

L.N. 207 of 2004

**INVESTMENT SERVICES ACT
(CAP. 370)**

**Undertakings for Collective Investment in Transferable
Securities and Management Companies Regulations, 2004**

IN exercise of the powers conferred by article 12 of the Investment Services Act, the Prime Minister and Minister of Finance acting on the advice of the Malta Financial Services Authority, as the competent authority appointed for the purposes of the Act, has made the following regulations:-

Preliminary

1. (1) The title of these regulations is the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations, 2004. Citation and commencement.

(2) These regulations shall come into force on the 1st May, 2004.

2. (1) In these regulations, unless the context otherwise requires - Interpretation.

“Act” means the Investment Services Act;

“branch” means a place of business which is a part of the management company, and which has no legal personality and which provides the services for which the management company has been authorised; all the places of business set up in the same Member State or EEA State by a management company with headquarters in another Member State or EEA State shall be regarded as a single branch;

“Commission” means the Commission of the European Communities;

“competent authority” means the Malta Financial Services Authority appointed under article 2A of the Act;

“custodian” means any institution entrusted with the duties of depositary as specified by means of Guidelines and includes a custodian licensed in terms of the Act;

“Directive” means Council Directive of 20 December, 1985 (85/611/EEC) on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as amended from time to time;

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as amended by the Protocol signed at Brussels on the 17th March 1993 and as amended from time to time;

“European management company” means a management company authorised by its supervisory authority within the meaning of Article 5 of the Directive or authorised by a foreign authority in an EEA State;

“European right” means the entitlement of a management company to establish a branch, or provide services, in a Member State or an EEA State other than that in which it has its head office -

(a) in accordance with the Treaty as applied in the Member State or EEA State ; and

(b) subject to the requirements of the Directive and subject to any rules, regulations or Guidelines issued under the Act implementing such requirements;

“European UCITS” means -

(a) with regard to a UCITS constituted as a unit trust or a common fund, a UCITS whose management company’s registered office and head office are situated in a Member State or an EEA State;

(b) with regard to a UCITS constituted as an investment company, a UCITS whose investment company’s registered office and head office are situated in a Member State or an EEA State;

harmonised in accordance with the Directive and authorised by a foreign authority of a Member State or EEA State;

“foreign authority” means the body or bodies designated by a Member State or an EEA State:

(a) to act as a supervisory authority in relation to the European management company or the European UCITS concerned in that Member State or EEA State within the meaning of the Directive; or

(b) to carry out the duties provided for in the Directive in relation to a Maltese management company exercising or proposing to exercise a European right or in relation to a Maltese UCITS;

“home Member State or EEA State” means -

(a) with regard to a UCITS constituted as a unit trust or a common fund, the Member State or EEA State in which the management company’s registered office and head office are situated;

(b) with regard to a UCITS constituted as an investment company, the Member State or EEA State in which the investment company’s registered office and head office are situated; or

(c) with regard to a management company the Member State or an EEA State in which the registered office and head office are situated;

“host Member State or EEA State” means:

(a) the Member State or EEA State, other than the home Member State or EEA State of a UCITS, in which the units of the common fund or unit trust or of the investment company are marketed; or

(b) the Member State or EEA State, other than the home Member State or EEA State, within the territory of which a management company has a branch or provides services;

“Maltese management company” means a management company licensed in terms of the Act, whose head office is in Malta and which is entitled to carry on an activity in a Member State or an EEA State other than Malta in exercise of a European right;

“Maltese rules” means rules -

(a) made in accordance with the Directive; and

(b) which are the responsibility of the competent authority (as to implementation, supervision and compliance) in accordance with the Directive and if necessary, indicate the conditions, including the rules mentioned in regulation 20 in force in Malta and the rules of conduct to be respected in the case of provision of the portfolio management service and of investment advisory services and custody, under which, in the interest of the general good, that business must be carried on in Malta;

“Maltese UCITS” means -

(a) with regard to a UCITS constituted as a unit trust or a common fund, a UCITS whose management company’s registered office and head office are situated in Malta;

