

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,561, 22 ta' April, 2016

Taqsim A

MALTA

ATT Nru XIX tal-2016

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

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

ACT No. XIX of 2016

AN ACT enacted by the Parliament of Malta.

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

Nagħti l-kunsens tiegħi.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

22 ta' April, 2016

ATT Nru XIX tal-2016

ATT biex jemenda diversi liġijiet dwar servizzi finanzjarji u biex jipprovdi dwar affarijiet ancillari jew incidentali għalihom.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2016 li jemenda Diversi Liġijiet dwar is-Servizzi Finanzjarji. Titolu fil-qosor.

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

2. Din it-Taqsima temenda u għandha tinqara u tinftiehem haġa waħda mal-Att dwar is-Swieq Finanzjarji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali". Emendi għall-Att dwar is-Swieq Finanzjarji. Kap. 345.

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

(a) minnufih wara t-tifsira "Bank Ċentrali", għandha tiżdied it-tifsira ġdida li ġejja:

" "CRAR" tfisser ir-Regolament (KE) Nru 1060/2009 tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Settembru 2009 dwar aġenziji li jiggradaw il-kreditu, kif emendat minn żmien għal żmien, u kliem u frażijiet użati f'dan l-Att għandu jkollhom l-istess tifsira kif mogħti lilhom fl-imsemmi Regolament UE, kemm-il darba ma

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jingħadx xort'oħra hawnhekk;"

(b) minnufih wara t-tifsira "depożitarju ċentrali tat-titoli barrani" għandha tizzied it-tifsira ġdida li ġejja:

" "derivati" tfisser dawk l-istrumenti finanzjarji definiti fil-punt (44)(ċ) tal-artikolu 4(1) tal-MiFID; u msemmija fl-Anness I, Sezzjoni C(4) sa (10) li jinsab magħha;"

(ċ) minnufih wara t-tifsira ġdida "derivati" għandha tizzied it-tifsira ġdida li ġejja:

" "derivati tal-komoditajiet" tfisser dawk l-istrumenti finanzjarji definiti fil-punt (44)(ċ) tal-artikolu 4(1) tal-MiFID; li għandhom x'jaqsmu ma' komodità jew xi sottostanti msemmija fis-Sezzjoni C(10) tal-Anness I li jinsab mal-MiFID; jew fil-punt (5), (6), (7) u (10) tas-Sezzjoni C tal-Anness I li jinsab magħha;"

(d) it-tifsira "id-Direttiva" għandha tithassar;

(e) minnufih wara t-tifsira "Direttiva dwar it-Trasparenza" għandha tizzied it-tifsira ġdida li ġejja:

" "EMIR" tfisser ir-Regolament (UE) Nru 648/2012 tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Lulju, 2012 dwar derivati OTC, kontropartijiet ċentrali u repożitorji tad-*data* dwar it-transazzjonijiet kif emendat minn żmien għal żmien;"

(f) minnufih wara t-tifsira ġdida "EMIR" għandha tizzied it-tifsira ġdida li ġejja:

" "entità legali" għandha tkun tinkludi l-assocjazzjonijiet tan-negozju registrati u li m'għandhomx personalità legali u *trusts* fil-kuntest tat-tifsira tad-Direttiva dwar it-Trasparenza;"

(g) minnufih wara t-tifsira "ESRB" għandha tizzied it-tifsira ġdida li ġejja:

" "Facilità Kummerċjali Multilaterali" jew "MTF" tfisser sistema multilaterali, imħaddma minn ditta ta' investiment jew minn operatur fis-suq, li ġgħib flimkien interessi multipli ta' xiri u

bejgħ minn terzi fi strumenti finanzjarji - fis-sistema u f'konformità ma' regoli mhux diskrezzjonali - b'mod li jwassal għal kuntratt kif hemm fit-Titolu II tal-MiFID;"

(h) minnufih wara t-tifsira ġdida "Facilità Kummerċjali Multilaterali" jew "MTF" għandha tiżdied it-tifsira ġdida li ġejja:

" "facilità kummerċjali organizzata" jew "OTF" tfisser sistema multilaterali li ma tkunx suq irregolat jew MTF u li fiha interessi multipli ta' xiri u bejgħ minn terzi f'*bonds*, prodotti finanzjarji strutturati, permessi ta' emissjoni jew derivati jkunu jistgħu jinteragixxu fis-sistema b'mod li jwassal għal kuntratt kif hemm fit-Titolu II tal-MiFID;"

(i) minnufih wara t-tifsira ġdida "facilità kummerċjali organizzata", għandha tiżdied it-tifsira ġdida li ġejja:

" "ġeneratur tas-suq" tfisser persuna li tqis lilha nfisha fis-swieq finanzjarji fuq bażi kontinwa bħala li tkun lesta li tinnegozja in akkont tagħha nfisha billi tixtri u tbigħ strumenti finanzjarji kontra l-kapital proprjetarju ta' dik il-persuna bi prezzijiet definiti minn dik il-persuna;"

(j) it-tifsira "il-Komunità" għandha tithassar;

(k) minflok it-tifsira "kumpannija elenkata" għandu jidhol dan li ġej:

" "kumpannija elenkata" tfisser kumpannija li l-istrumenti finanzjarji tagħha jkunu ġew ammessi fil-lista fuq il-post tan-negozju kif hemm fid-dispożizzjonijiet ta' dan l-Att;"

(l) minflok it-tifsira "kumpannija kwotata" għandu jidhol dan li ġej:

" "kumpannija kwotata" tfisser kumpannija li l-istrumenti finanzjarji tagħha jkunu ddaħħlu biex jiġu elenkati u għall-kummerċ fuq post tan-negozju kif hemm fid-dispożizzjonijiet ta' dan l-Att;"

