Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,855, 10 ta' Mejju, 2022

Taqsima B

L.N. 135 of 2022

INVESTMENT SERVICES ACT (CAP. 370) BANKING ACT (CAP. 371)

Investment Services Act and Banking Act (MiFID and MiFIR Administrative Penalties, Measures and Investigatory Powers) (Amendment) Regulations, 2022

IN EXERCISE of the powers conferred by article 12 of the Investment Services Act and article 3(1) of the Banking 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.

S.L. 370.40.
S.L. 371.19

1. (1) The title of these regulations is the Investment Services Act and Banking Act (MiFID and MiFIR Administrative Penalties, Measures and Investigatory Powers) (Amendment) Regulations, 2022, and these regulations shall be read and construed as one with the Investment Services Act and Banking Act (MiFID and MiFIR Administrative Penalties, Measures and Investigatory Powers) Regulations, hereinafter referred to as "the principal regulations".

(2) The scope of these regulations is to:

(a) transpose sub-article 5 of Article 1 of Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019 amending Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Directive 2014/65/EU on markets in financial instruments and Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing; and

(b) implement in part Article 4(2) of Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/

1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds.

Amends regulation 2 of the principal regulations.

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

(a) the definition " "APA" or "approved publication arrangement" " shall be substituted by the following:

" "approved publication arrangement" or "APA" means a person authorised under MiFIR to provide the service of publishing trade reports on behalf of investment firms pursuant to Articles 20 and 21 of MiFIR;";

(b) the definition " "ARM" or "approved reporting mechanism" " shall be substituted by the following:

""approved reporting mechanism" or "ARM" means a person authorised under MiFIR to provide the service of reporting details of transactions to competent authorities or to ESMA on behalf of investment firms;";

(c) the definition " "CTP" or "consolidated tape provider" "shall be substituted by the following:

""consolidated tape provider" or "CTP" means a person authorised under MiFIR to provide the service of collecting trade reports for financial instruments listed in Articles 6, 7, 10, 12, 13, 20 and 21 of MiFIR from regulated markets, MTFs, OTFs and APAs and consolidating them into a continuous electronic live data stream providing price and volume data per financial instrument;";

Amends regulation 5 of the principal regulations.

3. Sub-regulation (1) of regulation 5 of the principal regulations shall be amended as follows:

(a) paragraph (c) thereof shall be substituted as follows:

" (c) in the case of a Maltese investment firm authorized in Malta, withdrawal or suspension of the relative licence or authorisation in accordance with the provisions of the Investment Services Act and the regulations issued thereunder;

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(b) immediately after paragraph (g) thereof, there shall

be added the following new paragraph:

"(h) in the case of an APA or ARM which has a derogation in accordance with Article 2(3) of MiFIR, withdrawal and suspension of the authorisation in accordance with Article 27e of MiFIR.".

Amends regulation 7 of the principal regulations.

4. Regulation 7 of the principal regulations shall be amended as follows:

(a) in paragraph (j) of sub-regulation (1) thereof, for the words "2017;" there shall be substituted the words "2017; and", and paragraph (k) thereof shall be deleted;

(b) sub-regulation (2) thereof shall be amended as follows:

(i) paragraph (z) thereof, shall be substituted by the following:

"(z) the provisions of Article 36(1) to (3) on non-discriminatory access to a trading venue;";

(ii) paragraph (aa) thereof shall be substituted as follows:

" (aa) the provisions of Article 37(1) and (3) on non-discriminatory access to and obligation to licence benchmarks; and";

(iii) immediately after paragraph (aa) of sub-regulation (2) thereof, as amended, there shall be added the following new paragraph:

" (ab) the provisions of Article 27f(1), (2) and (3), Article 27g(1) to (5) and Article 27i(1) to (4), where an APA or ARM has a derogation in accordance with Article 2(3).";

(c) paragraph (f) of sub-regulation (4) thereof shall be deleted; and

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

(i) in paragraph (a) thereof, for the words "to the public; and", there shall be substituted the words "to the public;";

(ii) in paragraph (b) thereof, for the words "of the transaction", there shall be substituted the words "of the transaction; and" and immediately thereafter, there shall be added the following new paragraph:

"(c) the provisions of Article 27b of MiFIR on the requirements for authorisation to operate an APA or ARM, where an APA or ARM has a derogation in accordance with Article 2(3) of MiFIR.".

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