(b) with regard to a UCITS constituted as investment company, a UCITS whose investment company’s registered office and head office are situated in Malta;

(c) harmonised in accordance with the Directive and licensed in terms of the Act;

“Member State” means a Member State of the European Communities;

“supervisory authority” means the foreign authority in a Member State or EEA State;

“transferable securities” means -

(a) shares in companies and other securities equivalent to shares in companies ;

(b) bonds and other forms of debt securities ; or

(c) any other negotiable securities which carry the right to acquire any such transferable securities by subscription or exchange, excluding the techniques and instruments referred to in Article 21 of the Directive;

“Treaty” means Treaty of Rome signed in 1957, establishing the European Economic Community as subsequently amended;

“Tribunal” means the Financial Services Tribunal established in terms of the Malta Financial Services Authority Act; ^{Cap. 330.}

“UCITS” means the undertakings for collective investment in transferable securities in terms of subregulation (2) of regulation 3 of these regulations;

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

Scope

3. (1) These regulations apply to Maltese and European UCITS, their management companies and custodians. ^{Scope.}

(2) For the purpose of these regulations, UCITS shall be undertakings which are harmonised in accordance with the Directive and which have -

(a) as sole object the collective investment in transferable securities and, or in other liquid financial assets as specified by means of Guidelines, of capital raised from the public and which operate on the principle of risk-spreading; and

(b) units which, at the request of holders, may be re-purchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a UCITS to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such re-purchase or redemption.

(3) Such undertakings may be constituted as -

(a) mutual funds or other equivalent contractual schemes (managed by management companies);

(b) investment companies or limited partnerships with variable share capital; or

(c) unit trusts.

(4) Such undertakings may only engage in activities outlined in subregulation (2) of this regulation.

(5) Investment companies the assets of which are invested through the intermediary of subsidiary companies mainly otherwise than in transferable securities shall not, however, be subject to these regulations.

(6) These regulations shall not apply to -

(a) UCITS of the closed-ended type;

(b) UCITS which raise capital without promoting the sale of their units to the public within the Community or any part of it;

(c) UCITS the units of which, under the fund rules or under the trust deed or the investment company's articles, may be sold only to the public in non-member countries;

(d) categories of UCITS whose investment and borrowing policies do not conform with those specified by means of Guidelines; or

(e) UCITS that are not harmonised in accordance with the Directive.

(7) A UCITS which is subject to these regulations shall not convert itself into a collective investment undertaking which would not be subject to these regulations and any purported conversion shall be null and void.

The competent authority

The competent authority.

4. (1) The competent authority is hereby designated to carry out the duties provided for in Article 49 of the Directive and shall have all powers necessary for that purpose.

(2) In particular, but without prejudice to the generality of the foregoing, the competent authority shall have the power to issue a certificate to the effect that a scheme formed in accordance

with or existing under the laws of Malta complies with these regulations and qualifies as a Maltese UCITS. This shall constitute “authorization” for the purpose of the Directive.

Maltese UCITS

5. (1) A Maltese UCITS shall comply with the provisions laid down in these regulations and as specified by means of Guidelines. Maltese UCITS .

(2) A UCITS shall not qualify as a Maltese UCITS if it is prevented, through a provision in the fund rules or instruments of incorporation, from marketing its units or shares in Malta.

Investment Policies of Maltese UCITS

6. (1) A Maltese UCITS shall observe its investment policies and restrictions as specified by means of Guidelines. Investment policies and restrictions.

(2) The competent authority shall send the Commission full information and any subsequent changes in the regulation concerning the methods used to calculate the risk exposures pursuant to Article 21 of the Directive. Obligation to inform Commission.

Marketing of Maltese UCITS

7. (1) Where a Maltese UCITS proposes to market its units in another Member State or EEA State, it shall prior to commencement of marketing, send a written notification of its intention to the competent authority. Marketing of Maltese UCITS.