(m) minnufih wara t-tifsira "membru" għandha tiżdied it-tifsira ġdida li ġejja:

" "MiFID" tfisser id-Direttiva 2014/65/UE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Mejju 2014 dwar is-swieq fl-istrumenti finanzjarji u li temenda d-Direttiva 2002/92/KE u d-Direttiva 2011/61/UE, kif emendata minn zmien għal zmien, u tinkludi kull miżura implimentattiva li tkun inħarġet, jew li tista' tinħareġ taħtha;"

(n) minnufih wara t-tifsira ġdida "MiFID" għandha tizzied it-tifsira ġdida li ġejja:

"MiFIR" tfisser ir-Regolament (UE) Nru 600/2014 tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Mejju 2014 dwar is-swieq fl-istrumenti finanzjarji u li jemenda Regolament (UE) Nru 648/2012, kif emendat minn zmien għal zmien, u tinkludi kull miżura implimentattiva li tkun inħarġet, jew li tista' tinħareġ tahtu;"

(o) minflok it-tifsira "operatur fis-suq" għandu jidhol dan li ġej:

" "operatur fis-suq" tfisser persuna jew persuni li jiġġestixxu u, jew joperaw in-negozju ta' suq irregolat u jistgħu jkunu s-suq irregolat innifsu;"

(p) minnufih wara t-tifsira "persuna f'kumpannija" għandha tizzied it-tifsira ġdida li ġejja:

" "post tan-negozju" tfisser suq regolat, MTF jew OTF;"

(q) minflok it-tifsira "sistema multilaterali" għandu jidhol dan li ġej:

" "sistema multilaterali" tinkludi dawk is-swieq kollha li huma komposti minn gabra ta' ordinamenti u pjattaforma kummerċjali kif ukoll dawk li jiffunzjonaw biss fuq bażi ta' sett ta' ordinamenti imma teskludi sistemi bilaterali meta persuna taderixxi għal kull negozju in akkont tagħha nfisha u mhux bħala kontroparti li ma teħux riskju li tkun interposta bejn ix-xerrej u l-bejjiegh;"

(r) minnufih wara t-tifsira "spettur" għandha tizzied it-

tifsira ġdida li ġejja:

" "SSR" tfisser ir-Regolament (UE) Nru 236/2012 tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Marzu 2012 dwar bejgħ bin-nieqes u ċerti aspetti tas-*swaps* ta' inadempjenza tal-kreditu, kif emendat minn żmien għal żmien;"

(s) minflok it-tifsira "strumenti finanzjarji" għandu jidhol dan li ġej:

" "strumenti finanzjarji" tfisser dawk l-istrumenti speċifikati fis-Sezzjoni C tal-Anness I tal-MiFID;"

(t) minflok it-tifsira "suq regolat" għandu jidhol dan li ġej:

" "suq regolat" tfisser sistema multilaterali operata u, jew amministrata minn operatur fis-suq, li ġgħib flimkien jew tiffacilita li jingiebu flimkien interessi multipli ta' xiri u bejgħ minn terzi fi strumenti finanzjarji - fis-sistema u kif iridu r-regoli mhux diskrezzjonali tagħha - b'mod li jirriżulta f'kuntratt, fir-rigward tal-istrumenti finanzjarji ammessi għall-kummerċ taht ir-regoli u, jew sistemi tagħha, u li tkun awtorizzata u tiffunzjona regolarment u kif hemm fit-Titolu III tal-MiFID. Għall-finijiet ta' din it-tifsira, "interessi ta' xiri u bejgħ" tinkludi ordnijiet, kwotazzjonijiet u indikazzjonijiet ta' interess;" u

(u) minflok it-tifsira "titoli trasferibbli" għandu jidhol dan li ġej:

" "titoli trasferibbli" tfisser dawk il-klassijiet ta' titoli li huma negozjabbli fis-suq tal-kapital, bl-eċċezzjoni tal-istrumenti tal-pagament, bħalma huma:

(a) l-ishma f'kumpanniji u titoli oħra ekwivalenti għal ishma f'kumpanniji, soċjetajiet jew entitajiet oħra, u rċevuti depożitarji li għandhom x'jaqsmu mal-ishma;

(b) *bonds* jew għamliet oħra ta' dejn sekurizzat, inklużi rċevuti depożitarji dwar titoli

bħal dawk;

(ċ) kull titolu ieħor li jagħti dritt għall-ksib jew bejgħ ta' titoli trasferibbli bħal dawk jew li jagħtu lok għal ħlas assaldu bi flus stabbilit b'referenza għal titoli trasferibbli, muniti, rati ta' mgħax jew rendimenti, komoditajiet jew indicijiet jew mizuri oħra;"

Żjieda ta' artikolu ġdid mal-Att prinċipali.

4. Minnufih wara l-artikolu 2 tal-Att prinċipali, għandu jizdied l-artikolu ġdid li ġej:

"L-awtorità kompetenti għandha twettaq il-funzjonijiet tagħha taħt dan l-Att.

2A. (1) L-awtorità kompetenti għandha twettaq il-funzjonijiet tagħha taħt dan l-Att u, b'mod partikolari, għandha tara li jkun hemm konformità mad-dispożizzjonijiet ta' dan l-Att.

(2) L-awtorità kompetenti għandha wkoll twettaq il-funzjonijiet u d-dmirijiet bħala awtorità kompetenti għall-finijiet kollha tal-CRAR, CSDR, EMIR, MiFID, MiFIR u l-SSR, u l-Kummissjoni tal-Unjoni Ewropea, ESMA, u l-awtoritajiet regolatorji Ewropej għandhom ikunu infurmati b'dan.

