u tal-Kunsill tat-8 ta' Ġunju 2011 dwar *Managers* ta' Fondi ta' Investment Alternattivi u li temenda d-Direttivi 2003/41/KE u 2009/65/KE u r-Regolamenti (KE) Nru 1060/2009 u (UE) Nru 1095/2010. Direttiva oħra li dan l-Abbozz għandu l-għan li jimplimenta hija l-Artikolu 3 tad-Direttiva 2011/89/UE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2011 li temenda d-Direttivi 98/78/KE, 2002/87/KE, 2006/48/KE u 2009/138/KE dwar is-superviżjoni supplimentari ta' entitajiet finanzjarji f'konglomerat finanzjarju.

Direttiva oħra li dan l-Abbozz qiegħed jimplimenta hija d-Direttiva 2011/89/UE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2011 li temenda d-Direttivi 98/78/KE, 2002/87/KE, 2006/48/KE u 2009/138/KE dwar is-superviżjoni supplimentari ta' entitajiet finanzjarji f'konglomerat finanzjarju.

L-Abbozz jemenda wkoll l-Att dwar il-Kumpanniji, primarjament sabiex ikompli jirregola l-uffiċċju tar-Riċevitur Uffiċjali.

BILL
entitled

AN ACT to make provision with respect to company service providers and to provide for matters ancillary or incidental thereto, and to amend various financial services laws.

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

PART I

1. (1) The short title of this Act is the Company Service Providers Act, 2013. Short title and scope.

(2) The purpose of this Act is to implement Article 36 of Directive 2005/60/EC of the European Parliament and of the Council of 29 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, in so far as the said article applies to company service providers.

(3) For the purposes of Article 36 of Directive 2005/60/EC referred to in sub-article (2), the Malta Financial Services Authority established in terms of article 3 of the Malta Financial Services Authority Act shall be the competent authority responsible for the registration and supervision of company service providers. Cap. 330.

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

"approved jurisdiction" means an EEA State or an EU Member State or any other jurisdiction which has an equal or comparable level of regulation regarding company service providers to that in Malta;

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Cap. 330. "the Authority" means the Malta Financial Services Authority established in terms of the Malta Financial Services Authority Act;

"company service provider" means any natural or legal person which, by way of business, provides any of the following services to third parties:

(a) formation of companies or other legal entities;

(b) acting as or arranging for another person to act as director or secretary of a company, a partner in a partnership or in a similar position in relation to other legal entities;

(c) provision of a registered office, a business correspondence or administrative address and other related services for a company, a partnership or any other legal entity;

"Minister" means the Minister responsible for finance;

"operating in or from Malta" includes the existence of an office, branch, or other centre of professional or commercial activities of a regular nature in Malta, and does not include one or more unconnected and sporadic acts;

Cap. 330. "overseas regulatory authority" means an authority in any country or territory outside Malta which exercises any regulatory or supervisory function in relation to financial services corresponding to a function of the Authority as defined in the Malta Financial Services Authority Act;

"prescribed" means prescribed by regulations made under this Act;

"registered person" means a person in relation to whom a registration to act as a company service provider has been issued by the Authority in terms of this Act.

(2) Any reference in this Act to any law, or provision thereof, shall be construed as a reference to that law or provision as from time to time in force, and shall include a reference to any enactment replacing such law or provision, and to any subsidiary legislation made thereunder.

(3) Words and expressions used in this Act with reference to any other law shall, so far as necessary to give effect to this Act and consistently with the provisions thereof, have the same meaning as they have in the law with reference to which they are used in the Act.

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

3. (1) Any person resident or operating in or from Malta who acts as a company service provider by way of business, shall apply for registration with the Authority in terms of this Act:

Requirement of registration for company service providers.

Provided that the following persons shall not be required to be registered with the Authority in terms of this Act:

(a) a person in possession of a warrant, or equivalent, to carry out the profession of advocate, notary public, legal procurator or certified public accountant; and

(b) a person authorised to act as a trustee or to provide other fiduciary duties in terms of the Trusts and Trustees Act. Cap. 331.

(2) A person in possession of another licence, authorisation or recognition in terms of the Investment Services Act who intends providing company services by way of business shall apply for registration and, in such case, the Authority shall consider any due diligence process already carried out by it. Cap. 370.

(3) The persons referred to in sub-article (1)(a) and (b) shall notify the Financial Intelligence Analysis Unit established under the Prevention of Money Laundering Act, that they are acting as company service providers by way of business and that they are not required to register with the Authority under this Act. Cap. 373.

(4) In the event of reasonable doubt as to whether the carrying out of a particular activity would be subject to registration in terms of this Act, the matter shall be conclusively determined by the Authority.

(5) (a) Any person having a licence or registration to provide company service, issued by the relevant regulatory authority in an approved jurisdiction, shall not be subject to registration under this Act, provided that such person notifies the Authority, in writing, of its intention to provide company service in Malta at least forty-five days prior to commencing such activities in Malta and that such person receives from the Authority a confirmation in writing that it does not object thereto.

(b) A notification under this sub-article shall outline the proposed activities and shall be accompanied by such information as may be required by the Authority from time to time.

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(c) To the extent that the Authority lays down any restrictions or conditions for such activities, on initial response to a notification or at any other time, such restrictions and conditions shall come into effect as stated in the response or by subsequent notice of the Authority.

Application for registration.

4. An application for registration as a company service provider in terms of article 3 shall be made to the Authority and shall:

(a) contain or be accompanied by such information and particulars and be in such form as the Authority may require;

(b) be verified in the manner and to the extent required by the Authority;

(c) indicate the address in Malta for service on the applicant for registration, of any notice or other document required or authorised to be served on him in terms of this Act; and

(d) be accompanied by a non-refundable application fee, as may be prescribed, irrespective of whether the registration is granted or not by the Authority.

Power of the Authority to refuse or grant a registration.

5. (1) The Authority may register or refuse an application for registration made under this Act. Such registration may be general or may be restricted to particular specified activities. The Authority shall not, without prejudice to article 3, grant a registration applied for under this Act unless it is satisfied that:

(a) the applicant is a fit and proper person to provide the services concerned and that the applicant will comply with and observe the requirements of this Act and any rules made thereunder and which are applicable to him;

(b) where the applicant is a natural person, such person is resident or operating in Malta;

(c) where the applicant is a company or other type of legal entity:

(i) its objects include acting as company service provider and carrying on activities ancillary or incidental thereto, and do not include objects which are not compatible with the services of a company service provider;

(ii) its actual activities are compatible with its

objects in terms of sub-paragraph (i);

(iii) the directors of the company are not less than two in number and are individuals who are fit and proper persons;

(iv) every person who directly or indirectly owns or controls 25% or more of the shares or voting rights in the company, or otherwise exercises control over the management of the company, is a fit and proper person;

(v) the name of the company is not inconsistent with its activities as outlined in sub-paragraphs (i) and (ii); and

(vi) where the company is not formed and registered in Malta, it is formed, constituted or incorporated in a reputable jurisdiction. For the purposes of this sub-paragraph, reputable jurisdiction shall have the meaning assigned to it in the Prevention of Money Laundering and Funding of Terrorism Regulations. S.L. 373.01.

(2) When considering whether to grant or refuse to grant a registration under this Act, the Authority shall, in particular, have regard to:

- (a) the protection of investors and the general public;
- (b) the protection of the reputation of Malta taking into account Malta's international commitments;
- (c) the promotion of competition and choice.

(3) In granting registration, the Authority may subject the applicant to such conditions as it may deem appropriate. After having granted registration, the Authority may, from time to time, vary or revoke any condition so imposed or otherwise impose new conditions.

(4) The Authority shall notify any applicant of its decision whether to grant or refuse registration applied for, within six months from the receipt of a complete application, accompanied by the prescribed application fee and made in accordance with the applicable provisions of this Act and any rules made thereunder.

(5) Any person to whom a registration has been granted in terms of this Act shall be subject to a registration fee as may be prescribed, which is payable on the date on which such registration is

granted and, thereafter, to a supervisory fee, as may be prescribed, which is payable annually upon the anniversary of the date of such registration.

(6) A register of all company service providers to whom registration has been granted in terms of this Act shall be established by the Authority. The register shall be publicly available on the Authority's website and shall indicate the names of the persons to whom such registration has been granted, as well as their contact details, and it shall be updated on a regular basis.

(7) A company service provider shall notify the Authority of any change or circumstance which would have a bearing upon its status as a registered person and, in the case of any change in its charter, statute, memorandum or articles of association or other instrument constituting the company, or any change of its directors or members, such changes shall not be effective until they are notified and approved by the Authority.

Power of the Authority to cancel registration.

