VERŻJONI ELETTRONIKA

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Taqsima B

L.N. 130 of 2022

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Marketing of UCITS) (Amendment) Regulations, 2022

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 scope.

1. (1) The title of these regulations is the Investment Services Act (Marketing of UCITS) (Amendment) Regulations, 2022, and these regulations shall be read and construed as one with the Investment Services Act (Marketing of UCITS) Regulations, hereinafter referred to as "the principal regulations".

S.L. 370.18.

(2) The scope of these regulations is, in part, to transpose Article 1(6) of Directive (EU) 2019/1160 of the European Parliament and of the Council of 20 June 2019 amending Directives 2009/65/EC and 2011/61/EU with regard to cross-border distribution of collective investment undertakings.

Amends regulation 4 of the principal regulations.

2. Regulation 4 of the principal regulations shall be amended as follows:

(a) immediately after sub-regulation (16) thereof, there shall be added the following new sub-regulation:

"(16A) The competent authority shall verify whether the notification submitted by the Maltese UCITS in accordance with sub-regulation (16) is complete. The competent authority shall, no later than 15 working days from the receipt of a complete notification, transmit that notification to the European regulatory authority of the Member State or EEA State identified in the notification referred to in sub-regulation (16), and to ESMA. Upon transmission of the notification, the competent authority shall promptly notify the Maltese UCITS of that transmission.";

(b) immediately after sub-regulation (17) thereof, there shall be added the following new sub-regulations:

"(18) The competent authority shall transmit to the European regulatory authority of the Member State or EEA State identified in the notification referred to in sub-regulation (16) information on any changes to the documents referred to in sub-regulation (3).

(19) Without prejudice to other monitoring activities and supervisory powers as referred to in Article 21(2) and Article 97 of the UCITS Directive, as from the date of transmission in terms of sub-regulation (18), the European regulatory authority of the Member State or EEA State identified in the notification referred to in sub-regulation (16) shall not require the Maltese UCITS concerned to demonstrate compliance with national laws, regulations and administrative provisions governing marketing requirements referred to in Article 5 of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014.".

Amends regulation 5 of the principal regulations.

3. In paragraph (a) of sub-regulation (7) of regulation 5 of the principal regulations, for the words "sub-regulation 1(a) to (c)" there shall be substituted the words "sub-regulation 1(a) to (d)".

Amends regulation 8 of the principal regulations.

4. Regulation 8 of the principal regulations shall be amended as follows:

(a) immediately after sub-regulation (15) thereof, there shall be added the following new sub-regulations:

"(15A) The competent authority shall receive the notification referred to in sub-regulation (15) from the European regulatory authority of the European UCITS home Member State or EEA State.

(15B) The competent authority shall also receive from the European regulatory authority of the European UCITS home Member State or EEA State information on any changes to the documents referred to in sub-regulation (2).";

(b) in sub-regulation (16) thereof, for the words "as well as the competent authority" there shall be substituted the words "as well as the European regulatory authority of the European UCITS home Member State or EEA State"; and for the words "provided that the information and communication means are

available for investors in the official language" there shall be substituted the words "provided that the information and communication means are available for investors located in Malta in the official language";

(c) immediately after sub-regulation (16) thereof, there shall be added the following new sub-regulations:

"(17) Where the competent authority is identified in the notification referred to in sub-regulation (15), it shall have the same rights and obligations as the competent authority of the UCITS host Member State as set out in Article 21(2), Article 97(3) and Article 108 of the UCITS Directive.

(18) Without prejudice to other monitoring activities and supervisory powers as referred to in Article 21(2) and Article 97 of the UCITS Directive, as transposed in national law, as from the date of receipt of the information under sub-regulation (15B), the competent authority shall not require the European UCITS concerned to demonstrate compliance with national laws, regulations and administrative provisions governing marketing requirements referred to in Article 5 of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014.".

Amends regulation 9 of the principal regulations.

5. Regulation 9 of the principal regulations shall be amended as follows:

(a) in paragraph (a) of sub-regulation (5) thereof, for the words "sub-regulation 1(b) to (d)", there shall be substituted the words "sub-regulation 1(a) to (d)";

(b) sub-regulation (5B) thereof shall be amended as follows:

(i) in paragraph (a) thereof the words "the official language, or", and the words "by the European UCITS itself" shall be deleted; and

(ii) paragraph (b) thereof shall be substituted by the following

"(b) by the European UCITS itself, by a third party which is subject to regulation and supervision governing the tasks to be performed, or by both.".

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