

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,311, 19 ta' Settembru, 2014
Taqsimha B

L.N. 333 of 2014

**INVESTMENT SERVICES ACT
(CAP. 370)**

**Investment Services Act (UCITS Mergers)
(Amendment) Regulations, 2014**

IN exercise of the powers conferred by article 12 of the Investment Services Act, the Minister for Finance, acting on the advice of the Malta Financial Services Authority as the competent authority for the purposes of the Act, has made the following regulations:

1. The title of these regulations is the Investment Services Act (UCITS Mergers) (Amendment) Regulations, 2014, and these regulations shall be read and construed as one with the Investment Services Act (UCITS Mergers) Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 370.19

2. In subregulation (2) of regulation 1 of the principal regulations, for the words "to transpose Articles 2(1)(q)", there shall be substituted the words "to transpose Articles 2(1)(p), 2(1)(q)".

Amends regulation 1 of the principal regulations.

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

Amends regulation 2 of the principal regulations.

(a) in subregulation (1) thereof:

(i) the definition "European UCITS" shall be deleted; and

(ii) immediately after the definition "merger", there shall be inserted the following new definition:

" "Registrar of Companies" shall mean the Registrar appointed in terms of article 400 of the Companies Act;"

Cap. 386.

(b) in the proviso to sub-regulation (3) thereof:

(i) in sub-paragraph (ii) thereof, for the words "as the case may be; and", there shall be substituted the words "as the case may be;"

(ii) in sub-paragraph (iii) thereof, for the words "the provisions of article 344(2) of the Companies Act

shall not apply.", there shall be substituted the words "the provisions of articles 344(2) and (3), 345(2) and (6), 348, 349, 351, 353, 356, 358 and 359 of the Companies Act shall not apply; and"; and

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

S.L. 386.12 "(iv) where the Maltese UCITS is established as a limited liability company, the provisions of the Cross-border Mergers of Limited Liability Companies Regulations shall not apply."

Substitutes the marginal note to regulation 4 of the principal regulations.

4. The marginal note to regulation 4 of the principal regulations shall be substituted by the following:

"Application for prior written authorisation to undergo a merger."

Amends regulation 15 of the principal regulations.

5. Regulation 15 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof:

(i) sub-paragraph (i) of paragraph (a) thereof shall be substituted by the following:

Cap. 386. "(i) the merger shall take effect on the date determined by the competent authority in terms of these regulations. The competent authority shall thereafter notify the Registrar of Companies in writing of such date and shall also transmit to such Registrar copies of the documents referred to in article 350 of the Companies Act for registration in respect of each of the Maltese UCITS. The Registrar of Companies shall thereafter issue a certificate of registration confirming the effective date of the merger and shall publish a notice that the merger has become effective;"; and

(ii) sub-paragraph (ii) of paragraph (a) thereof shall be substituted by the following:

"(ii) the date for calculating the ratio for exchange of units of the merging UCITS into units of the receiving UCITS and, where applicable, the date for determining the relevant net asset value for cash payment, shall be established in the common terms of the merger:

Provided that such date shall, where applicable, be after the approval of the merger by the unit holders of the receiving UCITS and the merging UCITS;"

(iii) subparagraph (iii) of paragraph (a) thereof shall be deleted;

(iv) sub-paragraph (ii) of paragraph (b) thereof shall be substituted by the following:

"(ii) the date for calculating the ratio for exchange of units of the merging UCITS into units of the receiving UCITS and, where applicable, the date for determining the relevant net asset value for cash payments, shall be established in the common terms of the merger:

Provided that such date shall, where applicable, be after the approval of the merger by the unit holders of the receiving UCITS and the merging UCITS.";

(v) sub-paragraph (iii) of paragraph (b) thereof shall be deleted;

(b) sub-regulation (2) thereof shall be deleted;

(c) sub-regulations (3) and (4) thereof shall be renumbered as sub-regulations (2) and (3) respectively; and

(d) in sub-regulation (2) thereof, as renumbered, for the words "shall be notified to the competent authority and to the European regulatory authority", there shall be substituted the words "shall, where applicable, be notified by the competent authority to the European regulatory authority".

6. Regulation 16 of the principal regulations shall be amended as follows:

(a) the figure "(1)" immediately after the figure "16."

Amends
regulation 16 of
the principal
regulations.

shall be deleted; and

(b) in paragraph (c) thereof, immediately after the words "entry into effect of the merger.", there shall be added the words "Where the merging UCITS is a Maltese company, the Registrar of Companies shall strike the name of the company off the register.".