6. (1) The Authority may, at any time, cancel a registration granted in terms of this Act where:

(a) the registered person is no longer deemed to be a fit and proper person;

(b) the registered person has contravened any of the provisions of this Act or any rules made thereunder or has failed to satisfy or comply with any obligation or condition to which such registered person or the registration is subject by virtue of this Act and any rules issued thereunder;

(c) the registered person or someone acting on behalf of such registered person has knowingly supplied the Authority with information that is false, inaccurate or misleading;

(d) the registered person has ceased to act as a company service provider;

(e) the cancellation of such registration is considered desirable for the protection of the general public or the reputation of Malta;

(f) the registered person has so requested; or

(g) there are other circumstances under which the Authority would have been precluded from granting registration under this Act or where the Authority would have otherwise refused the granting of such registration.

(2) The Authority shall make public the fact that the registration of a company service provider has been cancelled.

(3) Any person whose registration has been cancelled shall, within sixty days from the date of the cancellation of the registration, ensure that the services he had been providing to companies or other legal persons in terms of its registration are transferred to another person which is duly registered in terms of this Act.

7. (1) Where the Authority intends -

(a) to vary any condition to which the registration is subject or to impose a new condition thereon; or

(b) to refuse an application for the registration or to cancel a registration,

Notification of proposed refusal or cancellation of registration.

it shall give the applicant or the registered person, as the case may be, a notice in writing of this intention, setting out the reasons for such decision.

(2) A notice given under sub-article (1) shall state that the recipient of the notice may, within such reasonable period of time after receipt thereof as may be stated in such notice, being a period of not less than forty-eight hours and not longer than thirty days, make representations in writing to the Authority giving reasons why the proposed decision should not be taken, and the Authority shall consider any representation so made before arriving at a decision.

(3) The Authority shall, as soon as practicable, notify its final decision in writing to the applicant or the registered person, as the case may be.

8. (1) The Authority may issue rules applicable to company service providers as may be required, for the carrying into effect of this Act and may, in particular, but without prejudice to the generality of the foregoing, by such rules:

Power of the Authority to issue rules.

(a) lay down requirements, conditions and criteria for the carrying out of activities by company service providers;

(b) lay down the conduct, duties and obligations of company service providers;

(c) lay down the responsibilities of company service providers towards the Authority and provide for the form of applications, returns, statements or notices to be made or given to the Authority;

(d) lay down the criteria which the Authority shall take into account when determining whether a person is a fit and proper person for the purpose of this Act, including an indication of the type and nature of academic qualifications and experience as well as the additional areas of expertise which would be acceptable to the Authority when determining whether a person qualifies to be a fit and proper person;

(e) lay down the criteria as to when a person shall be deemed by the Authority to be carrying on the activities of a company service provider by way of business;

(f) provide for any other matters as the Authority may consider appropriate in relation to company service providers and the conduct of their activities.

(2) Such rules shall be binding on company service providers.

Administrative penalties and other measures.

9. (1) Where the Authority is satisfied that a registered person's conduct amounts to a breach of any of the provisions of this Act or of the rules issued thereunder, including failure to cooperate in an investigation, the Authority may, by notice in writing and without recourse to a court hearing, impose on the registered person and, or any other person, as the case may be, an administrative penalty which may not exceed twenty-five thousand euro (€25,000) for each infringement or failure to comply, as the case may be.

(2) An administrative penalty imposed in terms of sub-article (1) may be imposed in the form of a fixed penalty, a daily penalty or both:

Provided that when an administrative penalty in terms of sub-article (1) is imposed on a daily cumulative basis, such accumulated penalty shall not exceed twenty-five thousand euro (€25,000).

(3) The imposition by the Authority of an administrative penalty in terms of this article shall be without prejudice to any other consequence of the act or omission of the offender under civil or criminal law.

(4) The Authority shall, by means of a public statement, disclose the name of the person sanctioned, the particular breach of the provision of this Act or the rules, and the penalty or administrative measure imposed.

REGULATORY AND INVESTIGATIVE POWERS

10. (1) Notwithstanding any other provision of this Act, the Authority may, by notice in writing, require any person who is or who was acting, or who appears to be or to have been acting, as a company service provider or who was providing services which require registration according to this Act, and any other person who appears to be in possession of relevant information, to do all or any of the following:

Power to require information.

(a) to furnish to the Authority, at such time and place and in such form as it may specify, such information and documentation as it may require with respect to any such activities as aforesaid;

(b) to furnish to the Authority any information or documentation aforesaid, verified in such manner as it may specify;

(c) to attend before the Authority, or before a person appointed by it, at such time and place as it may specify, to answer questions and provide information and documentation with respect to any such activities as aforesaid.

(2) The Authority may take copies of any documents furnished or provided under this article.

(3) 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 Authority where, to the best of his knowledge, that information or documentation is, and the 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.

(4) 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.

(5) Without prejudice to that provided in article 642(1) of the Criminal Code and in article 588(1) of the Code of Organization and Civil Procedure, the provisions of this article shall apply to all information or documentation, notwithstanding the provisions of the Professional Secrecy Act.

Cap. 9.
Cap. 12.

Cap. 377.

(6) The power to require the production of documentation under the provisions of this article shall be without prejudice to any

lien or charge claimed by any person in relation to such documentation.

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

Power to issue directives.

11. (1) Without prejudice to any of the powers conferred on it by this Act, the Authority may, whenever it deems it necessary, give, by notice in writing, such directives as it may deem appropriate in the circumstances. 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.

(2) Without prejudice to the generality of the foregoing provisions of this article, a directive under this article may -

(a) require anything to be done or be omitted to be done, or impose any prohibition, restriction or limitation, or any other requirement, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;

(b) require that any person having functions of a company service provider be removed or replaced by another person acceptable to the Authority;

(c) require a company service provider to cease operations and to wind up its affairs, in accordance with such procedures and directions as may be specified in the directive, which may provide for the appointment of a person to take possession and control of all documents, records, assets and property belonging to or in the possession or control of the registered company service provider.

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

(4) Where the Authority is satisfied that the circumstances so warrant, it may at any time make public any directive it has given under any of the provisions of this article.

12. (1) In relation to company service providers, the provisions of article 17 of the Malta Financial Services Authority Act shall apply *mutatis mutandis*.

Exchange of information and collaboration. Cap. 330.

(2) The Authority may exercise the powers granted to it by virtue of this Act at the request of, or for the purposes of, assisting an overseas regulatory authority:

(a) where the assistance is required by the overseas regulatory authority for the purposes of the exercise of one or more of its regulatory functions; or

(b) where so required within the terms of Malta's international commitments; or

(c) where so required within the terms of undertakings assumed in bilateral or multilateral agreements for the exchange of information and other forms of collaboration with overseas regulatory authorities including a request under a memorandum of understanding concluded with the Authority.

13. (1) Any officer, employee or agent of the Authority, on producing, if required, evidence of his authority, may enter premises occupied by a person on whom a notice has been served under this Act for the purpose of obtaining the information or documents required by that notice, or otherwise for the purpose of the investigation, and of exercising any of the powers conferred upon it.

Right of entry.

(2) Where any officer, employee or agent of the Authority has reasonable 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 person may, even though a notice in terms of sub-article (1) has not been served, on producing, if required, evidence of his authority, enter any premises referred to in sub-article (1) for the purpose of obtaining 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 Authority may request the assistance of the Commissioner of Police, who may for such purpose exercise such powers as are vested in him for the prevention of offences and the enforcement of law and order.

14. (1) The Minister may, on the advice of the Authority, make regulations for the better carrying out of any of the provisions of this Act, and may, in particular, but without prejudice to the

Power to make regulations.

generality of the foregoing, by any such regulations:

(a) further regulate the activities of company service providers as well as the services provided and activities carried on or in conjunction therewith or in relation thereto, providing for any matter deemed expedient;

(b) exempt any activities or classes of persons from the requirements of articles 3 and 4 and impose conditions deemed fit for eligibility for exemption;

(c) provide for and regulate the payment by any person, as the case may be, of application, registration or supervisory fees and such other charges payable to the Authority in respect of any matter provided for, by or under this Act or any regulations made under this article, as may be prescribed;

(d) transpose, implement and give effect to the provisions and requirements of Directives, Regulations and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder relating to corporate service providers and others as may be specified therein or to any other matter falling within the terms of this Act;

(e) provide that any provision in any other law shall not apply to matters falling under the regulations;

(f) prescribe any matter that may be or is to be prescribed.

(2) Regulations made under the provisions of this Act may be made in the English language only.

SANCTIONS AND APPEALS

Offences.

