Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 18,318, 7 ta' Ottubru, 2008
Taqsima B

L.N. 250 of 2008

INVESTMENT SERVICES ACT
(CAP. 370)

Investment Services Act (Investment Advertisements and Prospectus Exemption) Regulations, 2008

IN exercise of the powers conferred by article 12 of the Investment Services Act, the Prime Minister and Minister of Finance, the Economy and Investment, after consultation with the Malta Financial Services Authority, has made the following regulations:

Citation and objective.

1. (1) The title of these regulations is the Investment Services Act (Investment Advertisements and Prospectus Exemption) Regulations, 2008.

(2) The objective of these regulations is partly to implement the relevant provisions of the Directive, and the regulations shall be interpreted and applied accordingly.

Interpretation.

2. In these regulations, unless the context otherwise requires:

"the Act" means the Investment Services Actġ

"competent authority" means the competent authority under the Act;

"the Directive" means Directive 2003/71/EC of the European Parliament and of the Council of 4 November, 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC, as may be amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"European based closed-ended scheme" means a collective investment scheme within the meaning of article 2 of the Act established in a Member State or EEA State or set up by contract

or otherwise under European law, which is closed-ended and which is covered by the Directive;

"investment advertisement" has the same meaning assigned to it in article 2 of the Act;

"prospectus" has the same meaning assigned to it in article 2 of the Act.

Exempt investment advertisements and prospectus.

3. The provisions of article 11 of the Act shall not apply to:

(a) any investment advertisement or prospectus issued or caused to be issued by:

(i) the Government of Malta; or

(ii) the Central Bank of Malta; or

(iii) any international organization the members of which include Malta; or

(b) any investment advertisement issued or caused to be issued by any person who by regulations made under the Act is exempt from the requirement of an investment services licence, including a European investment firm providing services in Malta, within the meaning of regulation 4 of the European Passport Rights for Investment Firms Regulations, 2007 provided that the investment advertisement strictly relates to matters in respect of which such person or firm is exempt;

L.N. 325 of 2007.

(c) any investment advertisement issued or caused to be issued solely to:

(i) licence holders; or

(ii) a person whose ordinary business involves the acquisition and disposal of instruments of the same kind as the instruments to which the investment advertisement relates; or

(iii) a person whose ordinary business involves the acquisition and disposal of property of the same kind as the property, or a substantial part of the property, to which the collective investment scheme in the investment advertisement relates; or

(iv) a person who by regulation under the Act is exempt from the requirement of an investment services licence provided that the investment advertisement relates to matters in respect of which such person is exempt;

(d) any prospectus, including supplements thereto, issued by a European based closed-ended scheme, drawn up in compliance with the requirements of the Directive.

Other exempt investment advertisements.

4. The provisions of article 11(b) of the Act shall not apply to investment advertisements contained in a publication published and circulated principally outside Malta, or in a sound or television broadcast transmitted principally for reception outside Malta, or any other communication using any other medium, originating outside Malta, unless the investment advertisement is directed to persons in Malta, or is otherwise intended to be made available to persons in Malta not being persons falling within the scope of regulation 3(b):

Provided that the exemption described in this regulation shall not apply where the advertisement is issued, broadcast or transmitted by:

(a) a licence holder or;

(b) a licence holder in exercise of a European right within the meaning of regulation 10 of the European Passport Rights for Investment Firms Regulations, 2007.

Revokes L.N.355 of 2002.

5. The Investment Services Act (Investment Advertisements and Prospectus Exemption) Regulations, 2002 are hereby being revoked.

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