

MALTA

ATT Nru VIII tal-2019

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

ATT biex jemenda l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, Kap. 330.

ACT No. VIII of 2019

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Malta Financial Services Authority Act, Cap. 330.

Nagħti l-kunsens tiegħi.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

29 ta' Marzu, 2019

ATT Nru VIII tal-2019

*ATT biex jemenda l-Att dwar l-Awtorità għas-Servizzi
Finanzjarji ta' Malta, Kap. 330.*

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2019 li
jemenda l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, u
dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar l-
Awtorità għas-Servizzi Finanzjarji ta' Malta, hawn iżjed 'il quddiem
imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.

Kap. 330.

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

(a) it-tifsira "Bord tal-Amministrazzjoni u Rizorsi" għandha tiġi mħassra;

(b) minnufih wara t-tifsira "il-BRRD" għandha tiżdied it-tifsira ġdida li ġejja:

"Direttorat" tfisser sezzjoni tal-Awtorità, imwaqfa mill-Bord tal-Gvernaturi bl-artikolu 5, magħmula minn numru ta' taqsimiet u funzjonijiet;

(c) it-tifsira "Direttur Ġenerali" għandha tiġi mħassra;

(d) minnufih wara t-tifsira "istituzzjoni" għandha tiżdied it-tifsira ġdida li ġejja:

" "Konsulent Ġenerali" tfisser l-Uffiċjal li jmexxi d-Direttorat responsabbli għall-affarijiet legali u relazzjonijiet internazzjonali;"

(e) minnufih wara t-tifsira "Konsulent Ġenerali" għandhom jiżdiedu t-tifsiriet godda li ġejjin:

" "Kumitat dwar Deċiżjonijiet tal-Infurzar" tfisser is-sotto-kumitat tal-Kumitat Eżekuttiv imwaqqaf bl-artikolu 11;

"Kumitat Eżekuttiv" tfisser il-Kumitat mahtur bl-artikolu 9;"

(f) it-tifsira "Kumitat ta' Kordinazzjoni" għandha tiġi mħassra;

(g) it-tifsira "Kunsill ta' Sorveljanza" għandha tiġi mħassra;

(h) it-tifsira "Registatur tal-Kumpanniji" għandha tiġi mħassra;

(i) minnufih wara t-tifsira "servizzi finanzjarji" għandha tiżdied it-tifsira ġdida li ġejja:

" "Uffiċjal Ewlieni" tfisser l-uffiċjal responsabbli għal Direttorat;" u

(j) it-tifsira "l-Uffiċjal Prinċipali tal-Operat" għandha tiġi mħassra.

3. Il-paragrafu (b) tas-subartikolu (1) tal-artikolu 4 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 4 tal-Att prinċipali.

"(b) li tippromwovi l-integrità tas-swieq finanzjarji u l-aspettattivi leġittimi tal-konsumaturi tas-servizzi finanzjarji, li tippromwovi prattiċi ta' kompetizzjoni ġusta u għażla tal-konsumatur f'servizzi finanzjarji u li tikkumplimenta lill-Bank Ċentrali ta' Malta fir-rwol tiegħu li jassigura l-istabbiltà tas-sistema finanzjarja;"

4. Fis-subartikolu (1) tal-artikolu 5 tal-Att prinċipali, minflok il-kliem "il-Kumitat ta' Kordinazzjoni, il-Kunsill ta' Sorveljanza, il-Bord tal-Amministrazzjoni u Riżorsi u l-Uffiċċju Legali" għandhom jidhru l-kliem "il-Kumitat Eżekuttiv u Direttorati li jistgħu jiġu stabbiliti mill-Bord tal-Gvernaturi minn żmien għal żmien".

Emenda tal-artikolu 5 tal-Att prinċipali.

5. L-artikolu 7A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 7A tal-Att prinċipali.

(a) fis-subartikolu (3) tiegħu, il-kliem "għal kull wiehed jew aktar mill-Kumitati tal-Elenkar imwaqqfa" għandu jiġi sostitwit bil-kliem "lill-Kumitat tal-Elenkar imwaqqaf"; u

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

"(4) Fejn il-Bord tal-Gvernaturi meta jkun qed jagħmilha tal-Awtorità dwar l-Elenku jiddelega kwalunkwe funzjoni, setgħa jew deċiżjoni tiegħu skont is-subartikolu (3), din id-delega għandha tiġi magħmula pubblika fuq is-sit elettroniku tal-Awtorità."