15. (1) Any person who contravenes or fails to comply with any of the provisions of this Act, or contravenes or fails to comply with any registration, condition, obligation, requirement, directive or order made or given under any of the provisions of this Act, shall be guilty of an offence.

(2) Any person who for the purposes of, or pursuant to, any of the provisions of this Act or of any rules or regulations made 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 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.

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

(5) Any person who acts or purports to act as a company service provider in Malta without being registered to do so by the Authority, when so required in terms of this Act, shall be guilty of an offence.

(6) Any person who is guilty of an offence under sub-articles (1), (2), (3), (4) and, or (5) and saving any higher punishment which may be provided under any other law, shall be liable, on conviction, to a fine (*multa*) not exceeding four hundred and sixty-six thousand euro (€466,000) or to a term of imprisonment not exceeding four years, or to both such fine and imprisonment.

(7) Where an offence in terms of sub-articles (1) to (5) is committed by a body or other association of persons, be it corporate or unincorporated, every person who at the time of the commission of the offence was a director, manager or other similar officer of such body or association, or was purporting to act in any such capacity, shall be guilty of that offence, unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(8) Without prejudice to sub-article (7), where the offence is committed by a body or other association of persons, be it corporate or unincorporated, or by a person within and for the benefit of that body or other association of persons, such body or association, these shall also be liable to an administrative penalty which may not exceed twenty-five thousand euro (€25,000).

16. (1) In this article, the Financial Services Tribunal means the tribunal established under article 21 of the Malta Financial Services Authority Act. Appeals. Cap. 330.

(2) Subject to the provisions of this Act, an appeal shall lie to the Financial Services Tribunal with respect to:

(a) any failure to inform an applicant or a registered

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company service provider of the refusal of its application or of the cancellation of its registration in terms of article 7;

(b) any administrative penalty imposed under article 9 and article 15(8);

(c) any refusal of an application for registration or cancellation of registration in terms of articles 5 and 6;

(d) any directive given under article 11 or under article 16(2)(b) of the Malta Financial Services Authority Act;

(e) the variation of any condition or the imposition of any new condition in terms of article 7.

Cap. 330.

(3) The provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to appeals that may be brought before the Financial Services Tribunal in terms of this article.

DISQUALIFICATION AS A COMPANY SERVICE PROVIDER

Persons not qualified to act as company service providers.

Cap. 386.

17. A person shall not qualify for registration as a company service provider if such person:

(a) is subject to any of the disqualifications under article 142(1) of the Companies Act;

Cap. 330.
Cap. 370.
Cap. 371.
Cap. 376.
Cap. 487.
Cap. 345.
Cap. 403.
Cap. 476.
Cap. 373.
Cap. 331.

(b) has been convicted of any of the offences under the Malta Financial Services Authority Act, the Investment Services Act, the Banking Act, the Financial Institutions Act, the Insurance Intermediaries Act, the Financial Markets Act, the Insurance Business Act, the Prevention of Financial Markets Abuse Act, the Prevention of Money Laundering Act, the Trusts and Trustees Act, and any regulations made thereunder;

(c) is a minor; or

Cap. 386.

(d) is subject to a disqualification order under article 320 of the Companies Act.

TRANSITORY PROVISIONS

Transitory provisions.

18. (1) Any person who, on the date of the coming into force of this Act, is carrying out the services of a company service provider within the meaning of this Act, shall, within three months from the date of coming into force of this Act, apply to the Authority for registration in terms of article 4.

(2) The Authority shall accept all the applications referred to in sub-article (1) and shall process the said applications within six months from the receipt of a complete application, including receipt of all supporting documentation and fees as may be required by the Authority in processing such application.

PART II

AMENDMENTS TO THE MALTA FINANCIAL SERVICES AUTHORITY ACT

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

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

20. In sub-article (2) of article 4 of the principal Act, for the words "international organisations and other entities", there shall be substituted the words "international organisations, with the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and colleges of supervisors, the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board (ESRB) and other entities".

Amendment of article 4 of the principal Act.

21. Immediately after sub-paragraph (ii) of paragraph (a) of sub-article (2) of article 16 of the principal Act, there shall be added the following new proviso:

Amendment of article 16 of the principal Act.

"Provided that such Rules shall be binding on licence holders and others as may be specified therein;"

22. Article 17 of the principal Act shall be amended as follows:

Amendment of article 17 of the principal Act.

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

(i) paragraph (b) thereof shall be renumbered as paragraph (c); and

(ii) immediately after paragraph (a) thereof, there shall be added the following new paragraph:

"(b) local or overseas enforcement or regulatory authorities, bodies or other entities, or a network or grouping comprising such local or overseas enforcement or regulatory authorities, bodies or other entities, or both, for the purpose of preventing, detecting, investigating or prosecuting

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the commission of acts that amount to or are likely to amount to a criminal offence under any law or to an offence or breach of a regulatory nature, whether in Malta or overseas;"

(b) sub-article (3) thereof shall be renumbered as sub-article (4);

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

"(3) The obligation of professional secrecy shall not prevent the Authority from exchanging or transmitting confidential information to the European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and colleges of supervisors, to the European Insurance and Occupational Pensions Authority (EIOPA), or to the European Systemic Risk Board (ESRB), subject to conditions and restrictions emanating from European Union legislation."; and

(d) in sub-article (4) thereof, as renumbered, for the words "with overseas regulatory authorities shall be treated as confidential" there shall be substituted the words "with overseas regulatory authorities or other bodies as provided for in this article shall be treated as confidential".

Amendment of article 18 of the principal Act.

23. Article 18 of the principal Act shall be amended as follows:

(a) for the marginal note "Communications with the Central Bank of Malta." there shall be substituted the words "Communications with the Central Bank of Malta and other bodies."; and

(b) in sub-article (2) thereof, for the words "disclose information to overseas central banks and other authorities responsible for monetary policy" there shall be substituted the words "disclose information to overseas central banks, the European System of Central Banks, the European Central Bank and other authorities responsible for monetary policy".

PART III**AMENDMENTS TO THE FINANCIAL MARKETS ACT**

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

Amendments to the Financial Markets Act. Cap. 345.

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

Amendment of article 2 of the principal Act.

(a) immediately after the definition "EEA State" there shall be added the following new definitions:

" "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;

"ESRB" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board;" and

(b) immediately after the definition "overseas regulatory authority" there shall be added the following new definition:

" "Prospectus Directive" means Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;".

26. In the marginal note to article 4 of the principal Act, for the words "Application for recognition." there shall be substituted the words "Application for authorisation."

Amendment of article 4 of the principal Act.

27. Article 8 of the principal Act shall be amended as follows:

Amendment of article 8 of the principal Act.

(a) in sub-article (2) thereof, for the words "the recognition order", there shall be substituted the words "the authorisation order"; and

(b) immediately after sub-article (4) thereof, there shall

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be added the following new sub-article:

"(5) The competent authority shall notify ESMA of any revocation order."

Addition of new article to the principal Act.

28. Immediately after article 10A of the principal Act, there shall be added the following new article:

"Competent authority to draw up list when it is the home Member State of a regulated market.

10B. The competent authority shall draw up a list of the regulated markets for which it is the home Member State and shall forward that list to the other Member States, EEA States and ESMA. A similar communication shall be effected in respect of each change to that list."

Amendment of article 11 of the principal Act.

29. Article 11 of the principal Act shall be amended as follows:

(a) in paragraph (e) thereof, for the words "Takeover Bids Directive.", there shall be substituted the words "Takeover Bids Directive;"; and

(b) immediately after paragraph (e) thereof, there shall be added the following new paragraph:

"(f) to cooperate with ESMA for the purposes of the Prospectus Directive, in accordance with Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010."

Amendment of article 16 of the principal Act.

30. Immediately after sub-article (9) of article 16 of the principal Act there shall be added the following new sub-article:

"(10) The Listing Authority shall notify ESMA of the approval of the prospectus and any supplement thereto at the same time as that approval is notified to the applicant, and shall provide ESMA with a copy of such prospectus and any supplement thereto."

Amendment of article 17 of the principal Act.

31. In paragraph (c) of sub-article (1) of article 17 of the principal Act, for the words "and inform the European regulatory authorities", there shall be substituted the words "and inform ESMA and the European regulatory authorities".

Addition of new articles to the principal Act.

32. Immediately after article 21 of the principal Act, there shall be added the following new articles:

"Cooperation with other European regulatory authorities.

21A. The Listing Authority shall cooperate with other European regulatory authorities whenever necessary for the purpose of carrying out its duties and exercising its powers under the Prospectus Directive and the Transparency Directive. It shall render the necessary assistance to other European regulatory authorities, in particular by exchanging information and cooperating in any investigatory or supervisory function.

