VERŻJONI ELETTRONIKA

L.N. 12 of 2015

COMPANIES ACT
(CAP. 386)

Investment Companies with Variable Share Capital as Retirement Schemes or Retirement Funds Regulations, 2015

IN exercise of the powers conferred by article 84 of the Companies Act, the Minister for Finance, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Companies Act (Investment Companies with Variable Share Capital as Retirement Schemes or Retirement Funds) Regulations, 2015.

(2) These regulations shall come into force on the 1st January 2015.

Applicability of the Companies Act (Investment Companies with Variable Share Capital) Regulations. S.L. 386.02

2. The provisions of the Companies Act (Investment Companies with Variable Share Capital) Regulations, hereinafter referred to as "the principal regulations", shall apply *mutatis mutandis* to investment companies with variable share capital established for the purpose of acting and operating as retirement schemes or retirement funds within the meaning of article 2 of the Retirement Pensions Act, subject to the following exceptions and qualifications: Cap. 514.

(a) references to "the competent authority" shall be deemed to be references to the competent authority under the Retirement Pensions Act; Cap. 514.

(b) references to "SICAV" shall be deemed to be references to an investment company with variable share capital duly licensed as a retirement scheme or retirement fund in terms of the Retirement Pensions Act; Cap. 514.

(c) with reference to subregulation (1) of regulation 9 of the principal regulations, and notwithstanding the provisions thereof, a multi fund company duly licensed as a retirement scheme or retirement fund in terms of the Retirement Pensions Act, shall keep the assets and liabilities of each sub-fund comprised in that company as a patrimony separate from the assets and liabilities of each other sub-fund of such company, and the provisions of the said regulation shall be construed and applied accordingly, and references in sub-regulation (1) of Cap. 514.

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regulation 9 of the principal regulations, to the terms "may", "elect" and "election" shall for these purposes be construed as referring to a mandatory requirement;

(d) with reference to sub-regulation (3) of regulation 9 of the principal regulations, and notwithstanding the provisions thereof, a multi fund company duly licensed as a retirement scheme or retirement fund in terms of the Retirement Pensions Act, shall provide in its memorandum that the actual value of the paid up share capital of any sub-fund shall be at all times equal to the value of the assets of any kind of the particular sub-fund after the deduction of such sub-fund's liabilities, and the provisions of the said regulation shall be construed and applied accordingly, and references in sub-regulation (3) of regulation 9 of the principal regulations to the term "elects" shall for these purposes be construed as referring to a mandatory requirement;

Cap. 514.

(e) sub-regulation (1) of regulation 10 of the principal regulations shall be read as if for the words therein "other than SICAVs licensed by the competent authority either as Professional Investor Funds or as UCITS within the meaning of the UCITS Directive" have been deleted;

(f) sub-regulation (2) of regulation 10 of the principal regulations shall not apply; and

(g) regulation 12 of the principal regulations shall be construed to read "For the better carrying out of the provisions of these regulations, the competent authority may issue Pension Rules in terms of sub-article (4) of article 37 of the Retirement Pensions Act.".

Restriction of distribution of assets in terms of the Retirement Pensions Act. Cap. 514.

3. Shares in an investment company with variable share capital duly licensed as a retirement scheme or a retirement fund in terms of the Retirement Pensions Act shall not give right to a distribution, other than in accordance with regulations and Pensions Rules, relating to the distribution of assets by retirement schemes or retirement funds, issued in terms of the Retirement Pensions Act.

Revocation of the Investment Companies with Variable Share Capital as Retirement Funds Regulations, 2003. L.N. 441 of 2003.

4. The Investment Companies with Variable Share Capital as Retirement Funds Regulations, 2003 are hereby revoked.

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