(2) It must inform the foreign authority of that other Member State or EEA State and must simultaneously send the latter authority -

(a) an attestation by the competent authority to the effect that it fulfils the conditions imposed by the Directive;

(b) its fund rules or its instruments of incorporation;

(c) its full and simplified prospectus;

(d) where appropriate, its latest annual report and any subsequent half-yearly report, and

(e) details of the arrangements made of the marketing of its units in that other Member State or EEA State.

(3) The Maltese UCITS may commence marketing its units in another Member State or EEA State at the expiry of two months after the requirements of subregulation (2) of this regulation have been complied with unless the foreign authority of that other Member State or EEA State establishes, in a reasoned decision taken before the expiry of that period of two months, notified to the UCITS concerned and to the competent authority, that the arrangements made for the marketing of units do not comply with the provisions of this regulation.

(4) A Maltese UCITS which markets its units in another Member State or EEA State must comply with the laws, regulations and administrative provisions in force in that State which do not fall within the field governed by the Directive.

(5) A Maltese UCITS which markets its units in another Member State or EEA State must comply with any laws, regulations and administrative provisions in force in that Member State or EEA State governing advertising in that State.

(6) A Maltese UCITS which markets its units in a Member State or EEA State must distribute in that Member State or EEA State the following documents and information in the official language or in one of the official languages of that State or in a language approved by the foreign authority of that Member State or EEA State, and in accordance with the procedure as may be specified by means of Guidelines:

- (a) the full and simplified prospectus;
- (b) the annual and half-yearly reports; and
- (c) the fund rules and instruments of incorporation.

(7) The Maltese UCITS must, inter alia, in accordance with the laws, regulations and administrative provisions in force in the host Member State or EEA State, take the measures necessary to ensure that facilities are available in that State for making payments to unit-holders, re-purchasing or redeeming units and making available the information which Maltese UCITS are obliged to provide.

Marketing of European UCITS

8. (1) A European UCITS may market its units in Malta and shall be exempt from the provisions of article 4 of the Act provided that it shall prior to commencement of marketing, send written notification of its intention to the competent authority together with -

Marketing of
European UCITS.

(a) a confirmation by the foreign authority to the effect that it fulfils the conditions imposed by the Directive;

(b) its fund rules or its instruments of incorporation;

(c) its full and simplified prospectuses including any amendments;

(d) where appropriate, its latest Annual Report and any subsequent half yearly report; and

(e) details of arrangements made for the marketing of its units in Malta.

(2) The European UCITS may commence marketing its units in Malta at the expiry of two months after the requirements of subregulation (1) of this regulation have been complied with unless the competent authority establishes, in a reasoned decision taken before the expiry of that period of two months, notified to the European UCITS concerned and to the foreign authority, that the arrangements made for the marketing of units do not comply with the provisions of this regulation.

(3) A European UCITS which has received authorization from the foreign authority to market its units in Malta shall comply with the law, regulations and administrative provisions in force in Malta which do not fall within the field governed by the Directive.

(4) A European UCITS which advertises its units in Malta as part of its marketing activities within Malta shall comply with any law, regulations and administrative provisions in force governing such advertising.

(5) A European UCITS which markets its units in Malta must satisfy the competent authority that adequate measures have been taken to ensure that facilities are available in Malta for making payments to unit holders, repurchasing or redeeming units and making available the information which European UCITS are obliged to provide.

(6) A European UCITS which markets its units in Malta must distribute within Malta, in at least one of Malta's official languages, the following documents and information in accordance with the procedure provided for in its home Member State or EEA State:

- (a) the full and simplified prospectus;
- (b) the annual and half-yearly reports; and
- (c) the fund rules and instruments of incorporation.

(7) Where there is a temporary suspension of the repurchase or redemption of its units, the European UCITS must without delay communicate its decision to the competent authority and to its supervisory authority.

(8) A European UCITS may use the same generic name as it uses in the home Member State or EEA State. In the event of any danger of confusion, the competent authority may, for the purpose of clarification, require that the name be accompanied by certain explanatory particulars.

Custodians

Custodians.

