L.N. 63 of 2011

INVESTMENT SERVIVES ACT
(CAP. 370)

Investment Services Act
(Financial Capital Adequacy Consolidation) Regulations, 2011

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

Title and scope.

1. (1) The title of these regulations is the Investment Services Act (Financial Capital Adequacy Consolidation) Regulations, 2011.

(2) The purpose of these regulations is to partly implement Articles 3, 37 and 38 of Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006, as supplemented by Articles 125, 126, 131, 136, 139, 140, 141 and 143 of the Directive and Articles 42a, 129, 130, 131a and 132 of the Directive, as amended by the Second Capital Requirements Directive, as herein defined and these regulations shall be interpreted and applied accordingly.

Interpretation.

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

"the Act" means the Investment Services Act; Cap. 370.

"ancillary services undertaking" means an undertaking the principal activity of which consists in owning or managing property, managing data-processing services, or any other similar activity which is ancillary to the principal activity of one or more credit institutions or investment firms;

"the competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.

"consolidating supervisor" means the competent authority or the European regulatory authority responsible for the exercise of supervision on a consolidated basis of EU parent investment firms and investment firms controlled by EU parent financial holding companies;

"credit institution" shall have the same meaning as that assigned Cap. 371.

to the term under the Banking Act;

"the Directive" means Council Directive 2006/48/EC of 14 June 2006, relating to the taking up and pursuit of the business of credit institutions (recast), as may be amended or updated from time to time, and includes any implementing measures that have been issued or may be issued thereunder;

"EU parent financial holding company" means a parent financial holding company in a Member State which is not a subsidiary of a credit institution or an investment firm authorised in any Member State or of another financial holding company set up in any Member State;

"EU parent investment firm" means a parent investment firm in a Member State which is not a subsidiary of a credit institution or an investment firm authorised in any Member State or of a financial holding company set up in any Member State;

"European regulatory authority" means an authority which, in a country or territory outside Malta that is a Member State, is empowered by law or regulation to supervise investment firms or credit institutions;

"financial holding company" means a financial institution the subsidiary undertakings of which are either exclusively or mainly investment firms or other financial institutions, at least one of such subsidiaries being an investment firm, and which is not a mixed financial holding company within the meaning of regulation 2 of the Financial Conglomerates Regulations;

S.L. 330.06

Cap. 376.

"financial institution" shall have the same meaning as that assigned to the term under the Financial Institutions Act;

"going concern" means a scenario where the undertaking might continue in operation in the foreseeable future;

"host country" means the Member State, other than where its head office is situated, in which an investment firm has a branch or in which it provides services under the freedom to provide services;

"investment firm" means an investment firm, as defined in regulation 2 of the European Passport Rights for Investment Firms Regulations, which is subject to the requirements of Directive 2004/39/EC, excluding:

S.L. 370.10

(a) credit institutions;

(b) local firms as defined in Article 3(1)(p) of Directive 2006/49/EC; and

(c) investment firms which are only authorised to provide the service of investment advice and, or receive and transmit orders from investors without holding money or securities belonging to their client and which for that reason may not at any time place themselves in debt with those clients.

For the purposes of supervision on a consolidated basis, "investment firm" shall include third-country investment firms that meet the following conditions:

(a) firms which, if they were established within the Community, would fall under the definition of investment firm;

(b) firms which are authorised in a third country; and

(c) firms which are subject to and comply with prudential rules considered by the competent authority to be equivalent to those laid down by Directive 2006/49/EC;

"Investment Services Rules" mean the Rules for Investment Services Providers issued by the competent authority in terms of the Act;

"limited licence investment firm" means an investment firm that is not authorised in terms of article 6 of the Act to deal on its own account or provide the investment service of underwriting of financial instruments and, or placing of financial instruments on a firm commitment basis and which is subject to the fixed overheads requirement in terms of the Investment Services Rules;

"Member State" includes an EEA State;

"mixed-activity holding company" means a parent undertaking, other than a financial holding company or a credit institution or a mixed financial holding company within the meaning of regulation 2 of the Financial Conglomerates Regulations, the subsidiaries of which include at least one credit institution. Where the parent investment firm or the EU parent investment firm or the financial holding company does not include a credit institution, mixed-activity holding company means a parent undertaking other than a financial holding company or an investment firm or a mixed financial holding company within the meaning of regulation 2 of the Financial Conglomerates Regulations, the subsidiaries of which include at least one investment firm; S.L. 330.06

