

CHAPTER 345

FINANCIAL MARKETS ACT*

To provide for the authorisation of regulated markets, central securities depositories and for the orderly trading in transferable securities and to provide for matters ancillary or incidental thereto or connected therewith.

*Amended by:
XVII. 2002.111.
Substituted by:
XX. 2007.13.*

24th January, 1991;
12th December, 1991;
8th January, 1992;
21st February, 1992

ACT XXXIII of 1990, as amended by Legal Notice 2 of 1992; Act V of 1992; Legal Notice 76 of 1994; Acts: XIV, XVI and XXI of 1994, XXIV and XXV of 1995, and IX of 1997; Legal Notices 90 and 91 of 1999 and 124 of 2000; Acts XVII of 2002 and IV of 2003; Legal Notice 370 of 2003; Acts IV of 2005 and XX of 2007; Legal Notice 424 of 2007; and Act III of 2009.

ARRANGEMENT OF ACT

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SCHEDULE

PART I

PRELIMINARY

1. The short title of this Act is the Financial Markets Act.

Short title.
*Amended by:
XVII. 2002.112.*

2. (1) In this Act and in the Schedule thereto unless the context otherwise requires:

Interpretation.
*Amended by:
V.1992.2,3;
XIV.1994.32;
XXI.1994.12;
XXV.1995.433;
IX. 1997.5;
XVII. 2002.113;
IV. 2005.30;
XX. 2007.14, 15;
III. 2009.14.
Cap. 204.*

"bye-laws" means the bye-laws made in terms of article 4C;

"Central Bank" means the Central Bank of Malta as defined by the Central Bank of Malta Act;

"central securities depository" means a person authorised in terms of Part IV of this Act to provide one or more of the functions stipulated in article 26;

"the Community" means the European Community established

*Vide transitory provision reproduced at the end of this Chapter.

by the Treaty of Rome in 1957 and amended institutionally and otherwise in 1986 by the Single European Act, in 1993 by the Treaty on European Union, in 1997 by the Treaty of Amsterdam and in 2001 by the Treaty of Nice, and as amended by accession agreements and as may be further amended from time to time;

"company" includes:

Cap. 386.

- (i) a public company formed and registered in accordance with the Companies Act; and
- (ii) a company constituted or incorporated or to be constituted or incorporated outside Malta, irrespective of whether the company has or has not established a place of business in Malta;

"competent authority" means the person or body as the Minister shall by notice in the Gazette appoint to carry out the functions of the competent authority under this Act and to perform such other functions as the Minister may consider appropriate in relation to the operation of this Act;

"designated financial instruments" refers to the instruments regulated by the provisions of article 28;

"the Directive" means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"EEA State" means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May, 1992 as amended by the Protocol signed at Brussels on the 17th March, 1993 and as amended by any subsequent acts;

"European regulatory authority" means the body or bodies designated by a Member State or EEA State in accordance with Article 48 of the Directive to carry out each of the duties provided for under the different provisions of the Directive;

Cap. 370.

"financial instruments" shall have the same meaning assigned to the term "instruments" in the Second Schedule to the Investment Services Act;

"Financial Market Rules" refers to Rules issued by the competent authority under various articles of this Act;

"individual connected with the company" means an individual who is either:

- (i) a director of that company or a related company, or
- (ii) who is an officer or employee of that company or related company, or
- (iii) occupies a position involving a business or professional relationship between himself, his

employer, or a company of which he is a director, and that company or related company, or

- (iv) a public officer acquiring information in an official capacity;

"inspector" means an inspector appointed under article 33;

"licence holder" means a person who holds a licence under the Investment Services Act ;

Cap. 370.

"Listing Authority" means such person or body appointed by the Minister by notice in the Gazette to be the Listing Authority, for the purposes of article 11;

"listed company" means a company whose financial instruments have been admitted to listing on a regulated market in accordance with this Act;

"listed financial instruments" or "quoted financial instruments" means financial instruments which have been admitted to listing on a regulated market in accordance with this Act;

"market abuse" means conduct amounting to the prohibited use of inside information or market manipulation in terms of the Prevention of Financial Markets Abuse Act;

Cap. 476.

