

I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

17th July, 2015

ACT No. XXI of 2015

AN ACT to amend various financial services laws, to establish the Resolution Authority and the Resolution Committee and to provide for matters ancillary or incidental thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. The short title of this Act is the Various Financial Services Laws (Amendment) Act, 2015. Short title.

PART I AMENDMENTS TO THE MALTA FINANCIAL SERVICES AUTHORITY ACT

2. This Part amends and shall be read and construed as one with the Malta Financial Services Authority Act, hereinafter in this Part referred to as "the principal Act". Amendments to the Malta Financial Services Authority Act. Cap. 330.

3. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) immediately after the definition "Board of Management and Resources", there shall be added the following new definition:

" "the BRRD" means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive

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82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council, as amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;"; and

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

" "institution" means a credit institution or an investment firm;".

Amendment of article 4 of the principal Act.

4. In sub-article (2) of article 4 of the principal Act, for the words "the European Systemic Risk Board (ESRB) and other entities", there shall be substituted the words "the European Systemic Risk Board (ESRB), the European Central Bank (ECB), the Single Resolution Board (SRB) and other entities".

Addition of new articles to the principal Act.

5. Immediately after article 7A of the principal Act, there shall be added the following new articles:

"The Resolution Authority and the Resolution Committee.

7B. (1) The Board of Governors shall also act as the Resolution Authority, which shall be the authority appointed for the purposes of Article 3 of the BRRD.

(2) The Resolution Authority shall appoint a Resolution Committee which shall have all the powers assigned to the Resolution Authority under the BRRD. The composition, powers and functions of the Resolution Committee shall be governed by the provisions set out in the First Schedule and in terms of any regulations made hereunder. The Resolution Authority and the Resolution Committee shall be operationally independent and shall act independently of each other and of the Supervisory Council.

Recovery and
Resolution
Rules.

7C. For the better carrying out and implementation of the provisions of the First Schedule and the BRRD, the Authority, through the Resolution Committee, may, from time to time, issue and publish Recovery and Resolution Rules which shall be binding on institutions and others as may be specified therein. Such Rules may lay down additional requirements and conditions in relation to the recovery and resolution of institutions, the conduct of their business, their responsibilities, and any other matters as the Resolution Committee may consider appropriate."

6. Article 20D of the principal Act shall be renumbered as article 20E.

Renumbering of
article 20D of
the principal
Act.

7. Immediately after article 20C of the principal Act, there shall be added the following new article:

Addition of new
article to the
principal Act.

"Power to make
regulations in
relation to the
Resolution
Authority and
the Resolution
Committee.

20D. (1) The Minister, acting on the advice of the Resolution Authority, may make regulations for the following purposes:

(a) to transpose, implement, and, or give effect to the requirements of the BRRD;

(b) to better implement the provisions of the First Schedule;

(c) to provide for powers and functions of the Resolution Committee;

(d) to establish and impose administrative penalties and other administrative measures on institutions or others as may be specified therein;

(e) to prescribe that a breach of any regulations made under this Act may amount to a criminal offence as may be specified, and for this purpose such regulations may impose punishments in respect of any breach, not exceeding a fine (*multa*) of two million euro (€2,000,000) or imprisonment for a term not exceeding three years, or both such fine and imprisonment.

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(2) Where regulations have been made in terms of this article, the Authority, through the Resolution Committee, may issue Recovery and Resolution Rules within the meaning of article 7C of this Act for the better carrying out of, and to better implement, the provisions of the regulations."

Amendment of article 29 of the principal Act.

8. In article 29 of the principal Act, for the words "of the Co-Ordination Committee, of the Supervisory Council,", there shall be substituted the words "of the Co-Ordination Committee, of the Resolution Committee, of the Supervisory Council,".

Addition of new Schedule to the principal Act.

9. Immediately after article 30 of the principal Act there shall be added the following new Schedule:

**"FIRST SCHEDULE
RECOVERY AND RESOLUTION
Article 7B.**

Interpretation.