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(3) L-Awtorità għas-Servizzi Finanzjarji ta' Malta mwaqqfa bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandha tkun l-awtorità kompetenti f'Malta għall-finijiet li jiġu implimentati d-dispożizzjonijiet rilevanti tal-CRAR, CSDR, EMIR, MiFID, MiFIR u SSR, u kull riferenza f'dan l-Att għall-awtorità kompetenti għandha tinqara u tinftiehem b'dan il-mod."

Emenda tat-titolu tat-Taqsima II tal-Att prinċipali.

5. Minflok il-kliem "Swieq Regolati" fit-titolu tat-Taqsima II tal-Att prinċipali għandhom jidhlu l-kliem "Postijiet tan-Negozju".

Emenda tal-artikolu 4Ċ tal-Att prinċipali.

6. Minflok is-subartikolu (4) tal-artikolu 4Ċ tal-Att prinċipali għandu jidhol dan li ġej:

"(4) F'konformità mad-dispożizzjonijiet ta' dan l-artikolu, is-swieq regolati għandhom ikunu wkoll jikkonformaw mad-dispożizzjonijiet applikabbli tal-MiFIR."

Emenda tal-artikolu 7 tal-Att prinċipali.

7. Minnufih wara s-subartikolu (2) tal-artikolu 7 tal-Att prinċipali, għandu jizdied is-subartikolu ġdid li ġej:

"(3) L-operatur ta' Faċilità Kummerċjali Multilaterali

għandu jikkonforma ruħu minnufih ma' kull istruzzjoni mill-Awtorità dwar l-Elenku biex jissospendi jew iwarrab xi strument milli jagħmel kummerç."

8. L-artikolu 11A tal-Att prinċipali għandu jithassar.

Thassir tal-artikolu 11A tal-Att prinċipali.

9. Fis-subartikolu (1) tal-artikolu 19 tal-Att prinċipali, minflok il-kliem "skont il-każ." għandhom jidhlu l-kliem "kif jista' jkun il-każ:", u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

Emenda tal-artikolu 19 tal-Att prinċipali.

"Izda jekk l-Awtorità dwar l-Elenku tikkunsidra li -

(a) xi emittenti ta' strumenti finanzjarji elenkati jkun naqas milli jippubblika xi informazzjoni regolata kif hemm imsemmi fir-Regoli ta' Elenkar; jew

(b) xi persuna oħra soġġetta għar-Regoli ta' Elenkar tkun naqset milli tavża, fiż-żmien meħtieġ, l-akkwist jew disponiment ta' impriza ewlenija kif hemm fir-Regoli ta' Elenkar,

din tista', mingħajr il-htieġa ta' smiġh fil-Qorti, timponi fuq dak l-emittent jew kull persuna oħra, bla hsara għar-Regoli ta' Elenkar kif jista' jkun il-każ, penali amministrattiva kif hemm fl-artikolu 19A."

10. Minnufih wara l-artikolu 19 tal-Att prinċipali, għandhom jiżdiedu l-artikoli ġodda li ġejjin:

Żjieda ta' artikoli ġodda mal-Att prinċipali.

"Penalitajiet amministrattivi.

19A. Fil-każ ta' kull ksur kif hemm fil-proviso tal-artikolu 19(1), l-Awtorità dwar l-Elenku tista', mingħajr il-htieġa ta' smiġh fil-Qorti, timponi dawn il-penalitajiet amministrattivi li ġejjin:

(a) fil-każ ta' persuna fiżika:

(i) penali ta' mhux iżjed minn żewġ miljun euro (€2,000,000), jew

(ii) sa darbtejn daqs l-ammont tal-profitti miksuba jew tatlif evitat minhabba fil-ksur, meta dawk ikunu jistgħu jiġu stabbiliti;

liema minnhom ikun l-ogħla;

(b) fil-każ ta' xi emittenti jew ta' xi entità legali oħra:

(i) penali sa għaxar miljun euro (€10,000,000) jew sa 5% tal-fatturat annwali totali kif registrat fl-aħħar kontijiet annwali disponibbli kif approvati mill-korp ta' tmexxija; meta l-entità legali tkun impriza prinċipali jew sussidjarja ta' impriza prinċipali li jkollha tipprepara kontijiet finanzjarji konsolidati kontijiet konformement mad-Direttiva 2013/34/UE, il-fatturat totali rilevanti għandu jkun il-fatturat annwali totali jew it-tip korrispondenti ta' dhul kif hemm fl-aħħar kontijiet annwali konsolidati disponibbli approvati mill-korp ta' tmexxija tal-impriza prinċipali aħharija, jew

(ii) sa darbtejn l-ammont tal-profitti miksuba jew tat-telf evitat minhabba fil-ksur, meta dawk ikunu jistgħu jiġu stabbiliti,

liema minnhom ikun l-ogħla.

Sanzjonijiet għall-membri ta' korpi amministrattivi, ta' tmexxija jew ta' sorveljanza tal-entità legali.

19B. Meta l-obbligi imposti kif hemm fl-Att jew f'xi regolamenti jew fir-Regoli ta' Elenkar mahruġin tahtu jkun japplikaw għall-emittenti jew għal xi entità legali oħra, fil-każ ta' xi ksur, jistgħu jiġu applikati wkoll sanzjonijiet, bla ħsara għall-kondizzjonijiet stabbiliti fil-liġi nazzjonali, għall-membri ta' korpi amministrattivi, ta' tmexxija jew ta' sorveljanza tal-entità legali involuta, u għal individwi oħra li huma responsabbli għall-ksur taht il-liġi nazzjonali.