"overseas regulatory authority" means an authority which, in a country or territory outside Malta that is not a Member State, is empowered by law or regulation to supervise investment firms or credit institutions;

"parent financial holding company" means a financial holding company in a Member State which is not itself a subsidiary of a credit institution or an investment firm authorised in the same Member State or of a financial holding company set up in the same Member State;

"parent investment firm" means an investment firm in a Member State which has a credit institution, an investment firm or a financial institution as subsidiary or which holds a participation in a credit institution, an investment firm or a financial institution, and which is not itself a subsidiary of another credit institution or an investment firm authorised in the same Member State or of a financial holding company set up in the same Member State;

"parent undertaking" means a parent company as defined in article 2(2)(a) of the Companies Act and includes an undertaking which, in the opinion of the competent authority, effectively exercises a dominant influence over another undertaking;

Cap. 386.

"participation" means rights in the capital of other undertakings, whether or not represented by certificates, which by creating a durable link, with those undertakings, are intended to contribute to the company's activities or the ownership, direct or indirect, of twenty per cent or more of the voting rights or capital of an undertaking;

"Second Capital Requirements Directive" means Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management;

"subsidiary" means a subsidiary undertaking as defined in article 2(2)(c) of the Companies Act, and includes an undertaking over which, in the opinion of the competent authority, a parent undertaking effectively exercises a dominant influence. All subsidiaries of subsidiary undertakings shall also be considered subsidiaries of the undertaking that is their original parent; and

Cap. 386.

"third country" means a country that is not a Member State.

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

Responsibility of the competent authority for consolidated supervision.

3. (1) The competent authority shall exercise supervision on a consolidated basis:

(a) where the parent undertaking is a parent investment firm or an EU parent investment firm, authorised in Malta;

(b) where the investment firm which is authorised in Malta has as its parent undertaking a parent financial holding company or an EU parent financial holding company;

(c) where the parent financial holding company or the EU parent financial holding company which is set up in Malta has, as subsidiaries, investment firms authorised in two or more Member States, one of which is Malta;

(d) where the investment firms authorised in two or more Member States, one of which is Malta, have as their parent more than one financial holding company with head offices in different Member States, one of which is Malta and there is an investment firm in each of these States and the investment firm which is authorised in Malta has the largest balance sheet total; and

(e) where the financial holding company is set up in a Member State other than Malta and it has more than one investment firm authorised in the Community other than the Member State where the financial holding company is set up, one of which is authorised in Malta, and the investment firm authorised in Malta has the largest balance sheet total. For the purposes of these regulations, the investment firm is considered as if it is controlled by an EU parent financial holding company.

(2) In the cases referred to in sub-regulation (1)(c), (d) and (e), the competent authority may by common agreement appoint a European regulatory authority or an overseas regulatory authority to exercise supervision on a consolidated basis if its application would be inappropriate, taking into account the investment firms and the relative importance of their activities in different countries. In these cases, before taking its decision, the competent authority shall give the EU parent investment firm or EU parent financial holding company or the investment firm with the largest balance sheet total, as appropriate, an opportunity to state its opinion on that decision. The competent authority shall notify the Commission of any such agreements.

Functions of the competent authority with respect to supervision on a consolidated basis.

4. Where the competent authority is responsible for the exercise of supervision on a consolidated basis of EU parent investment firms and investment firms controlled by EU parent financial holding companies in terms of regulation 3, it shall carry out the following functions:

(a) co-ordination of the gathering and dissemination of relevant or essential information in going concern and emergency situations; and

(b) planning and co-ordination of supervisory activities in going concern situations, including the activities relating to the internal capital adequacy assessment process, the supervisory review and evaluation process, the regulatory disclosure and the measures referred to in the Schedule, in co-operation with the European regulatory authorities and overseas regulatory authorities involved; and

(c) planning and co-ordination of supervisory activities in co-operation with the European regulatory authorities and overseas regulatory authorities involved, and if necessary with central banks, in preparation for and during emergency situations, including adverse developments in investment firms or in financial markets using, where possible, existing defined channels of communication for facilitating crisis management. These include exceptional measures referred to in regulation 8(2)(e), the preparation of joint assessments, the implementation of contingency plans and communication to the public.

