Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 18,141, 30 ta' Ottubru, 2007
Taqsima B

L.N. 328 of 2007

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Licence and Other Fees) Regulations, 2007

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 for the purposes of the Act, has made the following regulations:

Citation and commencement.

1. (1) The title of these regulations is the Investment Services Act (Licence and Other Fees) Regulations, 2007.

(2) These regulations shall come into force on the 1st November, 2007.

Interpretation.

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

"the Act" means the Investment Services Act;

"carry on an activity" includes but shall not be limited to marketing, advertising or otherwise promoting as may be further stipulated in Investment Services Rules issued by the competent authority in terms of article 6 of the Act;

"competent authority" means the Malta Financial Services Authority appointed under"Article 2A of the Act;

"the Directive" means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"eligible counterparties" shall have the same meaning as that assigned to it by the Investment Services Rules issued by the competent authority in terms of article 6 of the Act;

"European investment firm" shall have the same meaning as that assigned to it by regulation 2 of the European Passport Rights for Investment Firms Regulations, 2007;

L.N. 325 of 2007.

"European management company" shall have the same meaning as that assigned to it by regulation 2 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations, 2004;

L.N. 207 of 2004.

"European UCITS" shall have the same meaning as that assigned to it by regulation 2 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations, 2004;

"hold or control" includes the holding by a licence holder of a mandate over a client's bank account, or of a power of attorney to control a client's assets: provided that a licence holder shall not be'considered to be holding or controlling a client's money or assets if a recommendation made by the licence holder can be placed into effect only by the customer or by a third party, such as a bank, acting on the customer's behalf. The competent authority shall have the discretion to determine whether a licence holder is holding or controlling clients' money or assets in any given case;

"home Member State or EEA State" shall have the same meaning as that assigned to it by regulation 2 of the European Passport Rights for Investment Firms Regulations and by regulation 2 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations, 2004;

"professional client""shall have the same meaning as that assigned to it by Investment Services Rules issued by the competent authority in terms of article 6 of the Act;

"retail client" shall have the same meaning as that assigned to it by Investment Services Rules issued by the competent authority in terms of article 6 of the Act;

"tied agent" has the meaning assigned to it by regulation 2 of the Investment Services (Tied Agents) Regulations.

L.N. 327 of 2007.

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

Payment of application, licence and other fees.

3. There shall be paid to the competent authority by any person or body or collective investment scheme scheme -

(a) upon submission of an application for the granting of a licence, recognition, registration or authorisation, irrespective of whether the application is eventually accepted or not, the Application Fee established in the Second Column of the Schedule;

(b) on the date of the granting of a licence, recognition, registration or authorisation, the Supervisory Fee established in the Third Column of the said Schedule; and

(c) thereafter annually, upon the anniversary of such date as is mentioned in paragraph (b), the same annual fee established in the Third Column of the said Schedule.

Licence classification.

4. (1) A person or body applying for a licence for investment services in terms of article 3 of the Act shall be classified at the discretion of the competent authority into one of four categories which determine the financial resources requirements of licence holders, as follows:

Category 1a: Licence Holders authorised to receive and transmit orders in relation to one or more instrument and, or provide investment advice and, or place instruments without a firm commitment basis but not to hold or control clients' money or customers' assets.

Category 1b: Licence Holders authorised to receive and transmit orders, and, or provide investment advice in relation to one or more instrument and, or place instruments without a firm commitment basis solely for professional clients and/or eligible counterparties but not to hold or control clients' money or customers' assets.

Category 2: Licence Holders authorised to provide any investment service and to hold or control clients' money or customers' assets, but not to operate a multilateral trading facility or deal for their own account or underwrite or place instruments on a firm commitment basis.

Category 3: Licence Holders authorised to provide any investment service and to hold and control clients' money or customers' assets.

Category 4: Licence Holders authorised to act as trustees or custodians of collective investment schemes.

(2) The competent authority shall set out in the licence the nature of the activities which particular licence holders may carry out.

Payment to the competent Authority.

