Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,269, 24 ta' Settembru, 2019
Taqsima B

L.N. 243 of 2019

INVESTMENT SERVICES ACT
(CAP. 370)

European Passport Rights for Investment Firms (Amendment) Regulations, 2019

IN EXERCISE of the powers conferred by article 12 of the Investment Services 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 commencement.

S.L. 370.10

1. (1) The title of these regulations is the European Passport Rights for Investment Firms (Amendment) Regulations, 2019 and they shall be read and construed as one with the European Passport Rights for Investment Firms Regulations, hereinafter referred to as "the principal regulations".

(2) These regulations, with the exception of regulation 2, and of regulation 15(4) in regulation 3, shall enter into force on such date as the Minister may by notice in the Gazette establish.

Amends regulation 2 of the principal regulations.

2. Sub-regulation (1) of regulation 2 of the principal regulations shall be amended as follows:

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

" "no-deal Brexit date" means the date on which the United Kingdom leaves the European Union without a withdrawal deal;"; and

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

" "UK investment firms" means investment firms as defined in Article 4(1) of MiFID that are authorised by the respective regulatory authorities of the United Kingdom within the meaning of Article 5 of MiFID, that are exercising a European right to provide services in Malta on a cross border basis, but shall exclude the European right to establish a branch in Malta;

"United Kingdom" means the territories of England, Scotland, Wales, Northern Ireland and, for the purposes of

these regulations, shall also include Gibraltar.".

Adds new Part to the principal regulations.

3. Immediately after regulation 14 of the principal regulations, there shall be added the following new Part VI:

"Part VI
Temporary Permission Regime for UK Investment Firms Passporting Into Malta Through Freedom of Services

Temporary permission granted by the competent authority to UK investment firms to continue servicing existing contracts with existing clients.

15. (1) Subject to the provisions of these regulations and provided the conditions stipulated in this regulation are satisfied, the competent authority shall grant a temporary permission to UK investment firms allowing them to continue servicing existing contracts with existing clients. Such firms shall for the purposes of these regulations continue to be treated as European investment firms providing services in Malta.

(2) In order to avail themselves of the temporary permission regime provided for in this regulation, UK investment firms must already be exercising a European right to provide services in Malta on a cross-border basis under these regulations, prior to the no-deal Brexit date.

(3) UK investment firms which have been granted a temporary permission under this regulation shall only be permitted to service those contracts with clients that were entered into by not later than 30 September 2019.

(4) UK investment firms wishing to avail themselves of the temporary permission regime are required to notify the competent authority on the appropriate form issued by the said competent authority, stating their intention to benefit from this regime. This form shall be submitted to the competent authority by not later than three weeks from the no-deal Brexit date.

Transitory provision.

(5) (a) The temporary permission granted under the temporary permission regime shall be valid until the 31 March 2020.

(b) UK investment firms shall, until the 31 March 2020, be exempt from the provisions of article 3 of the Act provided that those UK investment firms are in possession of a temporary permission by the competent authority.

S.L. 370.43

(c) As from 1 April 2020, such UK investment firms shall be treated as third country firms in terms of the Investment Services Act (Provision of Investment Services and Activities by Third-County Firms) Regulations.".

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