L.N. 59 of 2010

INVESTMENT SERVICES ACT
(CAP. 370)

Investment Services Act (Exemption) (Amendment) Regulations, 2010

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 (Exemption) (Amendment) Regulations, 2010 and they shall be read and construed as one with the Investment Services Act (Exemption) Regulations, hereinafter referred to as "the principal regulations". S.L. 370.02

Amends regulation 3 of the principal regulations.

2. Sub-regulation (1) of regulation 3 of the principal regulations shall be amended as follows:

(a) for paragraph (d) thereof there shall be substituted the following:

"(d) a person who deals on own account in terms of paragraph 3 of the First Schedule to the Act, and does not provide any other investment services, unless such person dealing on own account is a market maker or deals on own account outside a regulated market or a multilateral trading facility on an organized, frequent and systematic basis by providing a system accessible to third parties in order to engage in dealings with them;"; and

(b) immediately after sub-paragraph (iii) of paragraph (h) thereof, there shall be added the following new sub-paragraph:

"(iv) providing the services of acting as trustee or custodian in terms of paragraph 5(*c*) of the First Schedule to the Act, in relation to a collective investment scheme licensed under the Act which does not qualify as a Professional Investor Fund in terms of the Investment Services Rules, provided that:

(a) such person is authorised in a Member State or EEA State to provide the services of custodian to collective investment schemes and

considered by the competent authority to be of sufficient standing and repute and is either -

(i) authorised in a Member State or EEA State as a credit institution under Directives 2006/48/EC and 2006/49/EC of the European Parliament and of the Council of the 14 June 2006 relating to the taking up and pursuit of the business of credit institutions; or

(ii) forms part of a group of companies which also includes an entity which is authorised as a credit institution under Directives 2006/48/EC and 2006/49/EC of the European Parliament and of the Council of the 14 June 2006 relating to the taking up and pursuit of the business of credit institutions and satisfies any additional criteria which may be set by the competent authority; and

(b) the collective investment scheme to which such person acts as trustee or custodian is of the closed ended type;".