9. (1) A custodian must either have its registered office in the same Member State or EEA State as that of a Maltese or European UCITS or be established in that Member State or EEA State if its registered office is in another Member State or EEA State.

(2) A custodian shall fulfil the obligations as specified by means of Guidelines by the competent authority.

Obligations regarding Maltese management companies

Access to the business of management companies.

10. A Maltese management company may not engage in activities other than the management of Maltese and European UCITS except the additional management of other collective investment undertakings which are not covered by the Directive and for which the management company is subject to prudential supervision but which cannot be marketed in other Member States or EEA States under the Directive:

Provided that the activity of management of unit trusts or common funds and of investment companies may include other

functions referred to in the Directive and as specified by means of Guidelines.

Exercise of Passport Rights by Maltese management companies

11. (1) A Maltese management company may exercise a European right to establish a branch if it satisfies the requirements set out in the following provisions of this regulation.

Exercise of
passport rights by
Maltese
management
companies -
establishment.

(2) The Maltese management company shall give the competent authority a notice of intention to establish a branch which shall contain -

(a) the Member State or EEA State within the territory of which the management company plans to establish a branch;

(b) a programme of operations identifying the activities which it seeks to carry on through the branch;

(c) the address of the proposed branch from where documents may be obtained;

(d) the proposed organisational structure of the branch and the names of the proposed managers; and

(e) such other information as may be specified by means of Guidelines.

(3) Without prejudice to subregulations (6) and (8) of this regulation the competent authority shall give a consent notice within the terms of subregulation (4) of this regulation to the foreign authority within three months of receiving a complete notice of intention and shall inform the Maltese management company accordingly.

(4) The “consent notice” shall -

(a) be given in accordance with the Directive;

(b) certify that the Maltese management company is licensed to act as such a management company by the competent authority;

(c) identify the activities to which consent relates;

(d) contain the information stated in the notice of intention of the Maltese management company;

(e) contain details of any compensation scheme which is intended to protect the branch's investors; and

(f) include such other information as may be specified by means of Guidelines.

(5) The foreign authority shall be informed by the competent authority of any change in the details of a compensation scheme referred to in subregulation (4) of this regulation.

(6) If the European right of the Maltese management company derives from the Directive and the requirements specified in subregulation (2) of this regulation are satisfied, the competent authority shall issue a consent notice to the foreign authority unless it has reason to doubt the adequacy of the administrative structure or the financial situation of the Maltese management company, taking into account the activities envisaged:

Provided that in the event of change in any of the particulars referred to in this subregulation the competent authority shall inform the foreign authority accordingly.

(7) If the competent authority decides to refuse to give a consent notice -

(a) it shall, within two months from the date when it received a complete notice of intention, give the person who gave that notice the reasons for its decision in writing; and

(b) that person may appeal to the Tribunal and the provisions of article 19 of the Act shall apply *mutatis mutandis*.

(8) A branch of the Maltese management company shall not commence business unless -

(a) the foreign authority notifies the Maltese management company of the applicable provisions; or

(b) two months have elapsed from the date on which the competent authority has given the consent notice without receipt of any communication from the foreign authority

(9) In the event of change in any of the particulars communicated in accordance with paragraphs (b), (c) and (d) of subregulation (2) of this regulation, the Maltese management company shall give written notice of that change to the competent authority and the foreign authority at least one month before implementing the change.

(10) The prudential supervision of a Maltese management company shall be the responsibility of the competent authority whether the management company establishes a branch or provides services in another Member State or EEA State or not, without prejudice to those provisions of the Directive which give responsibility to the foreign authority.

(11) In this regulation, “applicable provisions” means the host state rules with which the Maltese management company will be required to comply when conducting business through the proposed branch in the Member State or EEA State concerned.

(12) In this regulations, “host state rules” means rules -

(a) made in accordance with the Directive; and

(b) which are the responsibility of the foreign authority of the Member State or EEA State concerned (as to implementation, supervision and compliance) in accordance with the Directive.