"market operator" means a person who manages and, or operates the business of a regulated market. The market operator may be the regulated market itself;

"members" in relation to a regulated market means the members of that regulated market;

"Member State" means a Member State of the European Communities;

"Minister" means the Minister responsible for finance;

"multilateral system" includes all those markets that are composed of a set of bye-laws and a trading platform as well as those that only function on the basis of a set of bye-laws but excludes bilateral systems where a person enters into every trade on own account and not as a riskless counterparty interposed between buyer and seller;

"overseas regulatory authority" means an authority in a country or territory outside Malta that is not a Member State or EEA State which exercises any regulatory or supervisory function in relation to financial services corresponding to a function of the competent authority as defined in the Malta Financial Services Authority Act;

Cap. 330.

"quoted company" means a company whose financial instruments have been admitted to listing and trading on a regulated market in accordance with the provisions of this Act;

"recognised list" means a list prepared and published by a regulated market in accordance with the bye-laws of such regulated market;

"regulated market" means a multilateral system operated by a market operator, which brings together or facilitates the bringing

together of multiple third-party buying and selling interests in financial instruments in the system within the meaning of the Directive. For the purposes of this definition, "buying and selling interests" includes orders, quotes and indications of interest;

"related company" in relation to a company, means any body corporate which is that company's subsidiary, associated or holding company, or is the manager of or managed by, or is advisor to or is advised by or otherwise controls or is controlled by that company, its holding company or a subsidiary or associate of that company's holding company;

"Takeover Bids Directive" means Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"trading" means the activity of buying and selling of quoted financial instruments;

Cap. 370.

"transferable securities" has the same meaning as that given to the term in the Schedule to the Investment Services Act;

"Transparency Directive" means Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

Cap. 330.

"tribunal" means the Financial Services Tribunal established under article 21 of the Malta Financial Services Authority Act.

(2) The objective of this Act is, in part, to transpose and implement the provisions of the Directive, and consequently this Act and any regulations adopted thereunder shall be interpreted and applied accordingly.

PART II

REGULATED MARKETS

Amended by:
XX. 2007.14.

Minister's power
to make
regulations.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.14, 16.

3. The Minister, acting on the advice of the Competent Authority, may make regulations setting out -

- (a) the requirements and conditions which must be satisfied by a market if it is to qualify as a regulated market in respect of which an authorisation may be issued by the competent authority;
- (b) the requirements including reporting and transparency requirements and conditions which a regulated market must continue to satisfy if it is to remain a regulated market;

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- (c) the circumstances and the manner in which an authorisation or the requirements and conditions to which it is subject may be varied, suspended or revoked;
- (d) requirements for the regulation and supervision of market operators and, or regulated markets;
- (e) arrangements for the investigation of complaints about market operators and, or regulated markets;
- (f) the functions of the Tribunal with respect to proceedings under the bye-laws of regulated markets by persons subject to such bye-laws;
- (g) arrangements for the scrutiny of practices of market operators and, or bye-laws and practices of regulated markets and for preventing restrictive practices in terms of the Competition Act and any regulations made thereunder; Cap. 379.
- (h) categories of transactions that are to be carried out exclusively on a regulated market and the circumstances in which investors may be exempted therefrom;
- (i) exemptions from the requirement for an authorisation under article 4(1) which may be subject to such variations, additions, adaptations and modifications as may be prescribed and which may be subject to such conditions or other requirements, including other forms of authorisation and notification procedures, as may be prescribed;
- (j) prescribing anything that is incidental to or connected with any of the above matters.
4. (1)(a) No person shall provide, or hold itself out to provide the services of a regulated market in or from within Malta unless such person is in possession of an authorisation. Application for recognition.
Substituted by:
XVII. 2002.114.
Amended by:
XX. 2007.14, 17.
- (b) Any body corporate or unincorporate may apply to the competent authority for an authorisation under this Part of the Act declaring it to be an authorised investment exchange for the purposes of this Act.
- (c) A regulated market shall only be authorised where the competent authority is satisfied that both the market operator and the systems of the regulated market comply with the applicable requirements laid down in this Act and any regulation or Financial Market Rules made thereunder.
- (d) Where a regulated market is a legal person and is managed or operated by a market operator other than the regulated market itself, the competent authority shall establish by means of Financial Market Rules how the different obligations imposed on the market operator under the Directive are to be allocated

between the regulated market and the market operator.