6. Fis-subartikolu (2) tal-artikolu 7B tal-Att prinċipali, minflok il-kliem "Kunsill ta' Sorveljanza" għandhom jidhru l-kliem "Kumitat Eżekuttiv".

Emenda tal-artikolu 7B tal-Att prinċipali.

7. L-artikolu 9 tal-Att prinċipali għandu jiġi sostitwit b'dan li

Sostituzzjoni tal-artikolu 9 tal-Att prinċipali.

ġej:

"Il-Kumitat
Eżekuttiv.

9. (1) Il-Kumitat Eżekuttiv ikun responsabbli għall-implimentazzjoni tal-istrategġiji u l-politika tal-Awtorità, għall-approvazzjoni tar-regolamentazzjoni, għall-approvazzjoni u l-ħruġ ta' liċenzji u awtorizzazzjonijiet oħra, u biex jissorvelja u jwettaq monitoraġġ fuq persuni u entitajiet oħra liċenzjati jew awtorizzati mill-Awtorità fis-settur tas-servizzi finanzjarji, għall-infurzar tal-qafas regolatorju tas-settur tas-servizzi finanzjarji, għall-amministrazzjoni ta' kuljum u għall-finanzi tal-Awtorità, inklużi riżorsi umani u servizzi anċillari, u għall-kordinazzjoni generali tal-affarijiet amministrattivi tal-Awtorità.

(2) Il-Kumitat Eżekuttiv jista' minn żmien għal żmien jiddelega bil-miktub il-funzjonijiet u s-setgħat tiegħu, fuq tali affarijiet u bla ħsara għal dawk il-kondizzjonijiet u modi hekk kif jiġu speċifikati fid-delega, kif soġġetta għat-termini u tul ta' żmien stabbiliti mill-Kumitat Eżekuttiv lill-Uffiċjal Eżekuttiv Ewlieni jew lil wieħed jew iżjed mill-membri tal-Kumitat jew lil funzjoni jew taqsima tal-Awtorità, hekk kif jiġu speċifikati. Kwalunkwe deċiżjonijiet meħudin b'dan il-mod għandhom jiġu approvati mill-Bord tal-Gvernaturi u wara magħmula pubbliċi fuq is-sit elettroniku tal-Awtorità.

(3) Il-Kumitat Eżekuttiv ikun ukoll responsabbli sabiex jistabbilixxi u jagħti setgħat lil sotto-kumitati, taqsimiet u funzjonijiet. Il-Kumitat Eżekuttiv jiddetermina l-mandati rispettivi tas-sotto-kumitati, taqsimiet u funzjonijiet.

(4) Il-Kumitat Eżekuttiv ikun magħmul mill-Uffiċjal Eżekuttiv Ewlieni li għandu jippresjedi l-Kumitat, il-Konsulent Ġenerali, u l-Uffiċjali Ewlenin rispettivament responsabbli għas-superviżjoni, infurzar, servizzi korporattivi operat, strategġija, politika u innovazzjoni, u għal kwalunkwe aspett li jaqa' fil-mandat tal-Awtorità hekk kif determinat mill-Bord tal-Gvernaturi.

(5) Il-Kumitat Eżekuttiv għandu jagħzel wiehed mill-uffiċjali tal-Awtorità ingaġġat f'xi waħda mill-funzjonijiet imsemmija fis-subartikolu (1), biex jagħmilha ta' Segretarju tal-Kumitat Eżekuttiv għal dak il-perjodu u taħt dawk il-kundizzjonijiet li l-Kumitat Eżekuttiv jidhirlu xierqa.

(6) Is-Segretarju jkollu d-dmir li jagħmel it-thejjijiet meħtieġa għal-laqgħat tal-Bord u li jżomm il-minuti ta' dawk il-laqgħat.

(7) Id-dispożizzjonijiet tal-artikolu 7 għandhom, sa fejn huma applikabbli, japplikaw għal-laqgħat tal-Kumitat Eżekuttiv kif japplikaw għal-laqgħat tal-Bord tal-Gvernaturi.

(8) Il-Kumitat Eżekuttiv jista' minn żmien għal żmien jagħmel arrangamenti interni sabiex jawtorizza lil xi wiehed jew aktar mill-uffiċjali anzjani, responsabbli għall-approvazzjoni u l-ħruġ ta' liċenzji u awtorizzazzjonijiet oħra, sabiex jiffirmaw liċenzja, kategoriji ta' liċenzji jew kull forma oħra ta' awtorizzazzjoni kif iqis xieraq.