(13) The competent authority shall inform the Commission of the number and type of cases in which there have been refusals in terms of subregulation (7) of this regulation.

12. (1) A Maltese management company may not exercise a European right to provide services unless the Maltese management company has given the competent authority, a notice of its intention to provide services as specified in subregulation (2) of this regulation.

Exercise of passport rights by Maltese management companies - services.

(2) For the purposes of this regulation, a notice of intention shall -

(a) identify the services which it intends to provide together with a programme of operations;

(b) set out the Member State or EEA State in which it intends to operate; and

(c) include such other information as may be specified by means of Guidelines

(3) If the European right of the Maltese management company derives from the Directive, the competent authority shall, within one month of receiving a notice of intention, send a copy of it to the foreign authority. It shall also communicate details of any applicable compensation scheme intended to protect investors.

(4) When the competent authority sends the copy under subregulation (3) of this regulation or gives a consent notice, it shall give written notice to the Maltese management company concerned. The Maltese management company may then start to provide the service or services in question in the host Member State or EEA State:

Provided that where appropriate, the foreign authority shall, on receipt of the information from the competent authority, indicate to the Maltese management company the conditions, including the rules of conduct to be respected in the case of provision of the portfolio management service and of investment advisory services and custody, with which, in the interest of the general good, the provider of the services in question shall comply in the host Member State or EEA State.

(5) In the event of change of any of the particulars provided by the Maltese management company in accordance with paragraph (a) of subregulation (2) of this regulation, the Maltese management company shall give written notice of that change to the competent authority and the foreign authority before implementing such change.

Marketing of units in a host Member State or EEA State.

13. A Maltese management company shall also be subject to notification procedure laid down in this regulation in cases where it entrusts a third party with the marketing of the units in a host Member State or EEA State.

Exercise of Passport Rights by European management companies

Exercise of passport rights by European management companies - establishment.

14. (1) A European management company which is seeking to establish a branch in Malta in exercise of a European right shall satisfy the establishment conditions specified in subregulation (2) of this regulation and shall be exempt from the provisions of article 3 of the Act.

(2) The establishment conditions for the purposes of this regulation are that -

(a) the European management company has given the supervisory authority in its home Member State or EEA State a notice with the requisite details of that State in accordance with the Directive; and

(b) the competent authority has received a consent notice in accordance with subregulation (3) of this regulation, from the supervisory authority of such European management company stating that it has given its consent to the European management company to establish a branch in Malta.

(3) The consent notice shall -

(a) be given in accordance with the Directive;

(b) certify that the European management company is authorised to act as such a management company by the foreign authority;

(c) identify the activities to which the consent relates;

(d) contain the information stated in the notice given by the European management company in terms of paragraph (a) above; and

(e) contain details of any compensation scheme which is intended to protect the branch's investors.

(4) The supervisory authority of the European management company shall inform the competent authority of any change in the details of a compensation scheme referred to in subregulation (3) of this regulation.

(5) A branch of a European management company shall not commence business unless -

(a) it has been informed by the competent authority of any applicable provisions and that it may establish the branch;
or

(b) two months have elapsed from the date when the competent authority received the consent notice.

(6) In the event of a change in any of the following particulars, the European management company shall give written notice of that change to the competent authority and to its supervisory authority at least one month before implementing the change -

(a) the programme of operations setting out *inter alia* the types of business envisaged and the organizational structure of the branch;

(b) the address in Malta from where documents may be obtained; and

(c) the names of those responsible for the management of the branch.

(7) For the purposes of this regulation “applicable provisions” means the Maltese rules with which the European management company is required to comply when carrying on an activity identified in the consent notice through a branch in Malta.

Exercise of
passport rights by
European
management
companies -
services.

15. (1) A European management company which is seeking to provide services in Malta in exercise of a European right shall satisfy the service conditions specified in subregulation (2) of this regulation and shall be exempt from the provisions of article 3 of the Act.

(2) The service conditions for the purposes of this regulation are that -

(a) the European management company has given its supervisory authority a notice of intention to provide services in Malta with the requisite details in accordance with the Directive; and

(b) the competent authority has received a notice of such intention from the supervisory authority of the European management company.