- (2) (a) The market operator of the regulated market shall provide all information, necessary to enable the competent authority to satisfy itself that the regulated market has established, at the time of initial authorisation, all the necessary arrangements to meet its obligations under the Act or any regulations or Financial Market Rules made thereunder.
- (b) An application shall be made in such a manner as the competent authority may establish by Financial Market Rules and shall be accompanied by:
- (i) a programme of operations setting out *inter alia* the types of business envisaged;
 - (ii) a full description of the organisational structure and the proposed bye-laws or similar arrangements of the applicant;
 - (iii) detailed information as required by the competent authority on the -
 - (a) persons who effectively direct the business and the operations of the regulated market;
 - (b) those persons who own the regulated market; and
 - (c) the market operator; and
 - (iv) any other information required by the competent authority.

(3) The market operator shall notify the competent authority immediately of any changes or corrections to the information provided in terms of subarticle (2):

Provided that in the case of changes to the persons who effectively direct the business and the operations of the regulated market the prior authorisation of the competent authority shall be requested:

Provided further that where there are objective and demonstrable grounds for believing that the appointment or election of an officer poses or may pose a material threat to the sound and prudent management and operation of the regulated market, the competent authority shall refuse to approve such appointment or election.

(4) For the better carrying out of the provisions of this Act, the competent authority may, from time to time, issue and publish Financial Market Rules which shall be binding on regulated markets and others as may be specified therein. Such Financial Market Rules may lay down additional requirements and conditions in relation to activities of regulated markets, the conduct of their business, their relations with customers, the public and other parties, their responsibilities to the competent authority, reporting requirements, financial resources, capital adequacy and related requirements, and any other matters as the competent authority may consider appropriate including -

- (a) the manner and form in which an application is to be made;
- (b) the particulars and such other matters which are to be set out by an applicant;
- (c) such further information as the competent authority may reasonably require for the purpose of determining the application;
- (d) any other matter incidental to or connected with any of the above.

(5) Information which the competent authority may require in connection with an application shall be provided in such form, and shall be verified in such manner, as the competent authority may direct.

(6) Different Financial Market Rules may be issued by the competent authority under subarticle (4) with respect to different classes or categories of applications.

(7) In determining an application the Competent Authority may have regard to any information which it considers relevant to the application.

(8) The competent authority may on an application duly made in accordance with subarticles (1) and (2) and subject to any Financial Market Rules issued under subarticle (4) make or refuse to issue an authorisation. Where the competent authority issues an authorisation, the market operator shall be responsible for ensuring that the provisions of the Act, regulations and Financial Market Rules made thereunder and any implementing measures issued by the European Commission in terms of the powers conferred to it by the Directive, which are applicable to regulated markets, are complied with.

(9) An authorisation shall state the date on which it shall take effect.

(10) Where the competent authority refuses an application for an authorisation it shall give the applicant a notice to that effect stating the reasons for the refusal.

(11) If the competent authority refuses an application for an authorisation the applicant shall have a right of appeal to the Tribunal in accordance with article 43.

(12) An authorisation may, in accordance with such regulations as may be prescribed, be varied, suspended or revoked by the competent authority.

4A. Without prejudice to any relevant provisions of Directive 2003/6/EC of the European Parliament and of the Council of 28th January 2003 on insider dealing and market manipulation, the public law within the meaning of the Directive governing the trading conducted under the systems of the regulated market shall be that of Malta when Malta is the home Member State.

Applicable law
when Malta is the
home Member
State.
Added by:
XX. 2007.18.

Significant influence over the management of a regulated market.
Added by:
XX. 2007.18.

4B. (1) Persons who are in a position to exercise, directly or indirectly, significant influence over the management of the regulated market must be fit and proper.

(2) No person shall acquire a direct or indirect holding in a regulated market and, or the market operator which represents ten (10) per cent or more of the share capital issued by such body or of the voting rights attaching to such share capital or which makes it possible to exercise a significant influence over the management of the regulated market ("qualifying shareholding") or increase such qualifying shareholding so that the proportion of the voting rights or of the share capital held by him in the regulated market reaches or exceeds twenty (20) per cent, thirty-three (33) per cent or fifty (50) per cent unless the competent authority has been notified of that intention by such person or by the relevant regulated market and the competent authority has approved the acquisition of or increase in such qualifying shareholding.