(9) Il-Kumitat Eżekuttiv għandu jaġixxi bħala Kumitat tal-Elenkar kif hemm fl-artikolu 14 tal-Att dwar is-Swieq Finanzjarji."

Kap. 345.

8. L-artikolu 10 tal-Att prinċipali għandu jiġi mħassar.

Thassir tal-artikolu 10 tal-Att prinċipali.

9. L-artikolu 11 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 11 tal-Att prinċipali.

"Kumitat dwar Deċiżjonijiet tal-Infurzar.

11. (1) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jiddeciedi jew jieħu kull azzjoni oħra kif jidhirlu xieraq, minnufih u mingħajr dewmien, fir-rigward ta' kull rakkomandazzjoni għal azzjoni ta' infurzar imressqa quddiemu mill-Uffiċjal Ewlieni responsabbli għall-infurzar jew kwalunkwe uffiċjal mid-Direttorat responsabbli għall-infurzar:

Iżda l-Kumitat Eżekuttiv jista' jieħu hu nnifsu kwalunkwe azzjoni ta' infurzar jekk:

(a) ikun iqis li, fil-każ partikolari, l-azzjoni proposta għandha sseħħ qabel ma jkun prattikabbli jew possibbli li jitlaqqa' l-Kumitat dwar Deċiżjonijiet tal-Infurzar; jew

(b) ikun iqis li, fil-każ partikolari, tkun meħtieġa deċiżjoni urġenti fuq l-azzjoni proposta sabiex jiġu mharsa l-interessi tal-konsumaturi.

(2) Il-membri tal-Kumitat dwar Deċiżjonijiet tal-Infurzar għandhom jinħatru mill-Bord tal-Gvernaturi.

(3) Il-Kumitat Eżekuttiv jista', wara li jkun ġab l-approvazzjoni tal-Bord tal-Gvernaturi, jistabbilixxi mandat dettaljat għall-Kumitat dwar Deċiżjonijiet tal-Infurzar u jista' wkoll jistabbilixxi li ċertu azzjoni ta' infurzar, li ma jqisx li hija materjali, tista tittiehed mill-Uffiċjal Ewlieni responsabbli għall-infurzar.

(4) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jkun magħmul minn president u minn erba' (4) membri oħra maħtura mill-Bord tal-Gvernaturi għal dak iż-żmien, li jkun perjodu ta' mhux aktar minn tliet (3) snin, li jista' jiġi speċifikat fl-ittra tal-ħatra, u għandhom ikunu jistgħu jergħu jinħatru mill-ġdid; u għandhom jirċievu dik ir-rimunerazzjoni hekk kif l-Awtorità tista' tistabbilixxi minn żmien għal żmien.

(5) Il-president tal-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jkun avukat li għal perjodu ta', jew perjodi li fit-total jammontaw għal, mhux inqas minn seba' (7) snin ikun serva bħala avukat f'Malta jew serva bħala mħallef jew maġistrat f'Malta, jew parti hekk ipprattika u parti hekk serva u li fil-fehma tal-Bord tal-Gvernaturi għandu l-ħila u l-esperjenza meħtieġa fl-attività jew regolament tas-servizzi finanzjarji, jew fil-finanzi.

(6) Il-membri tal-Kumitat dwar Deċiżjonijiet tal-Infurzar għandhom ikunu persuni li fil-fehma tal-Bord tal-Gvernaturi ikollhom il-ħila u esperjenza meħtieġa fl-attività jew regolament tas-servizzi finanzjarji, jew fil-finanzi.

(7) Sabiex ikun jista' jaqdi l-funzjonijiet tiegħu aħjar, u qabel ma jasal għal xi deċiżjoni, il-Kumitat dwar Deċiżjonijiet tal-Infurzar jista' jiddeciedi li jisma' lil xi persuna dwar xi haġa li tkun qed tiġi kkunsidrata minn dak il-Kumitat.