1. (1) In this Schedule, unless the context otherwise requires:

"the CRR" means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"European resolution authority" means an authority which is situated in a country or territory outside Malta that is in a Member State or an EEA State, and which exercises any function corresponding to the functions of the Resolution Committee under this Act and the Recovery and Resolution Regulations;

"investment firm" means an investment firm as defined in point (2) of Article 4(1) of the CRR, that is subject to the initial capital requirement laid down in Article 28(2) of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;

"resolution" means the structuring of a credit institution or investment firm through the application of a resolution measure or measures in order to achieve one or more of the objectives referred to

in paragraph 3(2);

"resolution measures" means one or more of the following:

- (a) sale of business;
- (b) bridge institutions;
- (c) asset separation; and
- (d) bail in.

"resolution powers" means the powers conferred on the Resolution Committee in terms of the Recovery and Resolution Regulations;

"third-country resolution authority" means an authority in a country or territory that is not a Member State or EEA State which is responsible for carrying out functions comparable or equivalent to those of the Resolution Committee pursuant to this Act.

(2) Words and expressions used in this Schedule, but which are not defined herein, shall be interpreted within the meaning of the BRRD.

The Resolution Committee.

2. (1) The Resolution Committee shall ensure full and complete adherence to the requirements and obligations prescribed by regulations made under this Act, either directly or in collaboration with European and third-country resolution authorities, and may, for such purposes, exercise any of its powers under this Act and any regulations made thereunder.

(2) The Resolution Committee shall be composed of three persons, who shall be a person appointed by the Central Bank of Malta, a person appointed by the Authority, and a person appointed by the Ministry responsible for Finance, who have distinguished themselves in banking and financial related matters or have the relevant experience in financial supervision, regulation, resolution and insolvency of institutions.

(3) The appointment of such persons shall be for such term, being a period of not more than three years, as may be specified in the letter of appointment, and shall be eligible for reappointment for a maximum period of two terms or otherwise for a maximum period of six years, whichever is the higher. Such persons shall receive such remuneration as the Authority may from time to time determine.

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(4) The provisions of article 6(3) to (6) of the Act shall, as far as applicable, *mutatis mutandis* apply to the eligibility, term of office, termination and resignation of the Resolution Committee.

The objectives of the Resolution Committee.

3. (1) In discharging its general functions, the Resolution Committee shall, as far as is reasonably possible, act in a way which:

- (a) is compatible with the resolution objectives; and
- (b) minimises the cost of resolution and avoids the destruction of value of the institution.

(2) The resolution objectives of the Resolution Committee are:

- (a) safeguarding the continuity of critical functions;
- (b) minimising risks to financial stability;
- (c) protecting public funds by reducing reliance on extraordinary public financial support;
- (d) protecting depositors, client funds and client assets.

(3) (a) The Resolution Committee shall have the power to require the full assistance and collaboration of any institution, as may be necessary to enable it to fulfil its functions under this Schedule.

(b) Any institution as may be required by the Resolution Committee to provide its assistance and collaboration in terms of subparagraph (3)(a) shall comply with such request fully, without delay and in such detail as may be required.

Functions and powers of the Resolution Committee.

4. (1) Without prejudice to any other function or power conferred to it by this Act or any other law or regulations, it shall be the function of the Resolution Committee to:

- (a) review and decide upon the recommendations made to it by the Resolution Unit established in terms of this Schedule, in relation to resolution decisions;
- (b) liaise and consult, on matters relating to budgets and resources, with the Authority;
- (c) exchange information, where necessary, with the

Authority;

(d) carry out such other functions which are assigned to it by this Act or any regulations made thereunder;

(e) apply resolution measures when an institution is failing or is likely to fail;

(f) cooperate closely with the Authority in the preparation, planning and application of resolution decisions;

(g) cooperate with authorities, both local or overseas, in order to coordinate resolution measures to protect financial stability in all affected Member States and EEA States, and achieve the most effective outcome for the group as a whole, when a cross-border group is failing or likely to fail;

(h) cooperate with European resolution authorities and third country resolution authorities on matters relating to resolution;

(i) set up a resolution financing arrangement through mandatory contributions from institutions;

(j) communicate to the Resolution Authority its resolution decisions which necessitate implementation;

(k) implement the resolution decisions mentioned under point (j);

(l) assist the Resolution Authority on any matter falling under this Part, on which the Resolution Authority seeks assistance.

