VERŻJONI ELETTRONIKA

L.N 407 of 2017

FINANCIAL MARKETS ACT
CAP. 345

Financial Markets Act (CSDR Administrative Penalties, Measures and Investigatory Powers) Regulations, 2017

IN EXERCISE of the powers conferred by article 49 of the Financial Markets Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Financial Markets Act (CSDR Administrative Penalties, Measures and Investigatory Powers) Regulations, 2017.

(2) The purpose of these regulations is to implement Article 63 of the CSDR, as herein defined and these regulations shall be interpreted and applied accordingly.

(3) These regulations shall come into force on the 3rd January 2018.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

"the Act" means the Financial Markets Act; Cap. 345

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.

"CSDR" means Regulation (EU) No 909/2014 of the European Parliament and of the Council of the 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, as may be amended from time to time, and includes any implementing measures that have been or may be issued thereunder.

(2) Words and expressions which are also used in the Act shall have the same meaning as in the Act.

Supervisory powers and powers to impose penalties.

3. The competent authority shall exercise its supervisory powers and its powers to impose penalties, in such a way as to ensure full and complete adherence to the requirements and obligations arising out of the Act and any regulations and Financial Market Rules issued thereunder and the CSDR, either directly or in collaboration with European regulatory authorities and with overseas regulatory

VERŻJONI ELETTRONIKA

authorities, in terms of law as warranted by the relevant circumstances and shall take all measures necessary to ensure that such administrative penalties are implemented.

Administrative penalties and other administrative measures.

4. Without prejudice to article 39A of the Act, to any regulations made under the Act and to the supervisory powers of the competent authority referred in regulation 3, the competent authority shall impose administrative penalties and other administrative measures for breaches of the CSDR and, or where any person contravenes or fails to comply with any provision of Part IV of the Act.

Administrative penalties and other administrative measures for breaches of the CSDR.

5. Where any person contravenes or fails to comply with the provisions of Part IV of the Act, or of any rules or regulations implementing the CSDR made under the Act, or with any provisions of the CSDR, the competent authority may, by notice in writing and without recourse to a court hearing impose the following penalties:

(a) a public statement which indicates the person responsible for the infringement and the nature of the infringement;

(b) an order requiring the person responsible for the infringement to cease the conduct and to desist from a repetition of that conduct;

(c) withdrawal of authorisation in accordance with article 27 of the Act;

(d) a temporary or, for repeated serious infringements, a permanent ban against any member of the institution's management body or any other natural person, who is held responsible, from exercising management functions in the institution;

(e) maximum administrative pecuniary sanctions of at least twice the amounts of the profit gained as a result of an infringement where those amounts can be determined;

(f) in respect of a natural person, maximum administrative pecuniary sanctions of five million euro (€5,000,000);

(g) in the case of legal person, maximum administrative pecuniary sanctions of twenty million euro (€20,000,000) or up to 10% of the total annual turnover of the legal person according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a

VERŻJONI ELETTRONIKA

subsidiary of the parent undertaking which has to prepare consolidated financial accounts according to Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income according to the relevant Accounting Directives according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking.

Right of appeal.

6. Subject to the provisions of the Act, any person in respect of whom a decision is taken by the competent authority under these regulations may appeal to the Financial Services Tribunal in terms of article 42 of the Act.

VERŻJONI ELETTRONIKA

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — *Published by the Department of Information (doi.gov.mt) — Valletta*
Mitbugħ fl-Istamperija tal-Gvern fuq karta riċiklata — *Printed at the Government Printing Press on recycled paper*

Prezz/*Price*
€0.18