(8) Qabel ma jasal biex jieħu xi deċiżjoni, il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jinnotifika permezz ta' avviż bil-miktub id-deċiżjoni li jkun qed jipproponi li għandha tittiehed fuq il-persuni li jiffurmaw is-suġġett tar-rakkomandazzjoni għall-azzjoni ta' infurzar li tkun qiegħda tiġi kkunsidrata minn dak il-Kumitat, filwaqt li jiddikjara xi jkunu r-ragunijiet tiegħu għad-deċiżjonijiet li jkunu qegħdin jiġu proposti minnu. Dak l-avviż għandu jkun ukoll jispeċifika fih il-perjodu li matulu l-persuna li tiġi notifikata bl-avviż ikollha jedd li tressaq l-ilmenti tagħha bil-miktub lill-Kumitat dwar Deċiżjonijiet tal-Infurzar dwar ir-raguni għaliex id-deċiżjoni proposta m'għandhiex tittiehed, kif hemm fid-dispożizzjonijiet rilevanti tal-Atti amministrati mill-Awtorità:

Iżda l-Kumitat dwar Deċiżjonijiet tal-Infurzar jista' jieħu d-deċiżjoni finali qabel jiskadi l-perjodu stipulat fl-avviż fejn jiddeciedi li l-każ huwa urġenti.

(9) Il-Kumitat Eżekuttiv, bl-approvazzjoni tal-Bord tal-Gvernaturi, jista' jagħmel regoli li jirregolaw il-proċedura ta' kull smiġh li jista' jsir quddiem il-Kumitat dwar Deċiżjonijiet tal-Infurzar.

(10) Il-Bord tal-Gvernaturi għandu jagħżel wiehed mill-uffiċjali tal-Awtorità ingaġġat f'xi waħda mill-funzjonijiet imsemmija fl-artikolu 9(1), biex jagħmilha ta' Segretarju tal-Kumitat dwar Deċiżjonijiet tal-Infurzar għal dak il-perjodu u taħt dawk il-kundizzjonijiet li l-Bord tal-Gvernaturi jidhirlu xierqa.

(11) Is-Segretarju jkollu d-dmir li jagħmel it-tnejjijiet meħtieġa għal-laqgħat tal-Kumitat dwar Deċiżjonijiet tal-Infurzar u li jzomm il-minuti ta' dawk il-laqgħat.

(12) Il-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jirrapporta lill-Bord tal-Gvernaturi dwar il-progress li jkun sar fil-qasam ta' kompetenza tiegħu:

Iżda l-Kumitat dwar Deċiżjonijiet tal-Infurzar għandu jkun indipendenti mill-Kumitat Eżekuttiv u mill-Bord tal-Gvernaturi, u għandu jagixxi indipendentement minnhom.

(13) Id-dispożizzjonijiet tal-artikolu 7 għandhom, sa fejn huma applikabbli, japplikaw għall-Kumitat dwar Deċiżjonijiet tal-Infurzar kif japplikaw għall-Bord tal-Gvernaturi.

(14) Id-dispożizzjonijiet ta' paragrafi (a), (b), (d) u (e) ta' artikolu 6(6) għandhom, sa fejn applikabbli, *mutatis mutandis*, japplikaw għall-president u l-membri tal-Kumitat dwar Deċiżjonijiet tal-Infurzar."

Sostituzzjoni tal-artikolu 12 tal-Att prinċipali.

10. L-artikolu 12 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Id-Direttorat tal-Infurzar.

12. (1) Id-Direttorat tal-Infurzar ikollu l-funzjoni li:

(a) jittratta dwar l-infurzar:

(i) taħt id-dispożizzjonijiet ta' dan l-Att jew ta' kull Att ieħor amministrat mill-Awtorità, jew ta' kull regolamenti jew regoli magħmulin taħthom; jew

(ii) f'dak li jirrigwarda xi waħda mill-kondizzjonijiet imposti f'xi liċenzja jew awtorizzazzjoni oħra; jew

(iii) f'dak li jirrigwarda xi miżura amministrattiva jew penali imposti mill-Awtorità kif hawn f'dan l-Att jew f'kull Att ieħor amministrat mill-Awtorità, jew f'kull regolamenti jew regoli magħmulin taħthom;

(b) jinvestiga kwalunkwe każ riferut lilu minn kwalunkwe organu tal-Awtorità;

(ċ) imexxi investigazzjonijiet rigward kull azzjoni ta' infurzar;

(d) jagħmel rakkomandazzjonijiet dwar kull azzjoni ta' infurzar lill-Kumitat dwar Deċiżjonijiet tal-Infurzar imwaqqaf bl-artikolu 11;

(e) jimplimenta kull deċiżjoni tal-Kumitat dwar Deċiżjonijiet tal-Infurzar inkluż l-għemil ta' arrangamenti xierqa għal dak il-għan;

(f) jassisti, kif ikun applikabbli, fit-tmexxija tal-proċedimenti quddiem it-Tribunal għas-Servizzi Finanzjarji fir-rigward ta' xi azzjoni ta' infurzar bħal dik;

(g) iwettaq dawk id-dmirijiet l-oħra kollha li jistgħu jiġu assenjati lilu mill-Kumitat Eżekuttiv.