(3) The competent authority shall refuse to approve any changes to controlling interests as proposed by the regulated market and, or the market operator in terms of subarticle (2) where there are objective and demonstrable grounds for believing that they would pose a threat to the sound and prudent management of the said regulated market.

(4) The market operator of a regulated market shall:

- (a) provide the competent authority with, and make public, information regarding the ownership of the regulated market and, or the market operator, and in particular, the identity and scale of interests of any parties in a position to exercise significant influence over the management;
- (b) inform the competent authority of and make public, any transfer of ownership which gives rise to a change in the identity of the persons exercising significant influence over the operation of the regulated market.

Regulated market bye-laws and arrangements.
Added by:
XX. 2007.18.

4C. (1) Regulated markets shall be obliged to:

- (i) have clear and transparent bye-laws regarding the admission of financial instruments to trading which shall ensure that any financial instruments admitted to trading on the regulated market are capable of being traded in a fair, orderly and efficient manner and, that transferable securities are freely negotiable:

Provided that in the case of derivatives such requirements shall also ensure that the design of the derivative contract allows for its orderly pricing as well as for the existence of effective settlement conditions;

- (ii) have effective arrangements to verify that issuers of transferable securities that are admitted to trading comply with their obligations under European Community Law in

respect of initial, ongoing or ad hoc disclosure obligations;

- (iii) establish arrangements which facilitate its members or participants in obtaining access to information which has been made public under European Community law;
- (iv) establish the necessary arrangements to review regularly the compliance with admission requirements of the financial instruments which are admitted to trading.

(2) A transferable security that has been admitted to trading on a regulated market can subsequently be admitted to trading on other regulated markets, even without the consent of the issuer and in compliance with the relevant provisions of Directive 2003/71/EC of the European Parliament and of the Council of 4 November, 2003 on the prospectus to be published when securities are offered to the public or admitted to trading, and amending Directive 2001/34/EC and any implementing measures that have been or may be issued thereunder.

(3) The issuer shall be informed by the regulated market of the fact that its transferable securities are traded on that regulated market. The issuer shall not be subject to any obligation to provide information required under subarticle (1)(ii) directly to any regulated market which has admitted the issuer's transferable securities to trading without its consent.

(4) In complying with the provisions of this article regulated markets shall also comply with the applicable provisions of Commission Regulation (EC) No 1287/2006 of 10th August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive on pre and post trade transparency and admission to trading as may be amended from time to time.

5. (1) The competent authority may issue Financial Market Rules requiring a regulated market to give it -

- (a) notice of such events relating to that regulated market as may be specified by the competent authority; and
- (b) such information in respect of those events as may be specified by the competent authority;
- (c) such other information relating to that regulated market, at such times or in respect of such period as may be specified by the competent authority.

(2) Any Financial Market Rules issued by the competent authority may require information to be given in a specified form and to be verified in a specified manner and any information so required shall be provided promptly.

Financial Market Rules.
Substituted by:
XVII. 2002.114.
Amended by:
XX. 2007.14, 19.

Non-application or modification of Financial Market Rules.

*Substituted by: XVII. 2002.114.
Amended by: XX. 2007.14, 20.*

6. (1) The competent authority may direct that any of the Financial Market Rules issued under article 5 are not to apply in respect of any regulated market or are to apply to such regulated market with such modification as may be specified in the Financial Market Rule, if it is satisfied that -

- (a) compliance by the regulated market with the Financial Market Rules, or with the Financial Market Rules as unmodified, would be unduly burdensome or would not achieve the purpose for which the Financial Market Rules were made; and
- (b) the non-application or modification of the Financial Market Rule as aforesaid would not result in undue risk to persons whose interests such Financial Market Rules are intended to protect.

(2) A Financial Market Rule issued by the competent authority under subarticle (1) may be made subject to such conditions as the competent authority may deem fit.

Supervision.