(2) In carrying out its general functions, the Resolution Committee shall:

(a) ensure that no conflict of interest may arise with the supervisory functions of the Authority;

(b) seek the approval in writing of the Minister, after informing the Resolution Authority and the Central Bank of Malta, prior to taking any decisions that may have a direct fiscal impact or which have systemic implications;

(c) notify the Minister, after having informed the Resolution Authority, of any decisions taken by it pursuant to this Act.

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(3) The Resolution Committee shall have all the powers that are necessary to enable it to perform its functions under this paragraph and to ensure the effective implementation of the provisions of the BRRD.

(4) The Resolution Committee shall also have the power to:

(a) collect the contributions from institutions towards the resolution financing arrangements;

(b) determine the administrative penalties payable by institutions for failure to comply with the decisions addressed to them;

(c) impose administrative penalties on any person whose conduct, in the opinion of the Resolution Committee, amounts to a breach of any of the provisions of this Act or any regulations or Rules issued thereunder transposing the BRRD;

(d) impose an administrative penalty on any person who has failed to comply with a directive issued by the Resolution Committee under this Act or any regulations or Rules issued thereunder transposing the BRRD; and

(e) publish, collect and recover any administrative penalties imposed by it in terms of this paragraph.

(5) (a) In exercising its power under sub-paragraphs (4) (c) and (d), the Resolution Committee may, by notice in writing and without recourse to a court hearing, impose on such person an administrative penalty of:

(i) up to twice the amount of the benefit derived from the breach, where that benefit can be determined;

(ii) in the case of a natural person, up to five million euro (€5,000,000); or

(iii) in the case of a legal person, up to 10% of the total annual net turnover of the undertaking in the preceding business year including the gross income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees receivable in accordance with Article 316 of the CRR. In the case of a subsidiary of a parent undertaking, the relevant turnover shall be turnover

resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year.

(b) Where the Resolution Committee decides to impose an administrative penalty, it shall notify the person on whom the penalty is being imposed by means of a notice in writing.

(c) Where the person upon whom the notice referred to in point (b) is served:

(i) fails to pay to the Resolution Committee the amount of the administrative penalty within a period of thirty days from the service of the notice, and fails to appeal from the decision of the Resolution Committee to the Court of Civil Jurisdiction; or

(ii) appeals to the Court of Civil Jurisdiction and fails within a period of fifteen days from the decision of the said Court to pay the administrative penalty as confirmed or as varied by that Court;

then, in every case, the amount of the administrative penalty, as originally imposed or as reduced or increased, as the case may be, shall be due to the Resolution Committee as a civil debt, and the provisions of point (d) shall apply.

(d) A notice as is referred to in point (b), or the decision of the Court of Civil Jurisdiction, as the case may be, shall upon the service by judicial act of a copy thereof on the person indicated in the notice, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

(6) The imposition by the Resolution Committee of an administrative penalty in terms of this article shall be without prejudice to any other consequences of the act or omission of the offender under civil or criminal law:

Provided that in all cases where the Resolution Committee imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

(7) The Resolution Committee shall designate an official

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forming part of the Resolution Unit to act as a secretary for such period of time and under such terms as the Resolution Committee shall deem appropriate.

(8) The Resolution Committee may invite any person and may require any officer of the Resolution Unit or of the Authority to attend a meeting of the Resolution Committee and to take part in the discussion.

Publication of administrative penalties.

5. (1) The Authority shall publish, on its official website and in any other media as it considers appropriate, any administrative penalty or penalties for any breaches of the provisions of the BRRD imposed by the Resolution Committee under the provisions of this Act and of any regulations made or Rules issued thereunder. Such publications shall include information on the type and nature of the breach and the identity of the person on whom the administrative penalty is imposed, without undue delay after that person is informed of those penalties:

Provided that in cases where an appeal has been filed by the person on whom such administrative penalty or penalties have been imposed, the Authority shall, without undue delay, also publish on its official website and in any other media as it considers appropriate, information on the status of the appeal and the outcome thereof.