(2) Id-Direttorat tal-Infurzar għandu jkollu, biex ikun jista' jaqdi l-funzjonijiet tiegħu, il-poteri kollha vestiti fl-Awtorità taħt dan l-Att jew kull Att ieħor amministrat mill-Awtorità.

(3) Id-Direttorat tal-Infurzar għandu jkun magħmul mill-Uffiċjal Ewlieni responsabbli għall-infurzar, u minn dak in-numru ta' uffiċjali u impjegati kif jistgħu jkunu meħtieġa biex iwettqu kif imiss il-funzjonijiet tad-Direttorat."

11. Fis-subartikolu (3) tal-artikolu 12A tal-Att prinċipali, minflok il-kliem "lid-Direttur Ġenerali u lill-Uffiċjal Prinċipali tal-Operat" għandhom jidhlu l-kliem "lill-Uffiċjal Eżekuttiv Ewlieni".

Emenda tal-artikolu 12A tal-Att prinċipali.

12. Is-subartikolu (1) tal-artikolu 13 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 13 tal-Att prinċipali.

"(1) L-Awtorità tista' taħtar Konsulent Ġenerali, Uffiċjali Ewlenin, Kapijiet, Deputati Kapijiet u uffiċjali bħal dawk oħra li jidhirlha li jkunu meħtieġa biex twettaq il-funzjonijiet, is-setgħat u d-dmirijiet tagħha taht dan l-Att jew taht xi liġi oħra. Il-ħatra tal-Konsulent Ġenerali u l-Uffiċjali Ewlenin għandha ssir mill-Uffiċjal Eżekuttiv Ewlieni b'konsultazzjoni mal-Bord tal-Gvernaturi. Il-ħatra tal-uffiċjali u impjegati oħra tal-Awtorità barra l-Konsulent Ġenerali u l-Uffiċjali Ewlenin għandha ssir mill-Kumitat Eżekuttiv taht dawk il-pattijiet u l-kondizzjonijiet li l-Bord tal-Gvernaturi jista' jistabbilixxi."

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

Emenda tal-artikolu 23 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Kumitat ta' Kordinazzjoni" għandhom jidhlu l-kliem "Kumitat Eżekuttiv"; u

(b) fis-subartikolu (4) tiegħu, minflok il-kliem "Kumitat ta' Kordinazzjoni" għandhom jidhlu l-kliem "Kumitat Eżekuttiv".

14. Fl-artikolu 29 tal-Att prinċipali, minflok il-kliem "tal-Kumitat ta' Koordinazzjoni, tal-Kumitat ta' Riżoluzzjoni, tal-Kunsill ta' Sorveljanza, tal-Bord tal-Amministrazzjoni u r-Riżorsi u tal-Uffiċċju Legali" għandhom jidhlu l-kliem "Kumitat Eżekuttiv jew kwalunkwe sotto-kumitat tiegħu u tal-Kumitat ta' Riżoluzzjoni".

Emenda tal-artikolu 29 tal-Att prinċipali.

15. Minnufih wara l-artikolu 30 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żieda ta' artikolu ġdid mal-Att prinċipali.

"Dispożizzjonijiet
transitorji u kif
jinftiehm u
referenzi.

31. (1) Kwalunkwe deċiżjoni li
ttiehdet mill-Kumitat ta' Kordinazzjoni, mill-
Kunsill ta' Sorveljanza u mill-Bord tal-
Amministrazzjoni u r-Riżorsi, qabel id-dhul fis-
sehh ta' dan l-artikolu, għandha tkompli
tapplika:

Iżda għall-finijiet ta' dan l-artikolu, il-
kelma "deċiżjoni" għandha, fil-każ tal-Kunsill
ta' Sorveljanza, tinkludi liċenzji mahruġa,
approvazzjonijiet u awtorizzazzjonijiet
mogħtija, u azzjonijiet regolatorji meħuda.