Notifications in emergency situations.

5. (1) Where an emergency situation, including adverse developments in financial markets, arises which potentially jeopardises the market liquidity and the stability of the financial system in any of the Member States where entities of a group have been authorised or where significant branches as referred to in regulation 14 are established and where the competent authority is responsible for the exercise of supervision on a consolidated basis, it shall alert as soon as is practicable the Central Bank of Malta and other central banks of the European system of the central banks when this information is relevant for the exercise of their statutory tasks, including the conduct of monetary policy and related liquidity provision, the oversight of payments, clearing and settlement systems, and safeguarding the stability of the financial system, and it shall communicate all information that is essential for the pursuance of their tasks:

Provided that where the competent authority is responsible for supervision other than on a consolidated basis, it shall alert as soon as is practicable the Central Bank of Malta with such information available to it which may be required for the discharge of its duties under the Central Bank of Malta Act or any other Act. Cap. 204.

(2) Where the Central Bank of Malta becomes aware of a situation referred to in sub-regulation (1), it shall alert the competent authority as soon as is practicable.

(3) To the extent possible, the competent authority and the Central Bank of Malta shall use existing defined channels of communication.

(4) Where the competent authority is responsible for supervision on a consolidated basis, it shall, when it needs information which has already been given to a European regulatory authority or an overseas regulatory authority, contact these authorities, whenever possible, in order to prevent duplication of reporting to the various authorities involved in supervision.

Written co-ordination and co-operation agreements with European regulatory authorities and overseas regulatory authorities.

6. (1) Where the competent authority is responsible for supervision on a consolidated basis in terms of regulation 3, it shall have written co-ordination and co-operation arrangements in place with European regulatory authorities and overseas regulatory authorities, responsible for supervising the other members of the group.

(2) Under the arrangements made pursuant to sub-regulation (1), additional tasks may be entrusted to the competent authority and procedures for the decision-making process and for co-operation with other European regulatory authorities and overseas regulatory authorities may be specified.

(3) Where appropriate, the competent authority may, by bilateral agreement, delegate its responsibility for supervision of an investment firm, which is a subsidiary of a parent undertaking that is an investment firm authorised and supervised by a European regulatory authority, to this European regulatory authority in order to assume responsibility for supervising the subsidiary in accordance with the Directive. The competent authority shall forward the content of such agreements to the Commission.

Establishment of the colleges of supervisors by the consolidating supervisor.

7. (1) Where the competent authority is the consolidating supervisor, it shall establish colleges of supervisors to facilitate the exercise of the following tasks and, subject to the confidentiality requirements of sub-regulations (4) to (8) and compatibility with Community law, ensure appropriate co-ordination and co-operation

with relevant overseas regulatory authorities with respect to:

(a) the tasks referred to in regulations 4 and 5(1), (2) and (3);

(b) the granting of permissions to an EU parent investment firm and its subsidiaries or to an EU parent financial holding company and its subsidiaries to use the internal ratings based approach to measure credit risk, the advanced measurement approach to operational risk and the permissions relating to the measurement of counterparty credit risk;

(c) the application of the internal capital adequacy assessment process and the supervisory review and evaluation process to an EU parent investment firm and its subsidiaries and to an EU parent financial holding company and its subsidiaries; and

(d) the imposition of an additional capital charge to each entity within a group that includes at least one credit institution and on a consolidated basis in terms of the Schedule.

(2) The following tasks shall be undertaken by the college of supervisors established by the competent authority:

(a) exchanging information;

(b) agreeing on voluntary entrustment of tasks and voluntary delegation of responsibilities where appropriate;

(c) determining supervisory examination programmes based on the risk assessment of the group in accordance with the competent authority's supervisory review and evaluation;

(d) increasing the efficiency of supervision by removing unnecessary duplication of supervisory requirements, including the information requests referred to in regulations 5(4) and 8(4);

(e) consistently applying the prudential requirements under the Directive across all entities within a group which includes at least one credit institution, without prejudice to the options and discretions available in Community legislation; and

(f) applying the provisions of regulation 4(c) taking into account the work of other forums that may be established in this area.