(3) When the competent authority has received such a notice and has been informed of the intention of the European management company to provide services in Malta, it shall, where appropriate-

(a) prepare for the supervision of the European management company ; and

(b) notify the European management company of the applicable provisions, if any.

(4) A notice under paragraph (b) of subregulation 3 of this regulation shall be given before the end of the period of two months from the day on which the competent authority received the notice from the foreign authority and was informed of the intention of the European management company.

(5) In the event of a change in the content of the information given in relation to the programme of operations setting in particular the service or services which the European management company intends to provide, the European management company shall give written notice of that change to the competent authority and its supervisory authority before implementing such change.

(6) For the purposes of this regulation “applicable provisions” means the Maltese rules with which the European management company is required to comply when carrying on an activity identified in the notice from the supervisory authority of the European management company by providing services in Malta.

16. (1) The competent authority may, for statistical purposes, require a European management company which has established a branch in Malta in terms of these regulations, to report periodically on its activities in Malta. Reporting to the competent authority.

(2) In discharging its responsibilities within the meaning of Article 6c of the Directive, the competent authority may require such a European management company to provide the same particulars as Maltese management companies for that purpose.

(3) The competent authority may require a European management company providing services in Malta, to provide the information necessary for the monitoring of its compliance with the standards set by the competent authority to the extent permitted by the Directive.

17. A European management company shall not be prohibited from advertising its services through any available means of communication in Malta provided that it complies with any applicable laws and Guidelines. Advertising.

On-site
verifications.

18. (1) Where a European management company carries on business in Malta in exercise of a European right, its supervisory authority may, after informing the competent authority, either directly or through an intermediary it appoints for the purpose, carry out on-site verification of the information within the meaning of Article 52a as referred to in Article 52b of the Directive.

(2) The foreign authority may also ask the competent authority to have such on-site verification carried out. The competent authority shall, within the framework of its powers under the law, act upon the request by carrying out verifications itself or by allowing the requesting authority to carry it out or by allowing auditors or experts to do so.

(3) This regulation shall not affect the right of the competent authority, in discharging its responsibilities under the Directive, to carry out on-the-spot verifications of branches established in Malta.

Contraventions by European management companies and European UCITS

Contraventions by
European
management
companies.

19. (1) Where the competent authority ascertains that a European management company which has a branch or provides services in Malta:

(a) has contravened or is likely to contravene the Maltese rules or any provision of the Act or any rules or regulations made thereunder; or

(b) in purported compliance with any such provision, has furnished it with false, inaccurate or misleading information,

the competent authority shall in writing require the management company concerned to remedy and rectify its position.

(2) If the European management company concerned fails to take the necessary steps to remedy and rectify its position, the competent authority shall inform the foreign authority of such failure.

(3) If despite the actions taken by the foreign authority or because such actions prove inadequate or are not available in Malta, the European management company persists in violating the legal or regulatory provisions referred to in subregulation (1) of this regulation in force in Malta, the competent authority may, after

informing the foreign authority, take appropriate measures to prevent or to penalize further irregularities and, in so far as necessary, to prevent that European management company from initiating any further transactions in Malta.

(4) The foregoing subregulations shall not affect the powers of the competent authority to take appropriate measures to prevent or penalize irregularities committed in Malta which are contrary to legal or regulatory provisions adopted in the interest of the general good. Measures may include the possibility of preventing European management companies that have committed such irregularities from initiating any further transactions in Malta.

The competent authority shall inform the foreign authority of any such measures.

(5) Any measure adopted pursuant to this regulation shall be communicated to the European management company concerned in writing, together with reasons justifying such measure and shall be subject to a right of appeal to the Tribunal and the provisions of article 19 of the Act shall apply *mutatis mutandis*.

(6) A prohibition under this regulation may be -

(a) absolute; or

(b) limited, that is, imposed for a specified event or until specified conditions are complied with,

and any period, event or conditions specified in the case of a limited prohibition may be varied by the competent authority and any such notice shall take effect on such date as is specified in the notice.