(2) Kwalunkwe referenza, fi kwalunkwe
liġi, għad-Direttur Ġenerali jew għall-Uffiċjal
Principali tal-Operat tal-Awtorità għandhom
jinqraw u jinftiehm bħala referenza għall-
Uffiċjal Eżekuttiv Ewlieni tal-Awtorità kif
definit fl-artikolu 2.

(3) Kwalunkwe referenza, fi kwalunkwe
liġi, għall-Kumitat ta' Kordinazzjoni, il-Kunsill
ta' Sorveljanza jew il-Bord tal-
Amministrazzjoni u r-Riżorsi għandhom
jinqraw u jinftiehm bħala referenza għall-
Kumitat Eżekuttiv u tinkludi referenza għal
kwalunkwe sotto-kumitati, direttorati,
funzjonijiet jew taqsimiet stabbiliti taħt dan l-
Att, skont il-każ."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 210 tal-25 ta'
Marzu, 2019.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

29th March, 2019

ACT No. VIII of 2019

*AN ACT to amend the Malta Financial Services Authority Act,
Cap. 330.*

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

1. The short title of this Act is the Malta Financial Services Authority Act, 2019, and this Act shall be read and construed as one with the Malta Financial Services Authority Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 330.

Amendment of
article 2 of the
principal Act.

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

(a) the definition "Board of Management and Resources" shall be deleted;

(b) immediately after the definition "Chief Executive Officer" there shall be added the following new definition:

" "Chief Officer" means the Officer responsible for a Directorate;"

(c) the definition "Chief Operations Officer" shall be deleted;

(d) the definition "Co-Ordination Committee" shall be deleted;

(e) the definition "Director-General" shall be deleted;

(f) immediately after the definition "Chief Officer" there shall be added the following new definitions:

" "Directorate" means a section of the Authority, established by the Board of Governors in terms of article 5, made up of a number of units and functions;

"Enforcement Decisions Committee" means the sub-committee of the Executive Committee established by article 11;"

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

" "Executive Committee" means the Committee appointed in terms of article 9;"

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

" "General Counsel" means the Officer leading the Directorate for Legal and International Relations;"

(i) the definition "Registrar of Companies" shall be deleted; and

(j) the definition "Supervisory Council" shall be deleted.

3. Paragraph (b) of sub-article (1) of article 4 of the principal Act shall be substituted by the following: Amendment of article 4 of the principal Act.

"(b) to promote financial market integrity and the legitimate expectations of consumers of financial services, to promote fair competition practices and consumer choice in financial services and to complement the Central Bank of Malta in its role to ensure the stability of the financial system;"

4. In sub-article (1) of article 5 of the principal Act, for the words "the Co-Ordination Committee, the Supervisory Council, the Board of Management and Resources and the Legal Office" there shall be substituted the words "the Executive Committee and Directorates as may be established by the Board of Governors from time to time". Amendment of article 5 of the principal Act.

5. Article 7A of the principal Act shall be amended as follows: Amendment of article 7A of the principal Act.

(a) in sub-article (3) thereof, for the words "any one or more of the Listing Committees" there shall be substituted the words "the Listing Committee"; and

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

"(4) Where the Board of Governors when acting as the Listing Authority delegates any of its functions, powers or decisions in terms of sub-article (3), such delegation shall be made public on the website of the Authority."

6. In sub-article (2) of article 7B of the principal Act, for the words "Supervisory Council" there shall be substituted the words "Executive Committee". Amendment of article 7B of the principal Act.

7. Article 9 of the principal Act shall be substituted by the Substitution of article 9 of the principal Act.

following:

"The Executive
Committee.

9. (1) The Executive Committee shall be responsible for the implementation of the strategy and policies of the Authority, for the approval of regulation, for the approval of and for the issuing of licences and other authorisations, and for the monitoring and supervision of persons and other entities licensed or authorised by the Authority in the financial services sector, for the enforcement of the regulatory framework in the financial services sector, for carrying out the day-to-day management and the finances of the Authority including human resources and ancillary services, and for the general coordination of the Authority's administrative affairs.

(2) The Executive Committee may from time to time delegate in writing its functions and powers, on such matters and subject to such conditions and modalities as may be specified in the delegation, subject to the terms and duration as determined by the Executive Committee, to the Chief Executive Officer or one or more of the members of the Committee or a function or unit of the Authority, as may be specified. Any decisions so made shall be approved by the Board of Governors and subsequently made public on the website of the Authority.