Sospensjoni tal-eżerċizzju ta' drittijiet ta' votazzjoni.

19Ċ. Mingħajr preġudizzju għas-setgħat tal-Awtorità dwar l-Elenku kif hawn f'dan l-Att, l-Awtorità dwar l-Elenku tista' tissospendi l-eżerċizzju ta' drittijiet ta' votazzjoni marbuta ma' ishma fil-każ meta persuna soġġetta għar-Regoli ta' Elenkar tonqos milli tavża, fit-terminu meħtieġ, dwar l-akkwist jew id-disponiment ta' parteċipazzjoni ewlenija kif hemm fir-Regoli ta' Elenkar.

Ċirkostanzi
relevanti.

19D. Fil-każ ta' penalitajiet amministrattivi jew ta' miżuri imposti mill-Awtorità dwar l-Elenku, l-Awtorità dwar l-Elenku għandha tiegħu f'konsiderazzjoni ċ-ċirkostanzi relevanti kollha, inklużi meta jkun hekk adatt:

- (a) il-gravità u kemm itul il-ksur;
- (b) il-grad ta' responsabbiltà tal-persuna fiżika jew tal-entità legali responsabbli;
- (ċ) tas-saħħa finanzjarja tal-persuna fiżika jew tal-entità legali responsabbli, pereżempju kif ikun jinsab indikat mill-fatturat totali tal-entità legali responsabbli jew mid-dhul annwali tal-persuna fiżika responsabbli;
- (d) l-importanza tal-profitti miksuba jew tat-telf evitat mill-persuna fiżika jew mill-entità legali responsabbli, fil-qies li dawn jistgħu jiġu stabbiliti;
- (e) it-telf sostnut minn partijiet terzi b'riżultat tal-ksur, fil-qies li dawn jistgħu jiġu stabbiliti;
- (f) il-livell ta' koperazzjoni tal-persuna fiżika jew tal-entità legali responsabbli flimkien mal-awtorità kompetenti;
- (g) ksur ta' qabel mill-persuna fiżika jew mill-entità legali responsabbli."

11. Fis-subartikolu (1) tal-artikolu 20 tal-Att prinċipali, minflok il-kliem "taħt l-artikolu 19 għandha tagħti" għandhom jidhlu l-kliem "taħt l-artikolu 19 u l-artikolu 19A għandha tagħti".

Emenda tal-artikolu 20 tal-Att prinċipali.

12. Fl-artikolu 41A tal-Att prinċipali, minflok il-kliem "tista' tippubblika dikjarazzjoni li tkun tgħid dan." għandhom jidhlu l-kliem "tista' tippubblika dikjarazzjoni li tkun tgħid dan u li tindika l-persuna fiżika jew l-entità legali responsabbli u x-xorta tal-ksur, u, jew timponi ordni li tenhtiegħ lill-persuna fiżika jew lill-entità legali responsabbli biex itemmu l-imġiba li twassal għall-ksur u sabiex jieqfu milli jtennu dik il-kondotta:", u minnufih wara għandhom jizdiedu l-*provisos* godda li ġejjin:

Emenda tal-artikolu 41A tal-Att prinċipali.

"Iżda fil-każ ta' Regoli ta' Elenkar li jittrasponu d-Direttiva dwar it-Trasparenza, l-Awtorità dwar l-Elenku għandha, permezz ta' stqarrija pubblika u mingħajr dewmien

zejjed, tippublika kull deċiżjoni dwar is-sanzjonijiet u l-mizuri imposti għal xi ksur tar-Regoli ta' Elenkar li jittrasponu d-Direttiva dwar it-Trasparenza, li tkun mill-anqas tinkludi informazzjoni dwar it-tip u x-xorta tal-ksur u l-identità tal-persuni fiżiċi jew tal-entitajiet legali responsabbli għat-thaddim tagħha:

Iżda wkoll f'dan il-każ tal-aħħar biss l-Awtorità dwar l-Elenku tista' ddewwem dak il-kxif fil-pubbliku f'dawn it-tliet ċirkostanzi li ġejjin:

(a) meta, fil-każ li s-sanzjoni tiġi imposta fuq persuna fiżika, il-pubblikazzjoni tad-*data* personali tinsab li tkun sproporzjonata minn stima preċedenti obbligatorja tal-proporzjonalità ta' dik il-pubblikazzjoni, jew

(b) meta jkun jidhrilha li dik il-pubblikazzjoni tkun serjament tipperikola l-istabilità tas-sistema finanzjarja jew xi investigazzjoni uffiċjali li tkun għaddejja; jew

(ċ) meta l-pubblikazzjoni tkun, sa fejn jista' jiġi hekk stabbilit, ser tikkawża ħsara sproporzjonata u gravi lill-istituzzjonijiet jew lill-persuni fiżiċi involuti."

Żjieda ta' artikolu ġdid mal-Att prinċipali.

13. Minnufih wara l-artikolu 41A tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġejj:

"Appell kontra deċiżjoni tal-Awtorità dwar l-Elenku.

41B. Jekk isir appell kontra d-deċiżjoni tal-Awtorità dwar l-Elenku kif hemm fl-artikolu 19A, l-Awtorità dwar l-Elenku għandha tinkludi informazzjoni f'dak is-sens fid-dikjarazzjoni pubblika msemmija fil-proviso mal-artikolu 41A meta din tiġi publikata jew temenda l-istqarrija pubblika jekk l-appell isir wara l-ewwel publikazzjoni."

Emenda tal-artikolu 45 tal-Att prinċipali.