(7) Before following the procedure laid down in the preceding subregulations, the competent authority may, in exceptional circumstances, take any precautionary measures necessary to protect the interests of investors and others for whom services are provided. The competent authority shall inform the Commission and the foreign authority of such measures at the earliest opportunity.

(8) In the event of withdrawal of authorization by the foreign authority, the competent authority shall be informed by the said authority and shall take appropriate measures to prevent the

management company concerned from initiating any further transactions in Malta and to safeguard investors' interests.

(9) The competent authority shall inform the Commission of the number and type of cases in which measures have been taken pursuant to subregulation (3) of this regulation.

(10) The provisions of this regulation shall apply *mutatis mutandis* to European UCITS marketing its units in Malta contravening or failing to comply with any of the requirements imposed in regulation 8 of these regulations. For this purpose, and where appropriate, unless the context otherwise requires, references to a European management company shall be considered as references to a European UCITS.

Special Provisions in Relation to the competent authority

Collaboration.

20. (1) The competent authority shall collaborate closely with the foreign authorities in other Member States or EEA States in order to carry out its authorization and supervision duties under these regulations and shall for those purposes alone communicate to the foreign authorities in other Member States or EEA States all information required by them.

Communication of information.

(2) The competent authority shall without delay inform the host Member State or EEA State of the Maltese UCITS of any decision to withdraw authorization, or any other serious measure taken against a Maltese UCITS, or any suspension of re-purchase or redemption imposed upon it.

Relations with third countries.

(3) The competent authority shall inform the Commission -

(a) of the licensing of any management company which is the direct or indirect subsidiary of a parent undertaking governed by the law of a State other than a Member State or EEA State, specifying the structure of the group;

(b) whenever such a parent undertaking acquires a holding in a Maltese management company such that the latter would become its subsidiary.

(4) The competent authority shall inform the Commission of any general difficulties which Maltese management companies encounter in establishing themselves or providing services in a State other than a Member State or EEA State.

Inspection and Enforcement Powers of the competent authority

21. Every management company, investment company or trustee to which these regulations apply shall comply with such additional supervisory and reporting requirements or conditions relating to its business as the competent authority considers prudent to impose on it from time to time for the purposes and in the interest of the proper and orderly regulation of Maltese or European UCITS in accordance with these regulations. Compliance.

22. In addition to any books or other records to be kept by or under any other enactment, every management company, investment company or trustee of Maltese or European UCITS shall keep at an office or offices within Malta such books and sufficient records to be able to demonstrate compliance with these regulations. Keeping of books.

Applicability Provisions

23. (1) A person who on the date of the coming into force of these regulations is in possession of a licence issued by the competent authority which covers the management of collective investment schemes, shall qualify as a Maltese management company for the purposes of these regulations provided that: Applicability Provisions.

(a) such person conforms with all applicable Guidelines issued by the said competent authority; and

(b) such person notifies the competent authority of its intention to act as Maltese management company for the purposes of these regulations.

(2) Every licence issued after the coming into force of these regulations shall indicate whether a management company is a Maltese management company in terms of these regulations.

(3) A UCITS which, on the date of the coming into force of these regulations is in possession of a licence issued by the competent authority, and, or is authorised by the competent authority to market its units in Malta, shall qualify as a European UCITS for the purposes of these regulations and may continue marketing its units in Malta provided that:

(a) the foreign authority and the competent authority are notified of such intention by the UCITS;

(b) the competent authority receives a confirmation from the foreign authority that the UCITS fulfils the conditions imposed on it by the Directive; and

(c) the UCITS conforms with all applicable Guidelines and the applicable provisions of these regulations.

Interpretation

Interpretation.

24. (1) The purpose of these regulations is to implement the provisions of the Directive as amended from time to time and shall be interpreted and applied accordingly.

(2) In the event that any of these regulations conflicts with the provisions of the Directive, the latter shall prevail.