L.N. 356 of 2009

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Tied Agents) (Amendment) Regulations, 2009

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

Citation.

1. The title of these regulations is the Investment Services Act (Tied Agents) (Amendment) Regulations, 2009 and they shall be read and construed as one with the Investment Services Act (Tied Agents) Regulations, hereinafter referred to as "the principal regulations". S.L. 370.14

Amends regulation 2 of the principal regulations.

2. In regulation 2 of the principal regulations, immediately after the definition "European investment firm" there shall be inserted the following new definition:

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

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

(b) subject to the requirements of the Directive and subject to any regulations made under the Act and, or Investment Services Rules issued by the competent authority in terms of article 6 of the Act, implementing such requirements as may be applicable;".

Amends regulation 3 of the principal regulations.

3. Regulation 3 of the principal regulations shall be amended as follows:

(a) in subregulation (1) thereof:

(i) for the words "European investment firms may appoint tied agents", there shall be substituted the words "European investment firms exercising a European right may appoint tied agents"; and

(ii) for the words "and services offered by the

investment services licence holder" there shall be substituted the words "and services offered by the investment services licence holder or the European investment firm";

(b) in subregulation (2) thereof, for the words "subject to these regulations, be established" there shall be substituted the words "subject to these regulations and the European Passport Rights for Investment Firms Regulations, where applicable, be established".

Amends regulation 4 of the principal regulations.

4. Regulation 4 of the principal regulations shall be amended as follows:

(a) subregulation (1) thereof shall be deleted;

(b) subregulations (2) and (3) thereof shall be renumbered as subregulations (1) and (2) respectively; and

(c) immediately after subregulation (2), as renumbered, there shall be added the following new subregulation (3):

"(3) Tied agents established in Malta and registered in terms of regulation 9 shall be exempt from the provisions of article 3 of the Act.".

Substitutes regulation 5 of the principal regulations.

5. For regulation 5 of the principal regulations, there shall be substituted the following:

"5. An investment services licence holder may appoint a tied agent in a Member State or EEA State which provides for the appointment of tied agents in terms of Article 23 of the Directive only if such tied agent is registered in the public register which the Member or EEA State concerned has established for this purpose.".

Adds new regulation 12 to the principal regulations.

6. Immediately after regulation 11 of the principal regulations, there shall be added the following new regulation:

"12. The provisions of these regulations shall apply *mutatis mutandis* to a European credit institution as defined in regulation 2 of the European Passport Rights for Credit Institutions Regulations, authorised under the Directive to provide investment services and seeking to appoint a tied agent in terms of the Directive. Reference to the term "European investment firm" shall be deemed to be a reference to the term "European credit institution".".

S.L. 371.11