14. Fis-subartikolu (1) tal-artikolu 45 tal-Att prinċipali minflok il-kliem "barra mis-suq regolat meta dawn ikunu kwotati." għandhom jidhlu l-kliem "barra mis-suq regolat meta dawn ikunu kwotati, jew ammessi bhala Faċilità Kummerċjali Multilaterali jew ammessi għal xi Faċilità Kummerċjali Organizzata:", u minnufih wara għandu jiżdied il-proviso ġdid li ġejj:

"Iżda, għall-finijiet ta' dan is-subartikolu, il-kelma "ammessi" għandha tkun tfigher ammessi għall-elenkar wara proċess ta' ammissjoni approvat mill-Faċilità Kummerċjali Multilaterali jew mill-Faċilità Kummerċjali Organizzata, jew

ammessi għall-elenkar u l-kummerċ wara proċess ta' ammissjoni approvat mill-Faċilità Kummerċjali Multilaterali jew mill-Faċilità Kummerċjali Organizzata."

TAQSIMA II EMENDI GHALL-ATT DWAR IL-KUMPANNIJI

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

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

16. Minflok is-subparagrafu (iii) tat-tifsira "Stat Membru tal-pajjiż" fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali għandu jidhol dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

"(iii) għall-emittenti kollha ta' sigurtajiet inkorporati f'pajjiż terz, li mhumiex imsemmija fil-paragrafu (ii) ta' din it-tifsira, l-Istat Membru fejn:

(a) is-sigurtajiet ikunu maħsuba li jiġu offruti lill-pubbliku għall-ewwel darba wara d-data tad-dhul fis-seħh ta' din id-dispożizzjoni; jew

(b) meta ssir l-ewwel applikazzjoni għal ammissjoni għall-kummerċ f'suq regolat, b'għażla tal-emittenti, l-offerent jew il-persuna li tkun qiegħda titlob li tiġi ammessa, hekk kif jista' jkun il-każ, bla ħsara għall-elezzjoni sussegwenti mill-emittenti inkorporati f'pajjiż terzi fiċ-ċirkostanzi li ġejjin:

i. meta l-Istat Membru tal-pajjiż ma jkunx ġie stabbilit bl-għażla tagħhom; jew

ii. konformement mal-punt (1)(i)(iii) tal-artikolu 2 tad-Direttiva 2004/109/KE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Diċembru 2004 dwar l-armonizzazzjoni tal-ħtiġiet ta' trasparenza fir-rigward ta' informazzjoni dwar emittenti li jkollhom is-sigurtajiet tagħhom ammessi għall-kummerċ f'suq regolat."

17. L-artikolu 3A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 3A tal-Att prinċipali.

(a) il-paragrafi (d), (e), (f), (g), (h), (i), (j), (k), (l), (m),

(n), (o) u (p) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r) u (s) rispettivament;

(b) minnufih wara l-paragrafu (ċ) tiegħu, għandhom jizziedu l-paragrafi godda li ġejjin:

"(d) id-Direttiva 2003/71/KE tal-Parlament Ewropew u tal-Kunsill tal-4 ta' Novembru 2003 dwar il-prospett li għandu jiġi pubblikat meta jiġu offruti sigurtajiet lill-pubbliku jew dawn jiġu ammessi għall-kummerċ u li temenda d-Direttiva 2001/34/KE;

(e) id-Direttiva 2004/109/KE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Diċembru 2004 dwar l-armonizzazzjoni tal-htigiet tat-trasparenza fir-rigward ta' informazzjoni dwar emittenti li jkollhom is-sigurtajiet tagħhom ammessi għall-kummerċ f'suq regolat u li temenda d-Direttiva 2001/34/KE;" u

(ċ) minnufih wara l-paragrafu (p) tiegħu, kif enumerat mill-ġdid, għandu jizzied il-paragrafu ġdid li ġej:

"(q) id-Direttiva 2013/50/UE tal-Parlament Ewropew u tal-Kunsill tat-22 ta' Ottubru 2013 li temenda d-Direttiva 2004/109/KE tal-Parlament Ewropew u tal-Kunsill dwar l-armonizzazzjoni tal-htigiet tat-trasparenza fir-rigward ta' informazzjoni dwar emittenti li jkollhom is-sigurtajiet tagħhom ammessi għall-kummerċ f'suq regolat, id-Direttiva 2003/71/KE tal-Parlament Ewropew u tal-Kunsill dwar il-prospett li għandu jiġi pubblikat meta jiġu offruti sigurtajiet lill-pubbliku u d-Direttiva tal-Kummissjoni 2007/14/KE li tistabbilixxi regoli dettaljati dwar l-implimentazzjoni ta' ċerti dispozizzjonijiet tad-Direttiva 2004/109/KE;".

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

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

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

19. Minnufih wara s-subartikolu (7) tal-artikolu 20 tal-Att prinċipali għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 20 tal-Att prinċipali.

Kap. 330.

"(8) (a) Minkejja kull dispożizzjoni ta' dan l-Att, u mingħajr preġudizzju għal kull setgħa taht din il-liġi jew taht xi liġi oħra, xejn ma għandu jipprevjeni jew jostakola lill-awtorità kompetenti milli tassisti lil xi awtorità, korp jew entità oħra kif imsemmija fl-artikolu 17(2) tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, fit-twettiq tal-funzjonijiet jew dmirijiet tagħha fi kwistjonijiet li jkollhom x'jaqsmu mal-abbuż tas-suq:

(i) meta jkun hekk meħtieġ fil-kuntest tal-impenji internazzjonali ta' Malta; jew

(ii) meta jkun hekk meħtieġ fil-kuntest tal-imprizi prezunti f'kull ftehim bilaterali jew multilaterali għall-iskambju ta' informazzjoni u forom oħra ta' kollaborazzjoni ma' awtoritajiet regolatorji barranin inkluża talba li tinholq taht il-memorandum ta' ftehim magħmul mal-awtorità kompetenti.