5. (1) There shall be paid to the competent authority by:

(a) any European investment firm establishing a branch in Malta in terms of regulation 3 of the European Passport Rights for Investment Firms Regulations, 2007, upon notification to the competent authority that it wants to establish a branch in Malta and upon the commencement of business in Malta, the relevant notification and supervisory fees established in the Second and Third Column, respectively, of the Schedule;

(b) any European management company establishing a branch in Malta in terms of regulation 15 of the Undertaking of Collective Investment in Transferable Securities and Management Companies Regulations, 2004, upon notification to the competent authority that it wants to establish a branch in Malta and upon the commencement of business in Malta, the relevant notification and supervisory fees established in the Second and Third Column, respectively, of the Schedule;

(c) European UCITS marketing their units in Malta in terms of regulation 8 of the Undertaking of Collective Investments in Transferable Securities and Management Companies Regulations, 2004, upon notification to the competent authority that it wants to market its units in Malta and upon the commencement of such marketing in Malta, the relevant notification and supervisory fees established in the Second and Third Column, respectively of the Schedule.

(2) In addition to the above fees, the following fees shall also be paid to the competent authority:

(a) by European investment firms and European management companies establishing a branch in Malta, annually, upon the anniversary of the date on which they commence business in Malta, the supervisory fee established in the Third Column of the Schedule;

(b) by European UCITS marketing their units in Malta in terms of regulation 8 of the Undertaking of Collective Investments in Transferable Securities and Management Companies

Regulations, 2004, annually, upon the anniversary of the date on which they commence to market their units in Malta, the supervisory fee established in the Third Column of the Schedule.

6. The Investment Services Act (Licence and Other Fees) Regulations, 2006 are hereby repealed.

Repeals L.N. 322 of 2006.

SCHEDULE
(Regulation 3 and 5)

Licence Fees

First Column	Second Column Application/ Notification Fee	Third Column Supervisory Fee
	Lm	Lm
(a) Investment Services Licences:		
Category 1a	300	500
Category 1b	300	600
Category 2	400	1,200
Category 3	650	1,500
Category 4	1,500	3,000
(b) Collective Investment Schemes which fall within the scope of article 4 of the Act; and include schemes formed in accordance with or existing under the laws of a country other than Malta which carry on an activity in Malta:		
Scheme:	650	700
Up to fifteen sub-funds (per sub-fund)	125	125
Sixteen sub-funds and over (per sub-fund)	75	75
(c) Collective Investment Schemes which qualify as professional investor funds in terms of Rules issued for this purpose by the competent authority:		
"In principle" approval	200	
Licence		
Scheme	300	300
Per sub-fund	300	125
Recognition Fees		
(d) Persons providing administrative services in terms of article 9A of the Act	1,000	200
(e) Private Schemes recognised in terms of the		

Investment Services Act (Recognition of Private Collective Investment Schemes) Regulations	500	150
(f) European investment firms establishing a branch in Malta in terms of regulation 3 of the European Passport Rights for Investment Firms Regulations		
(i) authorised by their Home member State or EEA State to receive and transmit orders in relation to one or more instruments and, or provide investment advice and, or place instrument without a firm commitment basis , in terms of the Directive but are not authorized to hold and control Clients Money or Curstomers' Assets.	300	500
(ii) authorized by their home Member State or EEA State to provide any investment services in terms of the Directive and to hold and control Clients' Money or Customers' Assets but not to operate a multilateral trading facility or to deal for their own account or underwrite or place instruments on a firm commitment basis	400	1,200
(iii) authorized by their home Member State or EEA State to provide any investment services in terms of the Directive, and to hold and control Clients' Money or Customers' Assets	650	1,500
(g) European management companies establishing a branch in Malta in terms of regulation 15 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations	400	1200
(h) European UCITS marketing their units in Malta in terms of regulation 8 of the Undertakings for Collective Investment in Transferable Securities and Management Companies Regulations:		
(i) European UCITS Scheme	650	700
(ii) Up to 15 sub-funds (per sub-fund)	125	125
(iii) 16 sub-funds and over (per sub-fund)	75	75

Registration Fees

(i) Tied agents registered by the competent authority in terms of regulation 5 of the Appointment of Tied Agents Regulations:

(i) where the tied agent is an individual	35	100
(ii) where the tied agent is not an individual	50	125 and 75 per individual employed by such tied agent and who is directly involved in the provision of tied agent activities.

Ippubblikat mid-Dipartiment ta' l-Informazzjoni (doi.gov.mt) — Valletta — *Published by the Department of Information (doi.gov.mt) — Valletta*
Mitbugh fl-Istamperija tal-Gvern — *Printed at the Government Printing Press*

Prezz/*Price*
Lm0.16 (€0.37)