(3) The Executive Committee shall also be responsible for establishing and empowering sub-committees, units and functions. The Executive Committee shall determine the respective remits of the sub-committees, units and functions.

(4) The Executive Committee shall consist of the Chief Executive Officer, who shall preside thereat, the General Counsel, and of each of the Chief Officers responsible respectively for supervision, enforcement, corporate services, operations, strategy, policy and innovation, and for any other aspect falling within the remit of the Authority as may be determined by the Board of Governors.

(5) The Executive Committee shall designate one of the officers of the Authority, engaged in any of its functions mentioned in sub-article (1), to act as Secretary to the Executive Committee for such period and under such terms as the Executive Committee shall deem appropriate.

(6) It shall be the duty of the Secretary to make the necessary preparations for the meetings of the Executive Committee and to keep minutes of those meetings.

(7) The provisions of article 7, in so far as applicable, shall apply to the meetings of the Executive Committee as they apply to the meetings of the Board of Governors.

(8) The Executive Committee may from time to time make internal arrangements to authorize one or more of the senior officers, responsible for the approval of and for the issuing of licences and other authorisations, to sign a licence, category of licences or any other form of authorisation as it may deem appropriate.

(9) The Executive Committee shall act as the Listing Committee in terms of article 14 of the Financial Markets Act."

Cap. 345.

8. Article 10 of the principal Act shall be deleted.

Deletion of article 10 of the principal Act.

9. Article 11 of the principal Act shall be substituted by the following:

Substitution of article 11 of the principal Act.

"The Enforcement Decisions Committee.

11. (1) The Enforcement Decisions Committee shall decide or take such action as it considers appropriate, promptly and without delay, in relation to any recommendation for enforcement action brought before it by the Chief Officer responsible for Enforcement or any other official from the Directorate responsible for enforcement:

Provided that the Executive Committee may take any enforcement action itself if:

(a) it considers that, in the particular case, the action proposed should occur before it is practicable or possible to convene the Enforcement Decisions Committee; or

(b) it considers that, in the particular case, an urgent decision on the proposed action is necessary to protect the interests of consumers.

(2) The members of the Enforcement Decisions Committee shall be appointed by the Board of Governors.

(3) The Executive Committee may, after seeking the approval of the Board of Governors, establish a detailed remit for the Enforcement Decisions Committee and may also establish that certain enforcement action, which it does not deem to be material, may be taken by the Chief Officer responsible for enforcement.

(4) The Enforcement Decisions Committee shall be composed of a chairman and four (4) other members appointed by the Board of Governors for such term, being a period of not more than three (3) years, as may be specified in the letter of appointment, and shall be eligible for reappointment; and shall receive such remuneration as the Authority may from time to time determine.

(5) The chairman of the Enforcement Decisions Committee shall be an advocate who for a period of, or periods amounting in the aggregate to, not less than seven (7) years has served as an advocate in Malta or served as a judge or magistrate in Malta, or partly so practiced and partly so served, and who in the opinion of the Board of Governors possesses the necessary expertise and experience in the business or regulation of financial services, or in finance.

(6) The members of the Enforcement Decisions Committee shall be persons who in the opinion of the Board of Governors possess the necessary expertise and experience in the business or regulation of financial services, or in finance.

(7) For the better carrying out of its functions, and before arriving at any decision, the Enforcement Decisions Committee may decide to hear any person in relation to any matter being considered by the said Committee.

(8) Before arriving at a decision, the Enforcement Decisions Committee shall serve written notice of the decision it proposes to take on the persons being the subject of the recommendation for enforcement action being considered by the said Committee, setting out the reasons for its proposed decisions. Such notice shall also specify therein the period in which the person upon whom the notice is served shall be entitled to make representations in writing to the Enforcement Decisions Committee as to why the proposed decision should not be taken, in accordance with the relevant provisions of the Acts administered by the Authority:

Provided that the Enforcement Decisions Committee may, where it decides that the matter is urgent, take the final decision prior to the expiration of the period stated in the notice.

(9) The Executive Committee, with the approval of the Board of Governors, may make rules governing the procedure for conducting any hearings that may take place before the Enforcement Decisions Committee.

(10) The Board of Governors shall designate one of the officers of the Authority, engaged in any of its functions mentioned in article 9(1), to act as Secretary to the Enforcement Decisions Committee for such period and under such terms as the Board of Governors shall deem appropriate.