(b) Malli tirċievi talba minn xi awtorità, korp jew entità oħra bħal dawk biex twettaq il-funzjonijiet jew dmirijiet tagħha f'materji li jkollhom x'jaqsmu mal-abbuż tas-suq, l-awtorità kompetenti għandha minnufih tiehu l-mizuri meħtieġa sabiex tiġbor l-informazzjoni meħtieġa minn dik l-awtorità, korp jew entità oħra u tista' għal dak l-iskop teżercita kull setgħa mogħtija lilha taht dan l-Att. Jekk l-awtorità kompetenti ma tkunx tista' ttipprovdi l-informazzjoni meħtieġa minnufih, hija għandha tavża lill-awtorità, korp jew entità oħra li jkunu qegħdin jitolbuha għar-raġunijiet għal dan.

(ċ) Is-subartikoli (4) u (6) ta' dan l-artikolu għandhom ikunu japplikaw *mutatis mutandis* għal dan is-subartikolu."

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**TAQSIMA IV
EMENDI TAL-ATT DWAR SERVIZZI TA' INVESTIMENT**

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

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

Emenda tal-artikolu 17 tal-Att prinċipali.

21. Minnufih wara s-subartikolu (14) tal-artikolu 17 tal-Att prinċipali, għandu jiżdied is-subartikolu ġdid li ġej:

"(15) L-awtorità kompetenti tista' tikkoopera wkoll ma' awtoritajiet regolatorji Ewropej biex jiġi faċilitat l-irkupru ta' penalitajiet amministrattivi."

Emenda tal-artikolu 17B tal-Att prinċipali.

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

(a) il-paragrafi (b) u (ċ) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (ċ) u (d) rispettivament; u

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

"(b) il-konformità mat-talba x'aktarx li tkun tolqot b'mod kuntrarju l-investigazzjoni li tkun qiegħda tagħmel hi stess, l-attivitajiet ta' infurzar jew, meta jkun japplika, xi investigazzjoni kriminali;"

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru 378 tad-19 ta' April, 2016.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

22nd April, 2016

ACT No. XIX of 2016

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

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

1. The short title of this Act is the Various Financial Services Laws (Amendment) Act, 2016. Short title.

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

2. 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.

3. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) immediately after the definition "central securities depository" there shall be added the following new definition:

" "commodity derivatives" means those financial instruments defined in point (44)(c) of Article 4(1) of MiFID; which relate to a commodity or an underlying referred to in Section C(10) of Annex I to MiFID; or in point (5), (6), (7) and (10) of Section C of Annex I thereto;"

(b) the definition "the Community" shall be deleted;

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(c) immediately after the definition "competent authority", there shall be added the following new definition:

" "CRAR" means Regulation (EC) No. 1060/2009 of the European Parliament and of the Council of the 16 September 2009 on credit rating agencies, as amended from time to time, and words and expressions used in this Act shall have the same meaning as is given to them in the said EU Regulation unless otherwise defined herein;"

(d) immediately after the definition "CRAR" there shall be added the following new definition:

"derivatives" means those financial instruments as defined in point (44)(c) of Article 4(1) of MiFID; and referred to in Annex I, Section C (4) to (10) thereto;"

(e) the definition "the Directive" shall be deleted;

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

" "EMIR" means Regulation (EU) No. 648/2012 of the European Parliament and of the Council of the 4th July, 2012 on OTC derivatives, central counterparties and trade repositories as amended from time to time;"

(g) for the definition "financial instruments" there shall be substituted the following:

" "financial instruments" means those instruments specified in Section C of Annex I of MiFID;"

(h) immediately after the definition "inspector" there shall be added the following new definition:

" "legal entity" shall include registered business associations without legal personality and trusts within the meaning of the Transparency Directive;"

(i) for the definition "listed company" there shall be substituted the following:

" "listed company" means a company whose financial instruments have been admitted to listing on a trading venue in accordance with the provisions of this Act;"

(j) immediately after the definition "market abuse" there shall be added the following new definition:

" "market maker" means a person who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling financial instruments against that person's proprietary capital at prices defined by that person;"

(k) for the definition "market operator" there shall be substituted the following:

" "market operator" means a person or persons who manages and, or operates the business of a regulated market and may be the regulated market itself;"

(l) immediately after the definition "Member State" there shall be added the following new definition:

" "MiFID" means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;"

(m) immediately after the new definition "MiFID" there shall be added the following new definition:

"MiFIR" means Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;"

(n) for the definition "multilateral system" there shall be substituted the following:

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" "multilateral system" includes all those markets that are composed of a set of bye-laws and a trading platform as well as those that only function on the basis of a set of bye-laws but excludes bilateral systems where a person enters into every trade on own account and not as a riskless counterparty interposed between buyer and seller;"

(o) immediately after the definition "multilateral system", as substituted, there shall be added the following new definition:

" "multilateral trading facility" or "MTF" means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments - in the system and in accordance with non-discretionary rules - in a way that results in a contract in accordance with Title II of MiFID;"

(p) immediately after the new definition "multilateral trading facility" or "MTF" there shall be added the following new definition:

" "organised trading facility" or "OTF" means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of MiFID;"

(q) for the definition "quoted company" there shall be substituted the following:

" "quoted company" means a company whose financial instruments have been admitted to listing and trading on a trading venue in accordance with the provisions of this Act;"

