

L.N. 408 of 2011**MALTA FINANCIAL SERVICES AUTHORITY ACT
(CAP. 330)****Financial Conglomerates (Amendment) Regulations, 2011**

IN exercise of the powers conferred by article 20C of the Malta Financial Services Authority Act, the Minister of Finance, the Economy and Investment, after consultation with the Malta Financial Services Authority, has made the following regulations:-

1. (1) The title of these regulations is the Financial Conglomerates (Amendment) Regulations, 2011, and these regulations shall be read and construed as one with the Financial Conglomerates Regulations, hereinafter referred to as "the principal regulations".

Citation,
commencement
and scope.
S.L. 330.06

(2) These regulations shall come into force on the 31st December, 2011.

(3) The objective of these regulations is to implement Article 2 of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010, amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

2. Regulation 2 of the principal regulations shall be amended as follows:

Amends
regulation 2 of
the principal
regulations.

(a) in the definition "insurance undertaking", the words "and within the meaning of the Insurance Business Act and the Insurance Brokers and Other Intermediaries Act" shall be deleted;

(b) immediately after the definition "investment firm", there shall be added the following new definition:

"Joint Committee" means the Committee of the European Supervisory Authorities (ESA) established by Article 54 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November

2010, of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 and of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010;"; and

(c) in the definition "reinsurance undertaking", the words "and within the meaning of the Insurance Business Act" shall be deleted.

Amends
regulation 9 of
the principal
regulations.

3. Sub-regulation (2) of regulation 9 of the principal regulations shall be amended as follows:

(a) in paragraph (b) thereof, for the words "First Schedule; and", there shall be substituted the words "First Schedule;";

(b) in paragraph (c) thereof, for the words "the financial conglomerate." there shall be substituted the words "the financial conglomerate; and"; and

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraph:

"(d) arrangements in place to contribute to and develop, if required, adequate recovery and resolution arrangements and plans. Such arrangements shall be updated regularly.".

Amends
regulation 11 of
the principal
regulations.

4. In sub-regulation (2) of regulation 11 of the principal regulations, for the words "as well as the Commission", there shall be substituted the words "and the Joint Committee".

Amends
regulation 12 of
the principal
regulations.

5. In sub-regulation (4) of regulation 12 of the principal regulation for the words "the European Central Bank.", there shall be substituted the words "the European Central Bank and the European Systemic Risk Board in accordance with Article 15 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.".

Addition of a
new regulation
to the principal
regulations.

6. Immediately after regulation 12 of the principal regulations, there shall be inserted the following new regulation:

"Cooperation and exchange of information with the Joint Committee."

12A. (1) The Authority shall cooperate with the Joint Committee for the purposes of these regulations, in accordance with Regulation (EU) No 1093/2010, Regulation (EU) No 1094/2010, and Regulation (EU) No 1095/2010.

(2) The Authority shall without delay provide the Joint Committee with all information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010, respectively."

7. In sub-regulation (1) of regulation 14 of the principal regulations, immediately after the words "for the purposes of supplementary information", there shall be added the words "and shall exchange such information in accordance with these regulations and with the European Supervisory Authorities in accordance with Article 35 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010, respectively, where necessary through the Joint Committee".

Amends regulation 14 of the principal regulations.

8. Regulation 20 of the principal regulations shall be amended as follows:

Amends regulation 20 of the principal regulations.

(a) in sub-regulation (2) thereof:

(i) in paragraph (c) thereof, for the words "own initiative:", there shall be substituted the words "own initiative."; and

(ii) the two provisos thereof shall be deleted;

(b) sub-regulations (3) and (4) thereof shall be renumbered as sub-regulations (5) and (6) respectively;

(c) immediately after sub-regulation (2) thereof, there shall be added the following new sub-regulations:

"(3) The Authority shall consult the other relevant competent authorities, and shall make every effort to comply with any applicable guidelines prepared through the Joint Committee in accordance with Articles 16 and 56 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010

respectively.

(4) Where the Authority disagrees with the decision taken by another relevant competent authority under sub-regulation (2), Article 19 of Regulation (EU) No 1093/2010 of Regulation (EU) No 1094/2010 and of Regulation No 1095/2010 respectively shall apply."; and

(d) in sub-regulation (6) thereof, as renumbered, for the words "in terms of subregulation (3)", there shall be substituted the words "in terms of subregulation (5)".

