L.N. 184 of 1990

MALTA INTERNATIONAL BUSINESS ACTIVITIES ACT, 1988 (ACT NO. XXXIV OF 1988)

Malta International Business Activities (Control of Offshore Banking Business) Regulations, 1990

IN exercise of the powers conferred by section 52 of the Malta International Business Activities Act, 1988, the Minister for the Development of Tertiary Sector, on the advice of the Malta International Business Authority, has made the following regulations:—

Citation.

1. These regulations may be cited as the Malta International Business Activities (Control of Offshore Banking Business) Regulations, 1990.

Interpretation.

2. In these regulations, unless the context otherwise requires, words and expressions used have the same meaning as is assigned to them in the Malta International Business Activities Act, 1988, hereinafter referred to as "the Act".

Act XXXIV of 1988.

Information to overseas supervisory authorities.

3. Notwithstanding any provision of the Act, the Authority may pass information relating to the affairs of a banking offshore company to a supervisory authority in a country or territory outside Malta for the purpose of enabling or assisting it to exercise functions corresponding to those of the Authority under the Act:

Provided that no such information shall be passed —

(a) other than that which, in the opinion of the Authority, it is necessary for the recipient authority to be aware of in order to enable it to properly discharge its functions;

(b) if it enables the recipient authority to identify a depositor or other customer or client;

(c) unless the recipient authority is bound by its own rules of confidentiality not to disclose the information to any other person or authority, or otherwise gives a prior written undertaking to the Authority that the information is to be used for supervisory purposes only and that it will not be passed to any other person or authority;

(d) except in pursuance of a formal decision of the Executive Committee of the Authority given on the filing of an application by the recipient authority.

Exemptions from the provisions of Cap. 204.

4. Sections 37 and 38 of the Central Bank of Malta Act shall not apply to a banking offshore company.

Exemptions from certain provisions of Cap. 215.

5. Sections 10, 14 and 19 of the Banking Act shall not apply to a banking offshore company, and the exemptions from sections 12 and 13 of that Act given to a banking offshore oversea company and to a banking offshore subsidiary company are extended to include any banking offshore company.

Statements and information to be furnished by a banking offshore company.

6. (1) Every banking offshore company shall submit to the Authority —

(a) not later than one month after the last day of each calendar quarter (hereinafter referred to as "the reporting date") a statement in a form acceptable to the Authority giving, as at the close of business on the reporting date, details of:

(i) assets and liabilities;

(ii) liquidity, including the maturity of assets and liabilities;

(iii) profit and loss account;

(iv) large exposures (including sectoral and country exposures); and

(v) bad and doubtful debts and provisions or reserves made for such debts;

(b) not later than 28th February in each year, in a form acceptable to the Authority, an analysis of its assets and liabilities at the previous 31st December:

(a) by country;

(b) by currency;

(c) such other returns or statements as and when the Authority may require to enable it to carry out its obligations under section 4(1) of the Act;

(d) on request and within such reasonable period as the Authority may specify, such information as the Authority may require for the proper understanding of the returns and statements submitted under this regulation.

(2) The Authority may prepare and publish consolidated statements from the information furnished under this regulation provided, however, that such publication does not result in any person being able to identify or calculate information relating to the financial position of an individual bank.

(3) The Authority shall inform the Minister and the Minister responsible for finance if, at any time, in its opinion, there is need for the examination of the affairs of any bank and may in support of its opinion, convey to those Ministers such information as it possesses concerning the state of affairs of that bank.

(4) The Authority may require returns submitted in accordance with this regulation to be reported on by a firm of auditors acceptable to the Authority.

(5) The Authority may waive the requirement for a return and may extend the period in which a return has to be submitted.

Forwarding of audited accounts.

7. (1) Every banking offshore company shall —

(a) not later than four months from the end of its financial year, forward to the Minister responsible for finance and to the Authority a copy of its audited accounts for that financial year made out in a form acceptable to the Authority and, in the case of a banking offshore oversea company, such accounts shall be accompanied by a copy of an audited balance sheet and profit and loss account, in a form acceptable to the Authority, relating to its business in Malta; and

(b) during normal business hours, make available for inspection by any person on demand a copy of its latest audited accounts and, in the case of an offshore oversea company, audited balance sheet and profit and loss account relating to its business in Malta.

(2) Any such audited accounts and, in the case of a banking offshore oversea company, audited balance sheet and profit and loss account, shall include the Auditors' report.

(3) The Authority may extend the period allowed for the submission of accounts under this regulation, and may approve such alternative arrangements to the foregoing provisions of this regulation, as it thinks reasonable and in such manner as not to materially detract from the main objects of this regulation.

Application of Cap. 215 and of subsidiary legislation made thereunder to banking offshore companies.

8. The Banking Act and any subsidiary legislation made thereunder shall apply to banking offshore companies as they were in force on the 30th June, 1989, and any amendments to the said Act or subsidiary legislation, and any subsidiary legislation thereunder, made after the aforesaid date, shall apply only if, and to the extent, that may be expressly provided therein.

Responsibilities of the Authority.

9. Sections 5(3), 15(4), 16(1), 17 and 18 of the Banking Act shall apply in the case of a banking offshore company as if reference to the Central Bank were substituted by reference to the Authority.

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