(r) for the definition "regulated market" there shall be substituted the following:

" "regulated market" means a multilateral

system operated and, or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments - in the system and in accordance with its non-discretionary rules - in a way that results in a contract, in respect of the financial instruments admitted to trading under its rules and, or systems, and which is authorised and functions regularly and in accordance with Title III of MiFID. For the purposes of this definition, "buying and selling interests" includes orders, quotes and indications of interest;"

(s) immediately after the definition "related company" there shall be added the following new definition:

" "SSR" means Regulation (EU) No. 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps, as amended from time to time;"

(t) immediately after the definition "trading" there shall be added the following new definition:

" "trading venue" means a regulated market, an MTF or an OTF;" and

(u) for the definition "transferable securities" there shall be substituted the following:

" "transferable securities" means those classes of securities which are negotiable on the capital market, with the exception of instruments of payment, such as:

(a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;

(b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;

(c) any other securities giving the right to

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acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures;"

Addition of new article to the principal Act.

4. Immediately after article 2 of the principal Act, there shall be added the following new article:

"Competent authority shall carry out its functions under this Act.

2A. (1) The competent authority shall carry out its functions under this Act and, in particular, shall ensure compliance with the provisions of this Act.

(2) The competent authority shall also carry out the functions and duties as competent authority for all purposes of the CRAR, CSDR, EMIR, MiFID, MiFIR and the SSR, and the Commission of the European Union, ESMA, and European regulatory authorities shall be informed accordingly.

Cap. 330.

(3) The Malta Financial Services Authority established by the Malta Financial Services Authority Act shall be the designated competent authority in Malta for the purposes of implementing the relevant provisions of the CRAR, CSDR, EMIR, MiFID, MiFIR and the SSR, and any reference in this Act to the competent authority shall be read and construed accordingly."

Amendment of the title to Part II of the principal Act.

5. For the words "REGULATED MARKETS" in the title to Part II of the principal Act there shall be substituted the words "TRADING VENUES".

Amendment of article 4C of the principal Act.

6. For sub-article (4) of article 4C of the principal Act there shall be substituted the following:

"(4) In complying with the provisions of this article regulated markets shall also comply with the applicable provisions of MiFIR."

Amendment of article 7 of the principal Act.

7. Immediately after sub-article (2) of article 7 of the principal Act, there shall be added the following new sub-article:

"(3) The operator of a multilateral trading facility shall comply immediately with any instruction from the Listing Authority to suspend or remove an instrument from trading."

8. Article 11A of the principal Act shall be deleted.

Deletion of article 11A of the principal Act.

9. In sub-article (1) of article 19 of the principal Act, for the words "as the case may be." there shall be substituted the words "as the case may be:", and immediately thereafter there shall be added the following proviso:

Amendment of article 19 of the principal Act.

"Provided that if the Listing Authority considers that -

(a) an issuer of listed financial instruments has failed to make public any regulated information as defined in the Listing Rules; or

(b) any other person subject to the Listing Rules has failed to notify, within the required time limit, the acquisition or disposal of a major holding in accordance with the Listing Rules,

it may, without recourse to a court hearing, impose on such issuer or any other person subject to the Listing Rules as the case may be, an administrative penalty in terms of article 19A."

10. Immediately after article 19 of the principal Act, there shall be added the following new articles:

Addition of new articles to the principal Act.

"Administrative penalties.

19A. In the case of breaches in terms of the proviso of article 19(1), the Listing Authority may, without recourse to a court hearing, impose the following administrative penalties:

(a) in the case of a natural person:

(i) a penalty not exceeding two million euro (€2,000,000), or

(ii) up to twice the amount of the profits gained or losses avoided because of the breach, where those can be determined,

whichever is higher;

(b) in the case of an issuer or any other legal entity:

(i) a penalty up to ten million euro (€10,000,000) or up to 5% of the total annual turnover according to the last available annual accounts approved by the management body; where the legal entity is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated financial accounts pursuant to Directive 2013/34/EU, the relevant total turnover shall be the total annual turnover or the corresponding type of income according to the last available consolidated annual accounts approved by the management body of the ultimate parent undertaking, or

(ii) up to twice the amount of the profits gained or losses avoided because of the breach, where these can be determined,

whichever is higher.

Sanctions on members of administrative, management or supervisory bodies of the legal entity.

19B. Where obligations imposed in terms of the Act or any regulations or Listing Rules issued thereunder apply to the issuer or to any other legal entity, in the event of a breach, sanctions can also be applied, subject to the conditions laid down in national law, to the members of administrative, management or supervisory bodies of the legal entity concerned, and to other individuals who are responsible for the breach under national law.

Suspension of exercise of voting rights.

19C. Without prejudice to the powers of the Listing Authority in terms of this Act, the Listing Authority may suspend the exercise of voting rights attached to shares in the event where a person subject to the Listing Rules fails to notify, within the required time limit, the acquisition or disposal of a major holding in accordance with the Listing Rules.

Relevant
circumstances.

19D. In the case of administrative penalties or measures imposed by the Listing Authority, the Listing Authority shall take into account all relevant circumstances, including where appropriate:

(a) the gravity and the duration of the breach;

(b) the degree of responsibility of the natural person or legal entity responsible;

(c) the financial strength of the natural person or legal entity responsible, for example as indicated by the total turnover of the legal entity responsible or the annual income of the natural person responsible;

(d) the importance of profits gained or losses avoided by the natural person or legal entity responsible, in so far as they can be determined;

(e) the losses sustained by third parties as a result of the breach, in so far as they can be determined;

(f) the level of cooperation of the natural person or legal entity responsible with the competent authority;

(g) previous breaches by the natural person or legal entity responsible."