(2) The Authority shall publish the administrative penalties for any breaches of the provisions of the BRRD, imposed by the Resolution Committee under the provisions of this Act and of any regulations made or Rules issued thereunder, on an anonymous basis, in any of the following circumstances:

(a) where the administrative penalty is imposed on a natural person and, following an obligatory prior assessment, publication of personal data is found to be disproportionate;

(b) where publication would jeopardise the stability of financial markets or an on-going criminal investigation;

(c) where publication would cause, insofar as can be determined, disproportionate damage to the institutions, to the entities referred to in point (b), (c) or (d) of Article 1(1) of the BRRD or to the natural persons involved:

Provided that publication on an anonymous basis in any such circumstances shall be an exceptional measure which needs to

be justified by a detailed report compiled by the Resolution Committee:

Provided further that where the circumstances referred to in this sub-article are likely to cease within a reasonable period of time, publication under this article may be postponed for such a period of time.

(3) Information published in terms of this article shall remain on the official website of the Authority for a period of not less than five years. Personal data shall be retained on the official website of the Authority and in any other media it considers appropriate only for the period necessary, in accordance with the provisions of Maltese legislation on data protection.

Power to recover debt.

6. The Resolution Committee may bring proceedings before the Court of Civil Jurisdiction to recover as a debt an amount of administrative penalty due to it under this Part.

Power to issue directives.

7. (1) Without prejudice to any of the powers conferred in this Act, the Resolution Committee may, whenever it deems necessary, give, by notice in writing, such directives as it may deem appropriate in the circumstances in order to carry out the functions and duties prescribed by this Act, and any regulations made or Rules issued thereunder transposing the BRRD.

(2) The power to give directives under this article shall include the power to vary, alter, add to or withdraw any directive, as well as the power to issue new or further directives.

(3) Any person to whom a notice is given in accordance with sub-paragraph (1) shall obey, comply with and otherwise give effect to any such directive within the time and in the manner stated in the directive.

(4) Where the Resolution Committee is satisfied that the circumstances so warrant, it may at any time make public any directive which it has issued in terms of this paragraph.

The Resolution Unit

8. (1) There shall be a Resolution Unit which shall carry out the functions assigned to it under this Act, and as may be assigned to it by the Resolution Committee.

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(2) The Resolution Unit shall periodically report to the Resolution Committee on the activities and developments within its area of competence.

(3) The Resolution Unit shall be composed of the Director of the Office, and any number of employees as may be required in order to carry out its functions properly.

(4) It shall be the function of the Resolution Unit to:

(a) assess whether an institution is failing or is likely to fail, after consulting the Authority;

(b) draw up resolution plans, after consulting the Authority, on how to deal with financial stress or failure of institutions, including at group level;

(c) carry out resolvability assessment of institutions;

(d) cooperate, liaise and exchange information, as necessary, with the Units respectively responsible for supervision of credit institutions and investment firms within the Authority.

Appeal.

9. (1) A decision taken by the Resolution Committee in relation to a crisis prevention measure, a crisis management measure or in exercise of any of its powers under this Act or any other law or regulation, shall be subject to an appeal by any person aggrieved by the decision.

(2) An appeal from a decision under sub-paragraph (1) shall lie with the Court of Appeal (Inferior Jurisdiction) constituted in terms of article 41(6) of the Code of Organization and Civil Procedure.

(3) An appeal to the Court of Appeal (Inferior Jurisdiction) in terms of article 41(6) of the Code of Organization and Civil Procedure shall be submitted within twenty days from when the decision of the Resolution Committee is notified to the institution concerned.

(4) (a) The determination by the Court of Appeal (Inferior Jurisdiction) in relation to a decision taken by the Resolution Committee shall be made as expeditiously as possible.

(b) The economic assessments made by the Resolution

Committee shall be used as a basis by the Court when reviewing the crisis management measures concerned:

Provided that the complex nature of those assessments shall not prevent the Court from examining whether the evidence relied on by the Resolution Committee is factually accurate, reliable and consistent, and whether that evidence contains all relevant information which should be taken into account in order to assess a complex situation and whether it is capable of substantiating the conclusions drawn therefrom.

(5) The filing of an appeal from a crisis management measure shall not automatically suspend the effects of the challenged decision and the decision of the Resolution Committee shall be immediately enforceable and shall give rise to a rebuttable presumption that a request for the suspension of its enforcement is not in the public interest.

(6) Where it is necessary to protect the interests of third parties acting in good faith who have acquired shares, other instruments of ownership, assets, rights or liabilities of an institution under resolution by virtue of the use of resolution tools or exercise of resolution powers by the Resolution Committee, the annulment of a decision of the Resolution Committee shall not affect any subsequent administrative acts or transactions concluded by the Resolution Committee which were based on the annulled decision. In that case, remedies for a wrongful decision or action by the Resolution Committee shall be limited to compensation for the loss suffered by the applicant as a result of the decision or act.

Issuing of precautionary warrant.

10. Notwithstanding any other law, no precautionary warrant or other order under any other law shall be issued by any Court or Tribunal restraining the Resolution Committee from taking any action, including a crisis prevention measure or a crisis management measure, under this Act, or under any regulations issued thereunder or any other law.

Functions and powers of the Authority.

11. (1) In addition to the powers assigned to the Authority under this Act, the Banking Act, and the Investment Services Act, the Authority shall have the power to:

(a) determine the administrative penalties payable by institutions for failure to comply with any decisions issued by

the Authority and addressed to them;

(b) impose administrative penalties on any person whose conduct, in the opinion of the Authority, amounts to a breach of any of those provisions of this Act or any regulations or Rules issued thereunder transposing the BRRD in which an institution has an obligation towards the Authority;

(c) impose an administrative penalty on any person who has failed to comply with a directive issued by the Authority under this Act or any regulations or Rules issued thereunder transposing the BRRD;

(d) publish, collect and recover any administrative penalties imposed by it in terms of this paragraph:

Provided that in exercising the powers listed in subparagraphs (a) to (d), the provisions of paragraphs 4(5), 4(6) and 5 of this Schedule shall apply *mutatis mutandis*, and provided further that any reference to "the Resolution Committee" shall be deemed to be a reference to "the Authority", and any reference to "the Court of Civil Jurisdiction" or "the Court" shall be deemed to be references to "the Tribunal";

(e) issue, by notice in writing, such directives on any person as it may deem appropriate in the circumstances in order to carry out the functions and duties prescribed by this Act and any regulations or Rules issued thereunder transposing the BRRD, and in exercising such power, the provisions of paragraph 7 of this Schedule shall apply *mutatis mutandis*, and any reference to "the Resolution Committee" shall be deemed to be a reference to "the Authority"; and

(f) bring proceedings before the Court of Civil Jurisdiction to recover as a debt an amount of administrative penalty due to it under this Schedule.

(2) The Authority shall have all the powers that are necessary to enable it to perform its functions under this paragraph to ensure the effective implementation of the provisions of the BRRD imposing rights and obligations on competent authorities, and, accordingly the powers of the Authority in terms of this paragraph shall be interpreted and applied in accordance with the provisions of the BRRD.

Appeal from a decision taken by the Authority.

12. (1) A decision taken by the Authority in relation to a

crisis prevention measure or in exercise of any of its powers under this Act or any other law or regulation transposing the BRRD, shall be subject to an appeal by any person aggrieved by the decision.

(2) An appeal from a decision under sub-paragraph (1) shall lie with the Tribunal constituted in terms of article 21, and accordingly the provisions of such article shall *mutatis mutandis* apply.

(3) The determination by the Tribunal in relation to a decision shall be made as expeditiously as possible.

PART II

AMENDMENTS TO THE INVESTMENT SERVICES ACT

10. This Part amends and shall be read and construed as one with the Investment Services Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Investment Services Act. Cap. 370.

11. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) in sub-article (1) thereof, immediately after the definition "AIFM Directive", there shall be added the following new definition:

" "the BRRD" means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council, as amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;"; and

(b) in sub-article (3) thereof, for the words "the AIFM Directive, the CRD,", there shall be substituted the words "the AIFM Directive, the BRRD, the CRD,".

12. Immediately after sub-article (3) of article 2A of the principal Act, there shall be added the following new sub-article (4):

Amendment of article 2A of the principal Act.

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"(4) Without prejudice to the functions, powers and duties assigned to the competent authority by means of this Act, the competent authority shall also have the functions, powers and duties assigned to it under the Malta Financial Services Authority Act and under any regulations made thereunder for the purposes of transposing the provisions of the BRRD."

Amendment of
article 12 of the
principal Act.

13. Article 12 of the principal Act shall be amended as follows:

(a) in paragraph (k) of sub-article (1) thereof, for the words "the AIFM Directive, the CRD,", there shall be substituted the words "the AIFM Directive, the BRRD, the CRD,"; and

(b) immediately after sub-article (2)(B) thereof, there shall be added the following new sub-article:

"(2)(C) Regulations made under this article may also make provision for the re-organisation and winding-up of those investment firms to which such re-organisation and winding-up is, or may be rendered, applicable in terms of the BRRD."

Amendment of
article 15 of the
principal Act.

14. In paragraph (g) of sub-article (2) of article 15 of the principal Act, for the words "implementation of the AIFM Directive, the CRD,", there shall be substituted the words "implementation of the AIFM Directive, the BRRD, the CRD,".

Amendment of
article 16B of
the principal
Act.

15. In article 16B of the principal Act, for the words "which transpose the AIFM Directive, the CRD,", there shall be substituted the words "which transpose the AIFM Directive, the BRRD, the CRD,".

Amendment of
article 17 of the
principal Act.

16. Article 17 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof, for the words "the AIFM Directive, the CRD,", wherever they appear, there shall be substituted the words "the AIFM Directive, the BRRD, the CRD,"; and

(b) in sub-article (9) thereof, for the words "terms of the CRD and the CRR, as may be prescribed.", there shall be substituted the words "terms of the BRRD, the CRD and the CRR, as may be prescribed."

17. In the first proviso to sub-article (1) of article 26 of the principal Act, for the words "the AIFM Directive, the CRD," there shall be substituted the words "the AIFM Directive, the BRRD, the CRD,".

Amendment of article 26 of the principal Act.

PART III AMENDMENTS TO THE BANKING ACT

18. This Part amends and shall be read and construed as one with the Banking Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Banking Act.
Cap. 371.

19. Sub-article (1) of article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

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

" "the BRRD" means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council, as amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;"

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

" "European Resolution Authority" means an authority which is situated in a country or territory outside Malta that is in a Member State or an EEA State and which exercises any function corresponding to the functions of the Resolution Committee under the Malta Financial Services Authority Act and the Recovery and Resolution Regulations issued thereunder;" and

(c) immediately after the definition "third country"

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there shall be added the following new definition:

" "Third Country Resolution Authority" means an authority which is in a country or territory that is not a Member State and is responsible for carrying out functions comparable or equivalent to those of the Resolution Committee under the Malta Financial Services Authority Act and the Recovery and Resolution Regulations issued thereunder."

Amendment of article 3 of the principal Act.

20. Paragraph (a) of sub-article (1) of article 3 of the principal Act shall be substituted by the following:

"(a) transpose, implement and, or give effect to the requirements of the BRRD, the CRD and the CRR;"

Addition of new article 4C to the principal Act.

21. Immediately after article 4B of the principal Act, there shall be added the following new article 4C:

"Functions, powers and duties.

4C. Without prejudice to the functions, powers and duties assigned to the competent authority by this Act, the competent authority shall also have the functions, powers and duties assigned to it under the Malta Financial Services Authority Act and under any regulations made thereunder for the purposes of transposing the provisions of the BRRD."

Amendment of article 17B of the principal Act.

22. Article 17B of the principal Act shall be amended as follows:

(a) for the marginal note thereof, there shall be substituted the following:

"Internal governance and recovery and resolution plans."; and

(b) immediately after sub-article (4) thereof, there shall be added the following new sub-article:

"(5) A credit institution shall cooperate closely with the Resolution Committee established under the Malta Financial Services Authority Act, and with any relevant European resolution authorities or third-country resolution authorities and shall provide them with all information necessary for the preparation and drafting of a viable resolution plan setting out options for the orderly resolution of the credit institution in the

case of failure, in accordance with the principle of proportionality."

23. In paragraph (e) of subarticle (1) of article 35 of the principal Act, for the words "12, 13, 21(2)", there shall be substituted the words "12, 13, 17B, 21(2)".

Amendment of article 35 of the principal Act.

PART IV
AMENDMENTS TO THE LOCAL LOANS (REGISTERED STOCK AND SECURITIES) ORDINANCE (AMENDMENT) ACT, 2014

24. This Part of this Act amends the Local Loans (Registered Stock and Securities) Ordinance (Amendment) Act, 2014 and it shall be read and construed as one with the Local Loans (Registered Stock and Securities) Ordinance (Amendment) Act, 2014, hereinafter in this Part referred to as "the principal Act".

Amendments to the Local Loans (Registered Stock and Securities) Ordinance (Amendment) Act, 2014. Act XLII of 2014.

25. The definition "Resolution Authority" in paragraph (b) of article 2 of the principal Act shall be substituted by the following new definition:

Amendment of article 2 of the principal Act.

" "Resolution Committee" means the Committee established within the Malta Financial Services Authority through the Malta Financial Services Authority Act and which is responsible for the resolution of credit institutions and investment firms;"

26. Sub-article (1) of the new article 4A, as added by article 4 of the principal Act shall be amended as follows:

Amendment of article 4 of the principal Act.

(a) for the words "made under the Banking Act and the Investment Services Act" there shall be substituted the words "made under the Malta Financial Services Authority Act" and, in the marginal note thereof, for the words "Cap. 371. Cap. 370." there shall be substituted the words "Cap. 330.";

(b) in paragraph (a) thereof, for the words "with the Resolution Authority" there shall be substituted the words "with the Resolution Committee";

(c) in paragraph (b) thereof, for the words "by the Resolution Authority" there shall be substituted the words "by the Resolution Committee"; and

(d) in paragraph (c) thereof, for the words "with the Resolution Authority" there shall be substituted the words "with

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the Resolution Committee".

PART V

AMENDMENTS TO THE INCOME TAX ACT

Amendments to
the Income Tax
Act.
Cap. 123.

27. This Part of this Act amends the Income Tax Act and it shall be read and construed as one with the Income Tax Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
article 5 of the
principal Act.

28. Paragraph (c) of sub-article (5) of article 5 of the principal Act shall be amended as follows:

(a) for the words "including land which the individual has for his or her own occupation and enjoyment with that residence as its garden or grounds up to an area (exclusive of the site of the dwelling house) not exceeding two times the area of the house and transferred through the same deed with the principal residence" there shall be substituted the words "including land, transferred through the same deed with the principal residence, which the owner has for his own occupation and enjoyment with that residence as its garden or grounds consisting of an area which, regard being had to the size and character of the dwelling house, is required for the reasonable enjoyment of it as a residence";

(b) for the words "Any part of the house which is used exclusively for commercial purposes for any time within two years of the transfer shall not be considered as "own residence" and this part shall be apportioned on the basis of the area occupied for this purpose as a proportion of the whole area of the relative dwelling house:" there shall be substituted the words "Any part of the house, garden or grounds which is used exclusively for commercial purposes for any time within two years of the transfer, or which is not required for the reasonable enjoyment of it as a residence shall not be considered as "own residence" and this part shall be apportioned on the basis of the area occupied for this purpose as a proportion of the whole area of the relative dwelling house, garden or grounds."; and

(c) the proviso to the said paragraph (c) shall be deleted.

Amendment of
article 31D of
the principal
Act.

29. Article 31D of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "leased as a residence or garage, to an individual or individuals" there shall be substituted the words "that is used as a residence or a garage by an individual or individuals"; and

(b) in paragraph (a) of sub-article (8) thereof, for the words "or a garage, excluding a tenement which, for the purpose of the said letting, is required to be licensed by virtue of the Malta Travel and Tourism Services Act, or any Act which may be substituted therefor; and" there shall be substituted the words "or a garage; and".

Passed by the House of Representatives at Sitting No. 290 of the 15th July, 2015.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