(3) Where the competent authority is participating in the colleges of supervisors, it shall co-operate closely with other European regulatory authorities and overseas regulatory authorities. The establishment and functioning of colleges of supervisors shall not affect the rights and responsibilities of the competent authority under the Directive.

(4) Where the competent authority is the consolidating supervisor, it shall establish and manage the colleges of supervisors based on written arrangements referred to in regulation 6, determined after consultation with European regulatory authorities or overseas regulatory authorities concerned.

(5) Where the competent authority is the consolidating supervisor, it may request the following competent authorities to participate in colleges of supervisors:

(a) European regulatory authorities that are responsible for the supervision of subsidiaries of an EU parent investment firm or an EU parent financial holding company;

(b) European regulatory authorities of a host Member State where significant branches, as referred to in regulation 14, are established;

(c) central banks as appropriate; and

(d) overseas regulatory authorities, where appropriate.

(6) Where the competent authority is the consolidating supervisor, it shall chair the meetings of the college and shall decide which European regulatory authorities and overseas regulatory authorities participate in a meeting or in an activity of the college. The decision shall take account of the relevance of the supervisory activity to be planned or co-ordinated for the European regulatory authorities and overseas regulatory authorities, in particular the potential impact on the stability of the financial system in the Member States concerned and, in particular, in emergency situations, based on the information available at the relevant time and the obligations referred to in regulation 14(6) and (7).

(7) The competent authority shall keep all members of the college fully informed, in advance, of the organisation of the meetings of the college, about the main issues to be discussed and the activities to be considered. The competent authority shall also keep all the members of the college fully informed, in a timely manner, of the actions taken in those meetings or the measures carried out.

(8) The competent authority shall inform the Committee of European Banking Supervisors of the activities of the college of supervisors, including in emergency situations, and communicate to that Committee all information that is of particular relevance for the purposes of supervisory convergence.

Co-operation with other authorities.

8. (1) The competent authority shall co-operate closely with European regulatory authorities and overseas regulatory authorities in all matters relating to supervision on a consolidated basis. Such co-operation shall include the provision to European regulatory authorities and overseas regulatory authorities of any information which is essential or relevant for the exercise of the European regulatory authorities' and overseas regulatory authorities' supervisory tasks under the Directive. In this regard, the competent authority shall communicate on request all relevant information and shall communicate on its own initiative all essential information.

(2) For the purpose of sub-regulation (1), information shall be regarded as essential if it could materially influence the assessment of the financial soundness of an investment firm, credit institution or a financial institution in another Member State and shall include, in particular, the following items:

(a) identification of the group structure of all major investment firms in a group;

(b) identification of the European regulatory authorities and overseas regulatory authorities of the investment firms in the group, as the case may be;

(c) procedures for the collection of information from the investment firms in a group and the verification of that information;

(d) adverse developments in investment firms or in other entities of a group, which could seriously affect the investment firms; and

(e) major sanctions and exceptional measures taken by the competent authority in accordance with the Directive, including the imposition of an additional capital charge under point (a) of the Schedule and the imposition of any limitation on the use of advanced measurement approach for the calculation of the operational risk component in terms of the Investment Services Rules.

(3) Where the competent authority is responsible for consolidated supervision of EU parent investment firms and

investment firms controlled by EU parent financial holding companies, it shall provide European regulatory authorities who supervise subsidiaries of these parents with all relevant information. In determining the extent of relevant information, the importance of these subsidiaries within the financial system in those Member States shall be taken into account.

(4) Where the competent authority is responsible for the supervision of an investment firm controlled by an EU parent investment firm, it shall whenever possible contact the consolidating supervisor when it needs information regarding the implementation of approaches and methodologies set out in the Directive that may already be available to that consolidating supervisor.

(5) The competent authority shall consult with European regulatory authorities and overseas regulatory authorities, where its decisions are of importance for the supervisory tasks of these authorities:

(a) changes in the shareholder, organisational or management structure of investment firms in a group, which require the approval or authorisation of European regulatory authorities or overseas regulatory authorities; and

(b) major sanctions or exceptional measures referred to in sub-regulation (2)(e):

Provided that the competent authority may decide not to consult in cases of urgency or where such consultation may jeopardise the effectiveness of its decisions. In this case, the competent authority shall, without delay, inform the European regulatory authorities and overseas regulatory authorities, as applicable.

