VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 18,920, 25 ta' Mejju, 2012
Taqsima B

L.N. 174 of 2012

INVESTMENT SERVICES ACT (CAP. 370)

European Passport Rights for Investment Firms (Amendment) Regulations, 2012

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

Citation and scope.

1. (1) The title of these regulations is the European Passport Rights for Investment Firms (Amendment) Regulations, 2012 and these regulations shall be read and construed as one with the European Passport Rights for Investment Firms Regulations, hereinafter referred to as the "the principal regulations".

S.L. 370.10

(2) The purpose of these regulations is to transpose Article 6(27)(a) and (b) 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).

Amends regulation 1 of the principal regulations and general amendment.

2. In sub-regulation (2) of regulation 1 of the principal regulations, for the words "the Directive", and wherever they appear in the principal regulations, there shall be substituted the words "the MiFID Directive".

Amends regulation 2 of the principal regulations.

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

(a) immediately after the definition "core investment service", there shall be added the following new definition:

" "ESMA" means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010;";

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(b) the definition "Directive" shall be deleted;

(c) in the definition "investment firm", for the words "said Directive", there shall be substituted the words "said MiFID Directive"; and

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

" "MiFID Directive" means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;".

Amends regulation 12 of the principal regulations.

4. Regulation 12 of the principal regulations shall be amended as follows:

(a) in sub-regulation (2) thereof, for the words, "in breach of the obligations arising from the provisions Directive", there shall be substituted the words, "in breach of the obligations arising from the provisions of the MiFID Directive";

(b) sub-regulation (4) thereof shall be amended as follows:

(i) for the words "functions of Maltese markets", wherever they appear in the said sub-regulation, there shall be substituted the words "functioning of Maltese markets"; and

(ii) immediately after the words "from initiating any further transactions in Malta.", there shall be added the words "The competent authority may also choose to refer the matter to ESMA.";

(c) sub-regulation (5) thereof shall be substituted by the following new sub-regulation:

"(5) If, despite the measures taken by the competent authority, the European investment firm persists in breaching any of the provisions of the Act or any Investment Services Rules or regulations made thereunder,

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the competent authority shall take all the appropriate measures needed in order to protect investors and the proper functioning of the Maltese markets. The competent authority may refer the matter to ESMA."; and

(d) in sub-regulation (7) thereof, for the words, "shall inform the European Commission without delay", there shall be substituted the words "shall inform the Commission of the European Union and ESMA without delay".

5. In paragraph 1 of Schedule 2 to the principal regulations, for the words "this Directive", wherever they appear in such paragraph, there shall be substituted the words "the MiFID Directive". Amends Schedule 2 to the principal regulations.

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — ***Printed at the Government Printing Press on recycled paper***

Prezz/*Price*
€0.18