Reference of cases to ESMA.

21B. The Listing Authority may refer to ESMA cases where a request for cooperation, in particular to exchange information, has been rejected or has not been acted upon within a reasonable time.

Obligation of professional secrecy.

21C. The obligation of professional secrecy shall not prevent the Listing Authority from exchanging confidential information or from transmitting confidential information to other European regulatory authorities, ESMA or ESRB, subject to constraints relating to firm-specific information and effects on third countries as provided for in Regulation (EU) No 1095/2010 and Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board respectively. Information exchanged between the Listing Authority and other European regulatory authorities, ESMA or the ESRB shall be covered by the obligation of professional secrecy, to which the persons employed or formerly employed by the competent authority receiving the information are subject.

Notification to ESMA.

21D. The Listing Authority shall notify ESMA of any cooperation agreements it enters into providing for the exchange of information with the regulatory authorities or bodies enabled by their respective legislation to carry out tasks under the Transparency Directive."

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Amendment of
article 49 of the
principal Act.

33. Sub-article (1) of article 49 of the principal Act shall be amended as follows:

(a) in paragraph (e) thereof, for the words "including any implementing measures that have been or may be issued thereunder and relating to credit rating agencies, regulated markets and, or the admissibility to listing of financial instruments thereon and others as may be specified therein or to any other matter falling within the terms of this Act.", there shall be substituted the words "including any implementing measures that have been or may be issued thereunder, and including those relating to credit rating agencies, regulated markets, commodities markets, central counterparties, central securities depositories, market making, short selling, transactions in OTC derivatives, trade repositories and, or the admissibility to listing of financial instruments thereon and others as may be specified therein or to any other matter falling within the terms of this Act;"; and

(b) immediately after paragraph (e) thereof, there shall be added the following new paragraph:

"(f) to regulate the operation and, or registration of central counterparties operating in or from Malta."

PART IV

AMENDMENTS TO THE INVESTMENT SERVICES ACT

Amendments to
the Investment
Services Act.
Cap. 370.

34. 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.

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

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

(i) immediately before the definition "collective investment scheme" there shall be added the following new definitions:

" "Alternative Investment Fund or AIF" means a collective investment scheme, including subfunds thereof, which raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors, and which does not qualify as a UCITS Scheme in terms of the UCITS

Directive;

"Alternative Investment Fund Manager or AIFM" means a legal person whose regular business is the management of one or more AIFs;

"AIFM Directive" means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;"

(ii) for the definition "competent authority" there shall be substituted the following:

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

(iii) immediately after the definition "EEA State" there shall be added the following new definitions:

" "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;

"ESRB" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board;"

(iv) immediately after the definition "European investment firm", there shall be added the following new definition:

" "European management company" has the same meaning assigned to it in regulations made under this Act;"

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(v) for the definition "European regulatory authority", there shall be substituted the following:

" "European regulatory authority" means the body or bodies designated by a Member State or EEA State other than Malta in accordance with Article 44 of the AIFM Directive, Article 48 of the MIFID Directive and Article 97 of the UCITS Directive to carry out each of the duties provided for under the different provisions of the said Directives;"

(vi) immediately after the definition "regulated market", there shall be added the following new definition:

" "Regulation (EU) No 1095/2010" refers to 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; and

(vii) immediately after the definition "subsidiary", there shall be added the following new definition:

" "UCITS" means undertakings for collective investment in transferable securities in terms of the UCITS Directive as defined herein;" and

(b) in sub-article (3) thereof, for the words "implement the provisions of the MIFID Directive and the UCITS Directive", there shall be substituted the words "implement the provisions of the AIFM Directive, the MIFID Directive and the UCITS Directive, and any EU Regulations or Directives on financial services".

Amendment of article 2A of the principal Act.

36. Article 2A of the principal Act shall be renumbered as sub-article (1) of the said article, and immediately after sub-article (1) there shall be added the following new sub-articles:

"(2) The competent authority shall also carry out the duties as competent authority for all purposes of the AIFM Directive, the MIFID Directive and the UCITS Directive, and the Commission of the European Union, ESMA and European regulatory authorities shall be informed accordingly.

(3) Without prejudice to any other duty arising from this Act, the AIFM Directive, the MIFID Directive or the UCITS Directive, the competent authority shall:

(a) notify ESMA of the complaint and redress procedures which are available in Malta;

(b) notify the Commission of the European Union, ESMA and the other European regulatory authorities that it is the contact point in terms of article 17(1) and that it is the authority designated to receive requests for exchange of information or cooperation in terms of this Act;

(c) send to ESMA and to the Commission of the European Union, a list of the categories of bonds referred to in Article 54(1) of the UCITS Directive together with the categories of issuers authorised, in accordance with the laws and supervisory arrangements mentioned in that subparagraph, to issue bonds complying with the criteria set out in Article 54 of the UCITS Directive. A notice specifying the status of the guarantees offered shall be attached to those lists;

(d) ensure that all information received under the third paragraph of Article 51 of the UCITS Directive aggregated in respect of all the management or investment companies they supervise is accessible to ESMA in accordance with Article 35 of Regulation (EU) No 1095/2010, and ESRB in accordance with Article 15 of Regulation (EU) No 1092/2010 for the purpose of monitoring systemic risks at European Union level;

(e) subject to the conditions laid down in Article 35 of Regulation (EU) No 1095/2010, provide ESMA and the ESRB with aggregated information relating to the activities of AIFMs under their responsibility;

(f) provide ESMA and other European regulatory authorities with any information required for the purposes of carrying out its duties under the AIFM Directive."

37. Immediately after sub-article (9) of article 6 of the principal Act, there shall be added the following new sub-article: Amendment of article 6 of the principal Act.

"(10) The competent authority shall notify ESMA whenever an investment services licence has been granted by

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the competent authority in terms of this article."

Amendment of
article 7 of the
principal Act.

38. Article 7 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof -

(i) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) if the competent authority has been furnished by or on behalf of the licence holder with information which is false, inaccurate or misleading, or if the licence holder has obtained the licence by making false statements or by any other irregular means; or";

(ii) in paragraph (f) thereof, for the words "licence holder;", there shall be substituted the words "licence holder; and";

(iii) in paragraph (g) thereof, for the words "of such licence; and", there shall be substituted the words "of such licence."; and

(iv) paragraph (h) thereof shall be deleted; and

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

"(4) The competent authority shall notify ESMA of any cancellation of an investment services licence in terms of sub-article (1)."

Amendment of
article 12 of the
principal Act.

39. In paragraph (k) of sub-article (1) of article 12 of the principal Act, for the words "the MIFID Directive and the UCITS Directive;", there shall be substituted the words "the AIFM Directive, the MIFID Directive, and the UCITS Directive;".

Amendment of
article 13 of the
principal Act.

40. Sub-article (1) of article 13 of the principal Act shall be amended as follows:

(a) paragraph (v) thereof shall be renumbered as paragraph (vi); and

(b) immediately after paragraph (iv) thereof, there shall be added the following new paragraph:

"(v) an auditor of a licence holder; or".

41. Sub-article (2) of article 15 of the principal Act shall be amended as follows: Amendment of article 15 of the principal Act.

(a) in paragraph (a) thereof, for the words "or any other requirement," there shall be substituted the words "or any other requirement, including any requirement emanating from European Union legislation,";

(b) in paragraph (c) thereof, for the words "in relation to the holder of a licence be removed or removed and replaced;", there shall be substituted the words "in relation to the holder of a licence be prohibited, temporarily or otherwise, suspended from carrying out activities licensable under the Act, or removed or removed and replaced"; and

(c) in paragraph (f) thereof, for the words "the implementation of the MIFID Directive and the UCITS Directive;", there shall be substituted the words "the implementation of the AIFM Directive, the MIFID Directive and the UCITS Directive;".

42. Immediately after sub-article (4) of article 16A of the principal Act, there shall be added the following new sub-articles: Amendment of article 16A of the principal Act.

"(5) Where the competent authority has made a public statement in terms of sub-article (4), it shall simultaneously report that fact to ESMA.

(6) The competent authority shall annually provide ESMA with aggregated information about all the administrative measures and sanctions imposed in accordance with this article and shall upon request provide the necessary information on the application of administrative measures and imposition of penalties in the case of breaches of the provisions adopted in the implementation of the AIFM Directive."

43. In article 16B of the principal Act, for the words "any provisions which transpose the MIFID Directive and the UCITS Directive," there shall be substituted the words "any provisions which transpose the AIFM Directive, the MIFID Directive and the UCITS Directive,". Amendment of article 16B of the principal Act.