Exchange of information.

9. (1) Undertakings included within the scope of supervision on a consolidated basis, mixed-activity holding companies and their subsidiaries, or subsidiaries of an investment firm or a financial holding company, which are not included within the scope of supervision on a consolidated basis shall exchange any information which would be relevant for the purposes of supervision in accordance with Articles 124 to 139 of the Directive.

(2) Where a parent undertaking is situated in Malta and the competent authority does not itself exercise supervision on a consolidated basis, it shall, upon request by the European regulatory authority or overseas regulatory authority responsible for exercising such supervision, require the parent undertaking to provide any

information relevant for the purposes of supervision on a consolidated basis and the competent authority shall transmit such information to the European regulatory authority or overseas regulatory authority making the request.

(3) The competent authority shall exchange the information relating to investment firms subsidiaries of a mixed-activity holding company as referred to in the Investment Services Rules for Investment Services Providers, on the understanding that the collection or possession of information does not in any way imply that the competent authority plays a supervisory role in relation to the mixed-activity holding company and those of its subsidiaries which are not investment firms or to the subsidiaries of an investment firm or a financial holding company which are not included within the scope of supervision on a consolidated basis.

Co-operation with European regulatory authorities, overseas regulatory authorities and the Commission.

10. (1) The competent authority shall co-operate closely with European regulatory authorities and overseas regulatory authorities where the investment firm, financial holding company or mixed-activity holding company which is situated in Malta controls one or more subsidiaries authorised in a country outside Malta which are insurance companies or other undertakings providing investment services. Without prejudice to its respective responsibilities, the competent authority shall provide European regulatory authorities and overseas regulatory authorities with any information likely to simplify their task and to allow supervision of the activity and overall financial situation of the undertakings they supervise.

(2) Where the competent authority is responsible for supervision on a consolidated basis, it shall establish lists of the financial holding companies included in the supervision on a consolidated basis and communicate these lists to the European regulatory authorities, overseas regulatory authorities and to the Commission.

Request for verification of information by the competent authority.

11. The competent authority may request a European regulatory authority to verify information concerning an investment firm, a credit institution, a financial holding company, a financial institution, an ancillary services undertaking, a mixed-activity holding company or its subsidiaries, or subsidiaries of an investment firm or a financial holding company which are not included within the scope of supervision on a consolidated basis.

Request for verification of information by a European regulatory authority.

12. Where the competent authority receives a request from a European regulatory authority to verify information, it may act upon the request by either allowing the European regulatory authority making the request to carry out such verification or by carrying out

the verification itself or by appointing an auditor or expert to carry out such verification. The European regulatory authority making the request may, if it so wishes, participate in the verification when it does not carry out the verification itself.

Third country consolidated supervision.

13. (1) Where an investment firm, the parent undertaking of which is an investment firm or a financial holding company authorised in a third country, is not subject to consolidated supervision, the competent authority shall verify whether the investment firm is subject to consolidated supervision by an overseas regulatory authority, which is equivalent to that governed by the principles laid down in the Directive.

(2) The competent authority shall carry out the verification at the request of the parent undertaking or of any of the regulated entities authorised in the Community or on its own initiative. The competent authority shall consult the other European regulatory authorities and overseas regulatory authorities involved.

(3) The competent authority shall take into account any guidance issued by the European Banking Committee as to whether the consolidated supervision arrangements of overseas regulatory authorities are likely to achieve the objectives of consolidated supervision as defined in the Directive, in relation to investment firms, the parent undertaking of which is an investment firm authorised in a third country. For this purpose, the competent authority shall consult the European Banking Committee before making a decision.

(4) In the absence of such equivalent supervision, the competent authority shall deem what are the appropriate supervisory techniques which achieve the objectives of supervision on consolidated basis of investment firms. Such supervisory techniques shall be agreed upon by the competent authority, after consultation with other European regulatory authorities and overseas regulatory authorities involved. The supervisory techniques shall be designed to achieve the objectives of consolidated supervision as defined in the Directive and shall be notified to other European regulatory authorities, overseas regulatory authorities and the Commission.

(5) The competent authority may in particular require the establishment of a financial holding company which is authorised in the Community, and apply the provisions on consolidated supervision to that financial holding company.

Establishment of significant branches.

14. (1) The competent authority may be requested by the European regulatory authority for a branch of an investment firm

situated in Malta, which does not fulfil the criteria set out in article 20(3) or article 46(1) of Directive 2006/49/EC or does not qualify as a limited licence investment firm, to be considered as significant. This request may also be made where regulation 4 applies.

(2) The request by the European regulatory authority shall provide reasons for considering the branch to be significant with particular regard to the following:

(a) the likely impact of a suspension or closure of the operations of the investment firm on market liquidity and the payment and clearing and settlement systems in the Member State where the branch of an investment firm is situated; and

(b) the size and the importance of the branch in terms of number of clients within the context of the banking or financial system of the Member State where the branch is situated.

(3) The competent authority shall do everything within its power to reach a joint decision with European regulatory authorities on the designation of a branch as being significant. The competent authority shall transmit its decision to the European regulatory authorities concerned:

Provided that where no joint decision is reached within two months of receipt of the request, the European regulatory authority shall take its own decision within a further period of two months on whether the branch is significant. In taking its decision, the European regulatory authority shall take into account any views and reservations of the competent authority. The European regulatory authority shall transmit its decision to the competent authority.

(4) The decision referred to in sub-regulation (3) shall be set out in a document containing the fully reasoned decision and shall be recognised as determinative and applied by the competent authority and the European regulatory authority in the Member State concerned.

(5) The designation of a branch as being significant shall not affect the rights and responsibilities of the competent authority under the Directive.

(6) Where a significant branch is established, the competent authority shall communicate to the European regulatory authority the information referred to in regulation 8(2)(d) and (e) and carry out the tasks referred to in regulation 4(c) in co-operation with the European

regulatory authority.

(7) Where a significant branch is established and the competent authority becomes aware of an emergency situation within an investment firm authorised in Malta, it shall alert as soon as is practicable the Central Bank of Malta and other central banks of the European system of the central banks when this information is relevant for the exercise of their statutory tasks, including the conduct of monetary policy and related liquidity provision, the oversight of payments, clearing and settlement systems, and safeguarding the stability of the financial system.

(8) Where the competent authority is not the consolidating supervisor and it is supervising an investment firm with significant branches in other Member States, it shall establish and chair a college of supervisors to facilitate the co-operation under sub-regulations (6) and (7). The establishment and functioning of the college shall be based on written arrangements determined by the competent authority after consultation with European regulatory authorities. In such case:

(a) the competent authority shall decide which European regulatory authorities participate in a meeting or in an activity of the college. The decision of the competent authority shall take account of the relevance of the supervisory activity to be planned or co-ordinated for these European regulatory authorities, in particular the potential impact on the stability of the financial system in the Member States concerned and in emergency situations and the obligations referred to in sub-regulations (6) and (7); and

(b) the competent authority shall keep all members of the college fully informed, in advance, of the organisation of such meetings, the main issues to be discussed and the activities to be considered. The competent authority shall also keep all the members of the college fully informed, in a timely manner, of the actions taken in those meetings or the measures carried out.

Powers of the competent authority.

15. Without prejudice to any of the provisions of these regulations, the competent authority may, for the better implementation of these regulations, use any of its powers under the Act and may exercise any of the rights and powers assigned to the Malta Financial Services Authority under the Malta Financial Services Authority Act.

Cap. 330.

Schedule

Regulations 4(b), 7(1)(d) and 8(2)(e)

Where investment firms do not meet the requirements of the Directive, the competent authority shall have the power to:

(a) oblige investment firms to hold an amount of capital which exceeds the minimum financial resources requirement in terms of the Investment Services Rules;

(b) require investment firms to reinforce the arrangements, processes, mechanisms and strategies implemented with respect to the internal capital adequacy assessment process;

(c) require investment firms to apply a specific provisioning policy or treatment of assets with respect to the minimum financial resources requirement in terms of the Investment Services Rules;

(d) restrict or limit the business, operations or network of investment firms; and

(e) require the reduction of the risk inherent in the activities, products and systems of investment firms.

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