(11) It shall be the duty of the Secretary to make the necessary preparations for the meetings of the Enforcement Decisions Committee and to keep minutes of those meetings.

(12) The Enforcement Decisions Committee shall report to the Board of Governors on the progress made in its area of competence:

Provided that the Enforcement Decisions Committee shall be independent of the Executive Committee and the Board of Governors, and shall act independently of them.

(13) The provisions of article 7, in so far as applicable, shall apply to the meetings of the Enforcement Decisions Committee as they apply to the meetings of the Board of Governors.

(14) The provisions of paragraphs (a), (b), (d) and (e) of article 6(6) shall, as far as applicable, *mutatis mutandis*, apply to the office of the chairman and members of the Enforcement Decisions Committee."

Substitution of article 12 of the principal Act.

10. Article 12 of the principal Act shall be substituted by the following:

"The Enforcement Directorate.

12. (1) It shall be the function of the Enforcement Directorate to:

(a) deal with enforcement:

(i) under the provisions of this Act or any other Act administered by the Authority, or of any regulations or rules made thereunder; or

(ii) in relation to any of the conditions imposed in a licence or other authorisation; or

(iii) in relation to any administrative measure or penalty imposed by the Authority in terms of this Act or any other Act administered by the Authority, or of any regulations or rules made thereunder;

(b) investigate any referrals made to it by any other organ of the Authority;

(c) conduct investigations in relation to any enforcement action;

(d) make recommendations for any enforcement action to the Enforcement Decisions Committee established in article 11;

(e) implement any decision of the Enforcement Decisions Committee, including the making of appropriate arrangements for such purpose;

(f) assist, as applicable, in the conduct of proceedings before the Financial Services Tribunal in relation to such enforcement action;

(g) carry out such other duties as may be assigned to it by the Executive Committee.

(2) The Enforcement Directorate shall, for the purpose of discharging its functions, have all the powers vested in the Authority under this Act or any other Act administered by the Authority.

(3) The Enforcement Directorate shall be composed of the Chief Officer responsible for enforcement, and such number of officers and employees as may be required for the proper exercise of its functions."

11. In sub-article (3) of article 12A of the principal Act, for the words "the Director General and the Chief Operations Officer" there shall be substituted the words "the Chief Executive Officer".

Amendment of article 12A of the principal Act.

12. Sub-article (1) of article 13 of the principal Act shall be substituted by the following:

Amendment of article 13 of the principal Act.

"(1) The Authority may appoint a General Counsel, Chief Officers, Heads, Deputy Heads and such other officers and employees as it may consider necessary for the efficient discharge of its functions, powers and duties under this Act or any other law. The appointment of the General Counsel and Chief Officers shall be made by the Chief Executive Officer in consultation with the Board of Governors. The appointment of officers and other employees of the Authority other than the General Counsel and the Chief Officers shall be made by the Executive Committee on such terms and conditions as the Board of Governors may establish."

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

Amendment of article 23 of the principal Act.

(a) in sub-article (1) thereof, for the words "Co-Ordination Committee" there shall be substituted the words "Executive Committee"; and

(b) in sub-article (4) thereof, for the words "Co-Ordination Committee" there shall be substituted the words "Executive Committee".

14. In article 29 of the principal Act, for the words "Co-Ordination Committee, of the Resolution Committee, of the Supervisory Committee, of the Board of Management and Resources and of the Legal Office" there shall be substituted the words "Executive Committee or any sub-committee thereof and of the Resolution Committee".

Amendment of article 29 of the principal Act.

15. Immediately after article 30 of the principal Act there shall

Addition of new article to the principal Act.

be added the following new article:

"Transitory provisions and construction of references.

31. (1) Any decision taken by the Co-ordination Committee, the Supervisory Council and the Board of Management and Resources, prior to the date of entry into force of this article, shall continue to apply:

Provided that, for purposes of this article, the term "decision" shall, in the case of the Supervisory Council, include licences issued, approvals and authorisations granted, and regulatory action taken.

(2) Any reference in any law to the Director General or Chief Operations Officer of the Authority shall be read and construed as a reference to the Chief Executive Officer of the Authority as so defined in article 2.

(3) Any reference in any law to the Co-ordination Committee, the Supervisory Council, or the Board of Management and Resources shall be read and construed as a reference to the Executive Committee and shall include a reference to any sub-committees, directorates, functions or units established under this Act, as the case may require."

Passed by the House of Representatives at Sitting No. 210 of the 25th March, 2019.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA