VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,569, 6 ta' Mejju, 2016
Taqsima B

L.N. 150 of 2016

INVESTMENT SERVICES ACT (CAP. 370)

Investment Firms (Reorganisation and Winding-Up) (Amendment) Regulations, 2016

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, has made the following regulations:-

Citation and scope.

1. The title of these regulations is the Investment Firms (Reorganisation and Winding-up) (Amendment) Regulations 2016, and these regulations shall be read and construed as one with the Investment Firms (Reorganisation and Winding-Up) Regulations, hereinafter referred to as "the principal regulations".

S.L. 370.30

Amends regulation 3 of the principal regulations.

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

(a) sub-regulation (4) thereof shall be renumbered as sub-regulation (5); and

(b) immediately after sub-regulation (3) thereof, there shall be added the following new sub-regulation:

"(4) Where an investment firm is either under resolution or where the conditions for resolution have been determined by the Resolution Committee to be met, normal insolvency proceedings shall not be commenced except at the initiative of the Resolution Committee, and a decision placing an investment firm into normal insolvency proceedings shall be taken only with the consent of the Resolution Committee as provided for in regulation 86 of the Recovery and Resolution Regulations made under the Malta Financial Services Authority Act.".

S.L. 330.09
Kap. 330.

Amends regulation 4 of the principal regulations.

3. Sub-regulation (1) of regulation 4 of the principal regulations shall be amended as follows:

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

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" "normal insolvency proceedings" means collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator or an administrator normally applicable to investment firms under Maltese law and either specific to those investment firms or generally applicable to any natural or legal person;"; and

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

" "Resolution Committee" means the committee appointed under article 7B of the Malta Financial Services Authority Act;".

Cap. 330.

Substitutes regulation 38 of the principal regulations.

4. Regulation 38 of the principal regulations shall be substituted by the following:

"European investment firms or branches of European investment firms located in Malta.

38. (1) From the date of coming into force of these regulations, the Court may not, in relation to a European investment firm or any branch of a European investment firm -

(a) make a winding-up order pursuant to article 224 of the Companies Act; or

Cap. 386.

(b) adopt reorganisation measures or perform any act ancillary to the adoption of such measures in terms of Part VI of the Companies Act.

Cap. 386.

(2) Sub-regulation (1)(a) does not prevent -

(a) the Court from making a winding-up order after the coming into force of these regulations in relation to a European investment firm or any branch of a European investment firm if -

(i) a provisional administrator was appointed in relation to the European investment firm before the coming into force of these regulations, and

(ii) the appointment continues in force until immediately before that winding-up order is made;

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(b) the winding-up of a European investment firm or any branch of a European investment firm after the coming into force of these regulations pursuant to a winding-up order which was made, and has not been discharged, before that date.

(3) Sub-regulation (1)(b) does not prevent a provisional administrator of a European investment firm or any branch of a European investment firm appointed before the coming into force of these regulations, from acting in relation to such institution after that date.".

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