11. In sub-article (1) of article 20 of the principal Act, for the words "under article 19 it shall give" there shall be substituted the words "under article 19 and article 19A it shall give".

Amendment of
article 20 of the
principal Act.

12. In article 41A of the principal Act, for the words "publish a statement to that effect.", there shall be substituted the words "publish a statement to that effect indicating the natural person or the legal entity responsible and the nature of the breach, and, or impose an order requiring the natural person or legal entity responsible to cease the conduct constituting the breach and to desist from any repetition of that conduct:", and immediately thereafter there shall be added the following new provisos:

Amendment of
article 41A of
the principal
Act.

"Provided that in the case of Listing Rules transposing the Transparency Directive, the Listing Authority shall, by means of a public statement and without undue delay, publish every

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decision on sanctions and measures imposed for a breach of the Listing Rules transposing the Transparency Directive, including at least information on the type and nature of the breach and the identity of natural persons or legal entities responsible for it:

Provided further that in this latter case only the Listing Authority may delay such public disclosure in the following three circumstances:

(a) where, in the event that the sanction is imposed on a natural person, publication of personal data is found to be disproportionate by an obligatory prior assessment of the proportionality of such publication, or

(b) where it deems that such publication would seriously jeopardise the stability of the financial system or an ongoing official investigation; or

(c) where publication would, in so far as can be determined, cause disproportionate and serious damage to the institutions or natural persons involved."

Addition of new article to the principal Act.

13. Immediately after article 41A of the principal Act there shall be added the following new article:

"Appeal against decision of the Listing Authority.

41B. If an appeal is submitted against the decision of the Listing Authority in terms of article 19A, the Listing Authority shall include information to that effect in the public statement referred to in the proviso of article 41A at the time of the publication or to amend the public statement if the appeal is submitted after the initial publication."

Amendment of article 45 of the principal Act.

14. In sub-article (1) of article 45 of the principal Act, for the words "the regulated market on which they are listed.", there shall be substituted the words "the regulated market on which they are listed, or admitted to a multilateral trading facility or admitted to an Organised Trading Facility:", and immediately thereafter there shall be added the following new proviso:

"Provided that, for the purposes of this sub-article, the term "admitted" shall mean admitted to listing following an admission process approved by the Multilateral Trading Facility or Organised Trading Facility, or admitted to listing and trading

following an admission process approved by the Multilateral Trading Facility or Organised Trading Facility."

PART II AMENDMENTS TO THE COMPANIES ACT

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

Amendments to the Companies Act. Cap. 386.

16. For sub-paragraph (iii) of the definition "home Member State" in sub-article (1) of article 2 of the principal Act, there shall be substituted the following:

Amendment of article 2 of the principal Act.

"(iii) for all issuers of securities incorporated in a third country, which are not mentioned in paragraph (ii) hereof, the Member State where:

(a) the securities are intended to be offered to the public for the first time after the date of entry into force of this provision; or

(b) where the first application for admission to trading on a regulated market is made, at the choice of the issuer, the offerer or the person asking for admission, as the case may be, subject to a subsequent election by issuers incorporated in a third country in the following circumstances:

i. where the home Member State was not determined by their choice; or

ii. in accordance with point (1)(i)(iii) of Article 2 of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market."

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

Amendment of article 3A of the principal Act.

(a) paragraphs (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) thereof shall be re-numbered as paragraphs (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r) and (s) respectively;

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

"(d) 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;

(e) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC;" and

(c) immediately after paragraph (p) thereof, as re-numbered, there shall be added the following new paragraph:

"(q) Directive 2013/50/EU of the European Parliament and of the Council of 22 October 2013 amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC;".

PART III AMENDMENTS TO THE PREVENTION OF FINANCIAL MARKETS ABUSE ACT

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

18. 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".

Amendment of article 20 of the principal Act.

19. Immediately after sub-article (7) of article 20 of the principal Act, there shall be added the following new sub-article:

Cap. 330.

"(8) (a) Notwithstanding any of the provisions of this Act, and without prejudice to any power under this or any other law, nothing shall prevent or obstruct the competent authority from assisting any authority, body or other entity as mentioned in article 17(2) of the Malta Financial Services Authority Act for the purpose of carrying out its functions or duties in matters related to market abuse:

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

(ii) 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 arising under a memorandum of understanding concluded with the competent authority.

(b) Upon receipt of a request from any such authority, body or other entity for the purpose of carrying out its functions or duties in matters related to market abuse, the competent authority shall immediately take the necessary measures in order to gather the information required by such authority, body or other entity and may for such purpose exercise any of the powers under this Act. If the competent authority is not able to supply the required information immediately, it shall notify the requesting authority, body or other entity of the reasons.

(c) Sub-articles (4) and (6) shall apply *mutatis mutandis* to this sub-article."

PART IV AMENDMENTS TO THE INVESTMENT SERVICES ACT

20. 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".

Amendments to
the Investment
Services Act.
Cap. 370.

A 808

Amendment of
article 17 of the
principal Act.

21. Immediately after sub-article (14) of article 17 of the principal Act, there shall be added the following new sub-article:

"(15) The competent authority may also cooperate with European regulatory authorities with respect to facilitating the recovery of administrative penalties."

Amendment of
article 17B of the
principal Act.

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

(a) paragraphs (b) and (c) thereof shall be renumbered as paragraphs (c) and (d) respectively; and

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

"(b) compliance with the request is likely to affect adversely its own investigation, enforcement activities or, where applicable, any criminal investigation;".

Passed by the House of Representatives at Sitting No. 378 of the 19th April, 2016.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

