

SUBSIDIARY LEGISLATION 345.11**EUROPEAN RIGHTS FOR REGULATED MARKETS
REGULATIONS**

1st November, 2007

LEGAL NOTICE 330 of 2007, as amended by Legal Notice 175 of 2012 and 388 of 2017.

1. (1) The title of these regulations is the European Rights for Regulated Markets Regulations.

Citation.
Amended by:
L.N. 175 of 2012;
L.N. 388 of 2017.

(2) The purpose of these regulations is to implement Articles 4(1),(55)(b) and (56), Article 53(6), Article 79(2) and Articles 86(3) and (4) of MiFID, as herein defined, and shall be interpreted and applied accordingly. The purpose of the amendments introduced by Legal Notice 175 of 2012 is to transpose, in part, Article 6(27)(c) 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 Authority (European Securities and Markets Authority).

2. In these regulations, unless the context otherwise requires -
"Act" means the Financial Markets Act;

Interpretation.
Amended by:
L.N. 175 of 2012;
L.N. 388 of 2017.
Cap. 345.

"competent authority" means the Malta Financial Services Authority appointed under article 2 of the 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 24 November 2010;

"European regulated market" means a regulated market as defined in Article 4(1)(21) of MiFID authorised by its European regulatory authority within the meaning of Article 44 of MiFID;

"European right" means the entitlement of a Maltese or a European regulated market to provide appropriate arrangements in a Member State or EEA State other than that in which it has been authorised, so as to facilitate access to and trading on such a market by remote members or participants established in the territory of that other Member State or EEA State;

"Home Member State or EEA State" means the Member State or EEA State in which the regulated market is registered or, if under the law of that Member State or EEA State it has no registered office, the Member State or EEA State in which the head office of the regulated market is situated;

"Host Member State or EEA State" means the Member State or EEA State in which a Maltese regulated market provides appropriate arrangements so as to facilitate access to trading on its system by remote members or participants established in that same

Member State or EEA State;

"Maltese regulated market" means a regulated market authorised in terms of the Act that is entitled to carry on an activity in exercise of a European right a Member State or EEA State other than Malta;

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

(2) Words and expressions which are also used in the Act shall have the same meaning as in the Act.

Part I

Exercise of European Right by European Regulated Markets

Exercise of
European rights by
European regulated
markets.

3. (1) A European regulated market may exercise a European right in Malta.

(2) A European regulated market that intends to exercise a European right in Malta shall be obliged to give the European regulatory authority of its home Member State or EEA State a notice of its intention to exercise a European right in Malta.

(3) The European regulatory authority shall communicate, within one month, the information provided in terms of subregulation (2) to the competent authority.

(4) The European regulatory authority shall, on the request of the competent authority and within a reasonable time, communicate the identity of the members or participants of the European regulated market.

Part II

Exercise of European Rights by Maltese Regulated Markets

Exercise of
European rights by
Maltese regulated
markets.

4. (1) A Maltese regulated market may exercise a European right in another Member State or EEA State.

(2) A Maltese regulated market that intends to exercise a European right in another Member State or EEA State shall be obliged to give the competent authority a notice of its intention to exercise such right wherein it shall indicate the Member State or the EEA State in which it intends to provide such arrangements.

(3) The competent authority shall communicate, within one month, the information provided in terms of subregulation (2) to the European regulatory authority of the host Member State or EEA State.

(4) The competent authority shall, on the request of the European regulatory authority of the host Member State or EEA State and within a reasonable time, communicate the identity of the members or participants of the Maltese regulated market.

Part III

Contraventions by Persons operating a Regulated Market in Malta
in exercise of a European Right

5. (1) Where the competent authority has clear and demonstrable grounds for believing that a person, authorised to operate a regulated market in any Member State or EEA state and who is providing access to its systems in Malta in exercise of a European right, is in breach of its obligations arising from the provisions adopted pursuant to the Directive, it shall refer those findings to the European regulatory authority.

Contraventions.
Amended by:
L.N. 175 of 2012;
L.N. 388 of 2017.

(2) If, despite the measures taken by the European regulatory authority or because such actions prove inadequate, the person providing access to its systems in Malta in exercise of a European right, persists in acting in a manner which is clearly prejudicial to the interests of investors in Malta or the orderly function of markets, the competent authority shall, after informing the European regulatory authority, take all the appropriate measures needed in order to protect investors and the proper functioning of the markets. This shall include the possibility of preventing the regulated market providing access to its systems in Malta, in exercise of a European right from making the said arrangements available to remote members or participants established in Malta. The Commission of the European Union and ESMA shall be informed of such measures without delay. In addition, the competent authority may refer the matter to ESMA.

(3) Any measure adopted pursuant to this regulation shall be communicated to the regulated market concerned, in writing, together with reasons justifying such measures and shall be subject to a right of appeal to the Financial Services Tribunal and the provisions of Part VI of the Act shall apply *mutatis mutandis*.

Part IV

Cooperation between the competent authority and European regulatory authorities

Added by:
L.N. 388 of 2017.

6. Where the operations of a European regulated market that has established arrangements in Malta have become of substantial importance for the functioning of the securities markets and the protection of the investors in Malta, the competent authority shall establish proportionate cooperation arrangements with the European regulatory authority of the home Member State or EEA State of the European regulated market.

Cooperation
arrangements.
Added by:
L.N. 388 of 2017.

Added by:
L.N. 388 of 2017.

Part V

Administrative Penalties, other Administrative Measures and Appeals

Penalties.
Added by:
L.N. 388 of 2017.

L.N. 392.

7. (1) Where a person falling within the scope of these regulations fails to comply with any provisions of such regulations or any rules issued thereunder further implementing such regulations, the competent authority may, by notice in writing and without recourse to a court hearing, impose on such person an administrative penalty and other administrative measures in accordance with the provisions of the Financial Markets Act (MiFID and MiFIR Administrative Penalties, Measures and Investigatory Powers) Regulations, 2017.

(2) A right of appeal to the Financial Services Tribunal shall lie from the decisions which the competent authority shall take under these regulations and the provisions of Part VI of the Act shall apply *mutatis mutandis*.