44. Article 17 of the principal Act shall be amended as follows: Amendment of article 17 of the principal Act.

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

(i) for the words "MIFID Directive and the

UCITS Directive", wherever they appear in the said sub-article (2), there shall be substituted the words "AIFM Directive, the MIFID Directive and the UCITS Directive";

(ii) for the words "Investment Services Rules issued thereunder.", there shall be substituted the words "Investment Services Rules issued thereunder:", and immediately thereafter there shall be added the following new proviso:

"Provided that the competent authority shall communicate information to other European regulatory authorities where this is relevant for monitoring and responding to the potential implications of the activities of an individual AIFM or AIFMs collectively, for the stability of systemically relevant investment firms and the orderly functioning of markets on which AIFMs are active. ESMA and the ESRB shall be informed accordingly.";

(b) in sub-article (8) thereof, for the words "sub-article (7) and article 26" there shall be substituted the words "sub-article (7) of this article and article 26";

(c) in sub-article (9) thereof:

(i) for the words "contrary to the provisions of the MIFID Directive or the UCITS Directive", there shall be substituted the words "contrary to the provisions of the AIFM Directive, the MIFID Directive or the UCITS Directive";

(ii) for the words "to the contact point in the other Member State or EEA State.", there shall be substituted the words "to the contact point in the other Member State or EEA State and to ESMA:", and immediately thereafter there shall be added the following new proviso:

"Provided that where the said suspected acts have been or are suspected to have been committed by an AIFM in breach of the AIFM Directive, the competent authority shall also inform the home Member State and the host Member State of the AIFM, as the case may be, in as specific a manner as possible."; and

(d) in sub-article (11) thereof:

(i) for the words "contrary to the provisions of the MIFID Directive or the UCITS Directive", there shall be substituted the words "contrary to the provisions of the AIFM Directive, the MIFID Directive or the UCITS Directive"; and

(ii) for the words "shall inform the notifying European regulatory authority", there shall be substituted the words "shall inform the notifying European regulatory authority and ESMA".

45. Article 17A of the principal Act shall be amended as follows:

Amendment of article 17A of the principal Act.

(a) in sub-article (1) thereof, for the words "or in an investigation:", there shall be substituted the words "or in an investigation in the territory of the latter within the framework of their powers:";

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

(i) for the words "in terms of Article 101(5) of the UCITS Directive", there shall be substituted the words "in terms of Article 54(2) of the AIFM Directive and Article 101(5) of the UCITS Directive"; and

(ii) for the words "overall control of such Member State.", there shall be substituted the words "overall control of such Member State on whose territory the said verification or investigation is being conducted."; and

(iii) in paragraph (b) of sub-article (3) thereof, for the words "in terms of Article 101(5) of the UCITS Directive", there shall be substituted the words "in terms of Article 54(2) of the AIFM Directive and Article 101(5) of the UCITS Directive".

46. Article 17B of the principal Act shall be amended as follows:

Amendment of article 17B of the principal Act.

(a) for the words "designated as contact points under Article 56 (1) of the MIFID Directive, or with European regulatory authorities", there shall be substituted the words "designated as contact points under Article 44 of the AIFM Directive, or with European regulatory authorities designated as

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contact points under Article 56(1) of the MIFID Directive, or with European regulatory authorities"; and

(b) for the words "In any case above-mentioned, the competent authority shall notify the requesting European regulatory authority accordingly providing as much detailed information as possible for such refusal.", there shall be substituted the words "In the case of such a refusal, the competent authority shall notify the European regulatory authority and ESMA accordingly, providing as detailed information as possible for such refusal."

Renumbering of article 17D of the principal Act.

47. Article 17D of the principal Act shall be renumbered as article 17F.

Addition of new articles to the principal Act.

48. Immediately after article 17C of the principal Act, there shall be added the following new articles:

"Referral to ESMA.

17D. The competent authority may refer to ESMA, situations where a request relating to one of the following has been rejected or has not been acted upon within a reasonable time:

(a) to exchange information as provided for in article 17;

(b) to carry out a supervisory activity, an on-site verification or an investigation, as provided for in article 17A; and

(c) to seek authorisation for its officials to accompany those of the European regulatory authority as provided for in article 17A.

Cooperation with ESMA.

17E. (1) The competent authority shall cooperate with ESMA for the purposes of the AIFM Directive, the MIFID Directive and the UCITS Directive in accordance with Regulation (EU) No 1095/2010.

(2) In the case of a disagreement between the competent authority and a European regulatory authority on an assessment, action or omission pertaining to either authority, in areas where the AIFM Directive requires cooperation or coordination between authorities from more than one Member State, the competent authority may refer the matter to ESMA.

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

49. Immediately after article 17F, as renumbered, of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Competent authority to inform the Commission and ESMA of general difficulties.

17G. The competent authority shall inform the Commission of the European Union and ESMA of any general difficulties which:

(a) an investment services licence holder encounters in establishing itself or providing investment services and, or performing investment activities in any overseas country or territory; and

(b) UCITS encounter in marketing their units in any overseas country or territory."

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

Amendment of article 26 of the principal Act.

(a) in the first proviso of sub-article (1) thereof, for the words "or market operators:", there shall be substituted the words "or market operators, including the exchange or transmission of confidential information to ESMA or the ESRB:"; and

(b) in sub-article (3) thereof -

(i) for the words "The provisions of this article and of articles 17 and 17D" there shall be substituted the words "The provisions of this article and of articles 17 and

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17F"; and

(ii) for the words "performance of their functions:" there shall be substituted the words "performance of their functions. Likewise, the competent authority shall be entitled to the receipt of such information as it may require for the purpose of performing its functions under the MIFID Directive:".

PART V

AMENDMENTS TO THE BANKING ACT

Amendments to
the Banking
Act.
Cap. 371.

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

Amendment of
article 2 of the
principal Act.

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

(a) in the definition "consolidating supervisor", for the words "controlled by EU parent financial holding companies;", there shall be substituted the words "controlled by EU parent financial holding companies or EU parent mixed financial holding companies;"

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

" "EBA" means the European Banking Authority established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of the 24 November 2010;"

(c) in the definition "EU parent credit institution" -

(i) for the words "or of a financial holding company set up in any Member State:", there shall be substituted the words "or of a financial holding company or mixed financial holding company established in any Member State:"; and

(ii) in the second paragraph thereof, in the definition "parent credit institution in a Member State", for the words "or of a financial holding company set up in the same Member State;", there shall be substituted the words "or of a financial holding company or mixed financial holding company established in the same Member State;"

(d) in the definition "EU parent financial holding company" -

(i) for the words "or of another financial holding company set up in any Member State:", there shall be substituted the words "or of another financial holding company or mixed financial holding company established in any Member State:"; and

(ii) in the second paragraph thereof, in the definition "parent financial holding company in a Member State", for the words "or of a financial holding company set up in the same Member State;", there shall be substituted the words "or of a financial holding company or mixed financial holding company established in the same Member State:";

(e) immediately after the definition "EU parent financial holding company", there shall be added the following new definition:

" "EU parent mixed financial holding company" means a parent mixed financial holding company in a Member State, which is not itself a subsidiary of a credit institution authorised in any Member State or of another financial holding company or mixed financial holding company established in any Member State:

For the purpose of this definition, "parent mixed financial holding company in a Member State" means a mixed financial holding company which is not itself a subsidiary of a credit institution authorised in the same Member State, or of a financial holding company or mixed financial holding company established in the same Member State:";

(f) the definition "Member State" shall be substituted by the following:

" "Member State" means a Member State of the European Union and includes an EEA State:";

(g) immediately after the definition "Minister" there shall be added the following new definition:

" "mixed financial holding company" means a parent undertaking, other than a regulated entity, which

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together with its subsidiaries, at least one of which is a regulated entity which has its registered office in the European Union or the EEA, and other entities, constitutes a financial conglomerate;".

Amendment of article 3 of the principal Act.

53. Sub-article (1) of article 3 of the principal Act shall be amended as follows:

(a) paragraph (b) thereof shall be renumbered as paragraph (c); and

(b) immediately after paragraph (a) thereof, there shall be added the following new paragraph:

"(b) The Minister, acting on the advice of the competent authority, may make regulations to transpose, implement and give effect to the provisions and requirements of Directives, Regulations and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder and relating to licence holders and others as may be specified therein;".

Amendment of article 4A of the principal Act.

54. In sub-article (2) of article 4A of the principal Act, for the words "Committee of European Banking Supervisors" wherever they appear, there shall be substituted the words "EBA".

Amendment of article 6 of the principal Act.

55. Sub-article (2) of article 6 of the principal Act shall be substituted by the following new sub-article:

"(2) All applications for a licence shall be made in such form and accompanied by such information, and shall conform with such requirements as may be prescribed from time to time by a Banking Rule. Such requirements shall be notified to the Commission of the European Union and the EBA:

Provided that an application may only be withdrawn by written notice to the competent authority at a time before it has been granted or refused."

Amendment of article 7 of the principal Act.

56. In sub-article (8) of article 7 of the principal Act, for the words "The competent authority shall notify the Commission of the European Union of every licence issued", there shall be substituted the words "The competent authority shall notify the EBA of every licence issued".

57. In sub-article (7) of article 9 of the principal Act, for the words "The competent authority shall notify the Commission of the European Union of any revocation of a licence", there shall be substituted the words "The competent authority shall notify the Commission of the European Union and the EBA the reasons for the revocation of a licence".

Amendment of article 9 of the principal Act.

58. In sub-article (2) of article 11A of the principal Act, for the words "The competent authority shall notify the European Commission", there shall be substituted the words "The competent authority shall notify the Commission of the European Union, the EBA".

Amendment of article 11A of the principal Act.

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

Amendment of article 16A of the principal Act.

(a) sub-article (2) thereof shall be renumbered as sub-article (2)(a); and

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

"(b) For the purposes of determining the appropriate level of own funds on the basis of the review and evaluation carried out in accordance with article 17D, the competent authority shall assess whether any imposition of a specific own funds requirement in excess of the minimum level is required to capture risks to which a credit institution is or might be exposed, taking into account the following:

(i) the quantitative and qualitative aspects of the credit institutions' assessment process referred to in article 17C;

(ii) the credit institutions' arrangements, processes and mechanisms referred to in article 17B;

(iii) the outcome of the review and evaluation carried out in accordance with article 17D."

60. In paragraph (c) of sub-article (1) of article 17 of the principal Act, for the words "competent authority shall require the credit institution, to the exclusion of an electronic money institution, to take necessary measures", there shall be substituted the words

Amendment of article 17 of the principal Act.

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"competent authority shall require the credit institution to take necessary measures".

Amendment of
article 25 of the
principal Act.

61. Article 25 of the principal Act shall be amended as follows:

(a) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) The competent authority may further, on the basis of Malta's international commitments, disclose information to overseas regulatory authorities and the EBA in accordance with the Capital Requirements Directive, other European Union Directives applicable to credit institutions, and with Articles 31 and 35 of Regulation (EU) No 1093/2010. Such information shall be subject to professional secrecy provided for under this Act and any regulations made thereunder."; and

(b) sub-article (6) thereof shall be amended as follows:

(i) for the words from "The competent authority shall further, upon a request" to the words "mentioned above, under the law:", there shall be substituted the following:

"The competent authority shall further, upon a request in writing, disclose:

(a) to the Central Bank, central banks of the European system of the central banks, other overseas central banks, other bodies with a similar function in their capacity as monetary authorities when this information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight payments, clearing and settlement systems and the safeguarding of the stability of the financial system;

(b) where appropriate, to other authorities responsible for overseeing payment systems;

(c) to the European Systemic Risk Board, where the information is relevant for

the exercise of statutory tasks under Regulation (EU) No 1092/2010 of the European Parliament,

any information in the possession of or accessible to the competent authority, which is required for the discharge of the duties of the Central Bank and the other authorities mentioned above, under the law:"; and

(ii) in the first proviso thereto, for the words "clearing and settlement systems, and safeguarding the stability of the financial system:", there shall be substituted the words "clearing and securities settlement systems, and safeguarding the stability of the financial system, and shall also communicate information to the European Systemic Risk Board under Regulation (EU) No 1092/2010, where such information is relevant for the exercise of its statutory tasks:".

62. Article 25A of the principal Act shall be amended as follows:

Amendment of article 25A of the principal Act.

(a) in sub-article (1) thereof, for the words "it shall communicate on its own initiative all essential information.", there shall be substituted the words "it shall communicate on its own initiative all essential information:", and immediately thereafter there shall be added the following new proviso:

"Provided that where the competent authority is responsible for supervision, on a consolidated basis, of EU parent credit institutions and credit institutions controlled by EU parent financial holding companies or by EU parent mixed financial holding companies, it shall provide the overseas regulatory authorities who supervise subsidiaries of these parent undertakings with all relevant information. In determining the extent of relevant information, the importance of those subsidiaries within the financial system in the Member States of those overseas regulatory authorities shall be taken into account.";

(b) paragraph (i) of sub-article (2) thereof shall be substituted by the following:

"(i) identification of the legal structure and the governance and organisational structure of the group, including all regulated entities, non-regulated subsidiaries

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and significant branches belonging to the group, the parent undertakings, in accordance with articles 7(1)(d) and 17B of the Act and Article 73(3) of the Capital Requirements Directive;"

(c) sub-articles (6) to (12) thereof shall be renumbered as sub-articles (7) to (13) respectively;

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

"(6) (a) The competent authority shall cooperate with the EBA for the purposes of the Capital Requirements Directive, in accordance with Regulation (EU) No 1093/2010, and shall provide the EBA with all the information necessary to carry out its duties under the Capital Requirements Directive and in accordance with Article 35 of the said Regulation (EU) No 1093/2010.

(b) The competent authority may refer to the EBA situations where:

(i) an overseas regulatory authority has not communicated essential information; or

(ii) a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within a reasonable time.";

(e) in sub-article (7) thereof, as renumbered, for the words "The competent authority may, by bilateral agreement, delegate its responsibility", there shall be substituted the words "The competent authority may, by bilateral agreement, in accordance with Article 28 of Regulation (EU) No 1093/2010, delegate its responsibility", and for the words "The Commission shall be kept informed of the existence and the content of any such agreements.", there shall be substituted the words "The EBA shall be kept informed of the existence and the content of any such agreements."; and

(f) in paragraph (a) of sub-article (11) thereof, as renumbered, for the words "and compatibility with European Community Law,", there shall be substituted the words "and compatibility with European Union Law,".

63. Article 25B of the principal Act shall be amended as follows:

Amendment of article 25B of the principal Act.

(a) in sub-article (1) thereof, for the words "and credit institutions controlled by EU parent financial holding companies, it shall carry out the following functions:", there shall be substituted the words "and credit institutions controlled by EU parent financial holding companies or EU parent mixed financial holding companies, it shall carry out the following tasks:";

(b) sub-articles (2) to (7) thereof shall be renumbered as sub-articles (3) to (8) respectively;

(c) immediately after sub-article (1) thereof, there shall be added the following new sub-article:

"(2) Where, with respect to the exchange of information within the provisions of this article, an overseas regulatory authority does not co-operate with the competent authority to the extent required in carrying out the functions listed in sub-article (1), the competent authority may refer the matter to the EBA, which may act in accordance with Article 19 of Regulation (EU) No 1093/2010.";

(d) for sub-article (5) thereof, as renumbered, there shall be substituted the following:

"(5) The competent authority in its role as consolidating supervisor shall, subject to article 25, alert as soon as it is practicable the EBA, the European Systemic Risk Board, the central banks of the European system of central banks, and those government departments responsible for legislation on supervision of credit institutions referred to in sub-article (8) and shall communicate all information that is essential for the pursuance of their tasks, where an emergency situation, including a situation as defined in Article 18 of Regulation (EU) No 1093/2010, or a situation of adverse developments in financial markets, arises, which potentially jeopardises the market liquidity and the stability of the financial system in any of the Member States where entities of a group have been authorised or where significant branches are established.";

(e) in sub-article (6) thereof, as renumbered, for the

words "it shall alert as soon as it is practicable the overseas regulatory authorities referred to in Articles 125 and 126 of the Capital Requirements Directive.", there shall be substituted the words "it shall alert as soon as it is practicable the overseas regulatory authorities referred to in Articles 125 and 126 of the Capital Requirements Directive and the EBA."; and

(f) immediately after sub-article (8) thereof, as renumbered, there shall be added the following new sub-article:

"(9) Where the competent authority is responsible for supervision on a consolidated basis, it shall provide the overseas regulatory authorities concerned and EBA with all the information regarding the banking group in accordance with articles 7(1)(d) and 17B of the Act and Article 73(3) of the Capital Requirements Directive, in particular regarding the legal structure and the governance and organisational structure of the group."

Amendment of article 25C of the principal Act.

64. In sub-article (1) of article 25C of the principal Act, for the words "mixed-activity holding company or its subsidiary situated in another Member State", there shall be substituted the words "mixed-activity holding company, a mixed financial holding company, or its subsidiary situated in another Member State".

PART VI

AMENDMENTS TO THE FINANCIAL INSTITUTIONS ACT

Amendments to the Financial Institutions Act. Cap. 376.

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

Amendment of article 3 of the principal Act.

66. In paragraph (b) of sub-article (7) of article 3 of the principal Act, for the words "money laundering or terrorist financing", there shall be substituted the words "money laundering or the funding of terrorism".

Amendment of article 8A of the principal Act.

67. Article 8A of the principal Act shall be amended as follows:

(a) in paragraph (b) of sub-article (1) thereof, for the words "money laundering and terrorist financing", there shall be substituted the words "money laundering and the funding of terrorism"; and

(b) in the proviso to sub-article (5) thereof, for the words "money laundering or terrorist financing", wherever they

appear, there shall be substituted the words "money laundering or the funding of terrorism".

68. In paragraph (g) of article 21 of the principal Act, for the words "article 25A", there shall be substituted the words "article 6(8)".

Amendment of article 21 of the principal Act.

PART VII

AMENDMENTS TO THE COMPANIES ACT

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

Amendment of the Companies Act. Cap. 386.

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

Amendment of article 2 of the principal Act.

(a) in sub-paragraph (iv) thereof, for the words "or the total consideration of the offer in the Community shall not exceed", there shall be substituted the words "or the total consideration of the offer in the European Union and the EEA shall not exceed";

(b) in sub-paragraph (v) thereof, for the words "the total consideration of the securities for the offer in a Member State or EEA State", there shall be substituted the words "the total consideration of the securities for the offer in the European Union and the EEA"; and

(c) in sub-paragraph (vi) thereof, for the words "total consideration of the offer in a Member State or EEA State,", there shall be substituted the words "total consideration of the offer in the European Union and the EEA,".

71. In article 68 of the principal Act, for the words "subscribed by at least two persons, and a certificate of registration is issued in respect thereof.", there shall be substituted the words "subscribed by at least two persons, or in the case of a single member company constituted in terms of article 212, by the single member, and a certificate of registration is issued in respect thereof.".

Amendment of article 68 of the principal Act.

72. Article 70 of the principal Act shall be amended as follows:

Amendment of article 70 of the principal Act.

(a) in sub-article (1) thereof, for the words "abbreviation "p.l.c.".", there shall be substituted the words "abbreviation "p.l.c.":", and immediately thereafter there shall be added the following new proviso:

"Provided that where the public company is a 'societas europaea' in accordance with Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company, in lieu of the words "public limited company" or their abbreviation "p.l.c.", the name of the public company shall be preceded or followed by the abbreviation "SE".";

(b) in paragraph (b) of sub-article (3) thereof, for the words "The words "investment company with fixed share capital" may be replaced with the words "investment company" or with "INVCO" ", there shall be substituted the words "the words "investment company with fixed share capital" may be replaced with the abbreviation "INVCO" ";

(c) in the second proviso of sub-article (4) thereof, for the words "the Registrar shall have regard to the business or proposed business of the company, to the protection of the names of individuals", there shall be substituted the words "the Registrar shall have regard, *inter alia*, to the business or proposed business of the company, to the protection of the names of persons"; and

(d) in sub-article (6) thereof:

(i) in paragraph (c) thereof, for the words "under a name or title which ends with the words "investment company with fixed share capital", "investment company" or "INVCO" or a contraction or imitation thereof", there shall be substituted the words "under a name or title which contains the words "investment company with fixed share capital" or "INVCO" or a contraction or imitation thereof"; and

(ii) in paragraph (d) thereof, for the words "under a name or title which ends with the words" there shall be substituted the words "under a name or title which contains the words".

Amendment of
article 82 of the
principal Act.

73. In the proviso of sub-article (2) of article 82 of the principal Act, for the words "may, in addition to the manner of authentication laid down in sub-article (1), be authenticated by an individual specifically authorised for such purpose by the memorandum", there shall be substituted the words "may be authenticated by a director, the company secretary, an authorised officer of the company or by an individual specifically authorised for such purpose by the memorandum".

74. Article 85 of the principal Act shall be amended as follows: Amendment of article 85 of the principal Act.

(a) sub-article (1) thereof, for the words "for an ordinary resolution by article 135(2).", there shall be substituted the words "for an ordinary resolution by article 135(2):", and immediately thereafter there shall be added the following new proviso:

"Provided that the memorandum or articles, or an extraordinary resolution of a company may permit either:

(a) the board of directors to issue shares up to a maximum amount as may be specified in the same memorandum or articles, or extraordinary resolution, which permission shall be for a maximum period of five years, renewable by ordinary resolution for further maximum periods of five years each; or

(b) the general meeting to authorise by ordinary resolution the board of directors to issue shares up to a maximum amount as may specified in the same memorandum or articles, or in the extraordinary resolution, which permission shall be for a maximum period of five years, renewable by ordinary resolution for further maximum periods of five years each.";

(b) sub-article (2) thereof shall be deleted, and sub-articles (3), (4), (5) and (6) shall be renumbered as sub-articles (2), (3), (4) and (5) respectively;

(c) sub-article (2) thereof, as renumbered, shall be substituted by the following:

"(2) Where there are several classes of shares, any resolution referred to in sub-article (1) shall be subject to a separate vote for each class of shareholders whose rights are affected by such resolution, and the provisions relating to the majority required for the resolution shall apply for each class.";

(d) in sub-article (3) thereof, as renumbered, for the words "referred to in sub-articles (1), (2) and (3)", there shall be substituted the words "referred to in sub-articles (1) and (2)";

(e) in sub-article (4) thereof, as renumbered, for the words "The provisions of sub-articles (1) to (4)", there shall be substituted the words "The provisions of sub-article (1) to (3)"; and

(f) sub-article (5) thereof, as renumbered, shall be substituted by the following:

"(5) Where an increase in the issued share capital is not fully taken up, that issue shall be deemed not to have taken effect:

Provided that if the conditions of the issue so provide, the issued share capital shall be increased by the amount of subscriptions received."

Amendment of article 89 of the principal Act.

75. In the second proviso to article 89 of the principal Act, for the words "Provided further that paragraph (e) shall also apply to a limited liability company established outside the Community whose securities are admitted to trading", there shall be substituted the words "Provided further that paragraph (e) shall also apply to a company established outside the European Union and the EEA and whose securities are admitted to trading".

Amendment of article 106 of the principal Act.

76. In paragraph (d) of sub-article (1) of article 106 of the principal Act, for the words "shall not exceed ten per cent of the issued share capital;", there shall be substituted the words "shall not exceed fifty per cent of the issued share capital;".

Amendment of article 107 of the principal Act.

77. In the proviso to sub-article (3) of article 107 of the principal Act, for the words "may be effected by the company in the meantime.", there shall be substituted the words "may be effected by the company in the meantime:", and immediately thereafter there shall be added the following new proviso:

"Provided further that this sub-article shall not apply where the company has acquired the shares otherwise than for valuable consideration."

Amendment of article 182 of the principal Act.

78. The first proviso to paragraph (b) of sub-article (3) of article 182 of the principal Act shall be substituted by the following:

"Provided that for the purpose of determining whether a company carries on business or has business interests outside Malta as aforesaid, interests or holdings held in a company referred to in this sub-article, and income derived therefrom, shall, for the purposes of this sub-article, be deemed to constitute business interests outside Malta:".

Amendment of article 183 of the principal Act.

79. In sub-article (1) of article 183 of the principal Act, for the words "prescribed by article 182.", there shall be substituted the words "prescribed by article 182. Where a copy of the annual accounts, auditors' report and directors' report is delivered to the

Registrar by electronic means, without prejudice to the requirements of articles 176(3), 178(3) and 179(6), such electronic copy shall be authenticated in accordance with article 82."

80. In sub-article (2) of article 184 of the principal Act, for the words "by electronic means, in addition to the manner of signing laid down in this sub-article, such annual return may be signed by an individual specifically authorised", there shall be substituted the words "by electronic means it may be signed by one director or the company secretary or by an individual specifically authorised".

Amendment of article 184 of the principal Act.

81. In the proviso of sub-article (6) of article 185 of the principal Act, for the words "to prepare consolidated accounts in accordance with article 174.", there shall be substituted the words "to prepare consolidated accounts in accordance with articles 172 and 174."

Amendment of article 185 of the principal Act.

82. Article 187 of the principal Act shall be amended as follows:

Amendment of article 187 of the principal Act.

(a) in sub-article (2) thereof, for the words "official closing middle rate issued by the Central Bank of Malta for that date.", there shall be substituted the words "official euro reference middle exchange rate published by the European Central Bank, or the indicative middle exchange rate published by the Central Bank of Malta, as the case may be, for that date."; and

(b) in sub-article (4) thereof, for the words "official closing middle rate issued by the Central Bank of Malta.", there shall be substituted the words "official euro reference middle exchange rate published by the European Central Bank, or the indicative middle exchange rate published by the Central Bank of Malta, as the case may be."

83. In the proviso to article 210 of the principal Act, for the words "or otherwise purports to deprive the auditors of the right granted to them by virtue of the provisions of article 155", there shall be substituted the words "or otherwise purports to deprive the auditors of the right to attend and be heard at any general meeting of the company on any part of the business of the meeting which concerns them as auditors".

Amendment of article 210 of the principal Act.

84. In sub-article (1) of article 212 of the principal Act, for the words "its main trading activity", there shall be substituted the words "its main activity".

Amendment of article 212 of the principal Act.

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Amendment of
article 225 of
the principal
Act.

85. Article 225 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "The Minister shall appoint an individual to be the official receiver" there shall be substituted the words "The Minister, acting on the advice of the competent authority under the Malta Financial Services Authority Act, shall appoint a senior official of the said Authority to be the official receiver";

(b) in sub-article (2) thereof, for the words "The Minister may authorise in writing any individual to assist the official receiver", there shall be substituted the words "The Minister, acting on the advice of the competent authority under the Malta Financial Services Authority Act, may authorise in writing any individual to assist the official receiver";

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

"(3) The remuneration, expenses incurred or disbursements made by the official receiver in the performance of his functions shall be payable out of the company's assets."; and

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

"(4) Notwithstanding anything to the contrary contained in any other law, the official receiver and any other individual authorised in terms of sub-article (2), shall be exempt from any liability whatsoever, including any liability in damages, for anything done or omitted to be done in the discharge or purported discharge of any of his functions under this Act or under any other law, or otherwise in the exercise of his official duties, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith."

Amendment of
article 229 of
the principal
Act.

86. Article 229 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) The official receiver, by virtue of his office and upon notification by the Court, becomes the liquidator of the company and continues in office until another

person becomes liquidator under the provisions of this title and shall be the liquidator during any vacancy."; and

(b) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) The official receiver shall, within fourteen days of notification by the court, deliver an authenticated copy of such notification to the Registrar for registration."

87. In sub-article (2) of article 241 of the principal Act, for the words "If any such liquidator retains for more than ten days a sum exceeding four hundred and sixty-five euro and eighty-seven cents (465.87)", there shall be substituted the words "If any such liquidator retains for more than ten days, other than in a bank account mentioned in sub-article (1), a sum exceeding five hundred euro (500)".

Amendment of article 241 of the principal Act.

88. Article 258 of the principal Act shall be amended as follows:

Amendment of article 258 of the principal Act.

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

(i) in paragraph (h) thereof, for the words "any necessary disbursements by the liquidator" there shall be substituted the words "any necessary disbursements by the official receiver or by the liquidator";

(ii) in paragraph (i) thereof, for the words "the remuneration of any person employed by the liquidator" there shall be substituted the words "the remuneration of any person employed by the official receiver or by the liquidator"; and

(iii) in paragraph (j) thereof, for the words "the remuneration of the liquidator" there shall be substituted the words "the remuneration of the official receiver or of the liquidator"; and

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

"(3) For the purposes of sub-article (2), "official receiver" shall include any individual authorised by the Minister in terms of article 225(2)."

89. Sub-article (4) of article 374 of the principal Act shall be deleted.

Amendment of article 374 of the principal Act.

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Amendment of article 425 of the principal Act.

90. Article 425 of the principal Act shall be amended as follows:

(a) sub-article (6) thereof shall be deleted; and

(b) sub-articles (7), (8) and (9) thereof shall be renumbered sub-articles (6), (7) and (8) respectively.

PART VIII

AMENDMENTS TO THE INSURANCE BUSINESS ACT

Amendments to the Insurance Business Act. Cap. 403.

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

Amendment of article 4 of the principal Act.

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

(a) sub-articles (3) and (4) thereof shall be renumbered as sub-articles (4) and (5) respectively; and

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

"(3) The competent authority may make insurance rules as may be required for the purpose of implementing the guidelines and recommendations issued by the European Insurance and Occupational Pensions Authority, under Article 16 of Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of the 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority) amending Decision No. 716/2009/EC and repealing Commission Decision 2009/79/EC, on interim measures for the preparation of the implementation of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast)."

PART IX

AMENDMENTS TO THE PREVENTION OF FINANCIAL MARKETS ABUSE ACT

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

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

94. In sub-article (1) of article 2 of the principal Act, immediately after the definition "EEA State", there shall be added the following new definition:

Amendment of article 2 of the principal Act.

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

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

Amendment of article 20 of the principal Act.

(a) in sub-article (3) thereof, immediately after the words "for the purpose of carrying out its duties in the investigation and detection in terms of the Market Abuse Directive," there shall be added the words "including a request by the foreign authority for them to accompany officers, employees or other agents of the competent authority during the course of an investigation,"; and

(b) immediately after sub-article (6) thereof, there shall be added the following new sub-article:

"(7) Without prejudice to Article 258 of the Treaty on the Functioning of the European Union, where a request for information, co-ordination of efforts or other form of collaboration, including a request to accompany officials of the foreign authority during the course of an investigation in terms of the Market Abuse Directive, made by the competent authority to a foreign authority in terms of this article is not acted upon within a reasonable time or is rejected, the competent authority may refer such rejection or absence of action to ESMA within a reasonable timeframe."

96. Immediately after article 20 of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Collaboration with ESMA.

20A. The competent authority shall collaborate with ESMA for the purposes of the Market Abuse Directive in accordance with Regulation (EU) No 1095/2010 of the European Parliament and of the Council of the 24 November 2010, and in particular it shall forward to ESMA, without delay, all information necessary for ESMA to carry out its duties in accordance with Article 35 of the said Regulation."

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Amendment of
article 22 of the
principal Act.

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

(a) in sub-article (3) thereof, for the words "Upon the conclusion of any appeal proceedings in terms of article 23, or the lapse of time required to lodge such an appeal, the competent authority may,", there shall be substituted the words "The competent authority may,";

(b) sub-article (5) thereof shall be renumbered as sub-article (6);

(c) immediately after sub-article (4) thereof, there shall be added the following new sub-article:

"(5) Where the competent authority has disclosed an administrative measure or sanction to the public in terms of sub-article (3), it shall contemporaneously report that fact to ESMA."; and

(d) immediately after sub-article (6) thereof, as renumbered, there shall be added the following new sub-article:

"(7) The competent authority shall provide ESMA annually with aggregated information regarding all administrative measures and sanctions imposed in terms of this Act and any applicable regulations made thereunder.".

PART X

AMENDMENTS TO THE SECURITISATION ACT

Amendments to
the
Securitisation
Act.
Cap. 484.

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

Amendment of
article 5 of the
principal Act.

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

(a) for the words "assumed by the securitisation vehicle, the securitisation vehicle shall not", there shall be substituted the words "assumed by the securitisation vehicle, but without prejudice to article 5A, the securitisation vehicle shall not";

(b) for the words "the Financial Institutions Act, and the Insurance Business Act.", there shall be substituted the words "the Financial Institutions Act and, save for what is provided in article 5A, the Insurance Business Act."; and

(c) the proviso thereto shall be substituted by the following new proviso:

Cap. 123. "Provided that nothing contained
in this article shall affect any of the
provisions of the Income Tax Act and
Cap. 372. the Income Tax Management Act.";

100. Immediately after article 5 of the principal Act, there shall be added the following new article:

Addition of new
article to the
principal Act.

"Non-
applicability.
Cap. 403

5A. Unless otherwise provided in the Insurance Business Act or in any regulations issued thereunder, the provisions of this Act shall not apply to a reinsurance special purpose vehicle established and regulated by any regulations made under the Insurance Business Act in terms of article 64 of the said Act:

Cap. 123.
Cap. 372.

Provided that nothing contained in this article shall affect any of the provisions of the Income Tax Act and the Income Tax Management Act in relation to such securitisation vehicles."

OBJECTS AND REASONS

The object of this Bill is to provide for the new Company Service Providers Act, which implements Article 36 of Directive 2005/60/EC of the European Parliament and of the Council of 29 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, in so far as the said article applies to company service providers. The said Act establishes a regime for registration with the Malta Financial Services Authority by any person resident or operating in or from Malta who acts as a company service provider by way of business.

This Bill also aims to transpose the provisions of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory

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Authority (European Securities and Markets Authority).

Furthermore, this Bill also serves the purpose of transposing the provisions of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010. Another Directive which this Bill aims to implement is Article 3 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate.

Another Directive which this Bill seeks to implement is Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate.

This Bill also amends the Companies Act, mainly to further regulate the office of the Official Receiver.