*Substituted by: XVII. 2002.114.
Amended by: XX. 2007.14, 21.*

7. (1) The competent authority may, whenever it appears that a regulated market -

- (a) has failed, or is likely to fail, to satisfy the requirements for authorisation in or under this Act; or
- (b) has failed to comply with any other obligation imposed on it by or under this Act,

issue such directives as it may deem appropriate in the circumstances -

- (i) for the purpose of securing the body's compliance with such requirements or any obligation imposed by or under this Act;
- (ii) requiring anything to be done or to be omitted to be done, or impose any prohibition, restriction or limitation, or any other requirement whatsoever;
- (iii) requiring the cessation of any practice that is contrary to the provisions adopted in the implementation of the Directive.

(2) The power to issue directives under this section includes the power to make such directives subject to such conditions as the competent authority may deem fit as well as the power to amend, revoke or substitute any such directive.

Revocation of an authorisation.

*Substituted by: XVII. 2002.114.
Amended by: XX. 2007.14, 22.*

8. (1) An authorisation may be revoked by an order made by the competent authority at the request, or with the consent of the regulated market concerned or otherwise as provided in this Act.

(2) If it appears to the competent authority that a regulated market -

- (a) is failing, or has failed, to satisfy the requirements for authorisation under this Act, or
- (b) is failing or has failed, to comply with any other

obligation imposed on it by or under this Act, or

- (c) does not make use of the authorisation within twelve months, expressly renounces the authorisation or has not operated for the preceding six months, or
- (d) has obtained the authorisation by making false statements or by any other irregular means, or
- (e) no longer meets the conditions under which authorisation was granted,

it may make an order revoking the recognition order for that body even though the body does not wish or does not consent to the revocation of the authorisation.

(3) An order under subarticles (1) and (2) revoking an authorisation hereinafter referred to as a "revocation order" shall specify the date on which it is to take effect.

(4) A revocation order may contain such transitional provisions as the competent authority deems necessary or expedient.

9. (1) Before issuing a directive under article 7, or before making a revocation order under article 8(2), the competent authority shall -

- (a) give written notice of its intention so to do to the regulated market concerned; and
- (b) take such steps as it considers reasonably practicable to bring the notice to the attention of any other persons who are, in its opinion, likely to be affected.

(2) A notice under subarticle (1) shall -

- (a) state the reasons why the competent authority intends to issue the directive or make the revocation order; and
- (b) draw attention to the right to make representations conferred by subarticle (3).

(3) Before the end of the period for making representations

- (a) the regulated market; and
- (b) any other person who is likely to be affected by the proposed revocation order and notified in terms of subarticle (1)(b),

may make representations to the competent authority.

(4) The period for making representations is -

- (a) two (2) months beginning -
 - (i) with the date on which the notice is served on the regulated market in the case of the regulated market, or
 - (ii) with the date on which the notice is brought to the attention of any other persons notified in terms of subarticle (1)(b) in the case of such other persons.
- (b) such longer period stated in the notice as the

Notice of directive
or revocation.
Substituted by:
XVII. 2002.114.
Amended by:
XX. 2007.14.

competent authority may deem fit to allow in the particular case.

(5) In deciding whether to issue a directive or make a revocation order, the competent authority shall have regard to any representations made in accordance with subarticle (3).

(6) If the competent authority decides to issue the proposed directive or to make the proposed revocation order it shall:

- (a) give the regulated market written notice of its decision; and
- (b) where it decides to issue the directive or to make the order, take such steps as it considers reasonably practicable for bringing its decision to the attention of any other persons who are, in the competent authority's opinion, likely to be affected thereby.

Notification of intended action.
Substituted by:
XVII. 2002.114.
Amended by:
XX. 2007.14, 23.

10. A regulated market intending to take any of the following actions shall notify the competent authority in writing and the consent of the competent authority shall be required before a regulated market may lawfully:

- (a) alter or revoke any of its bye-laws; or
- (b) make or issue new bye-laws; or
- (c) make a change in the arrangements it makes for the provision of clearing services in respect of transactions effected on the regulated market concerned or in the criteria which it applies when determining to whom it will provide clearing services.

Clearing and settlement of transactions.
Added by:
XX. 2007.24.

10A. (1) Regulated markets shall offer all their members or participants the right to designate the systems for the clearing and settlement of transactions in financial instruments undertaken on that regulated market subject to:

- (a) such links and arrangements between the designated clearing and settlement system and any other system or facility as are necessary to ensure the efficient and economic settlement of the transaction in question; and
- (b) agreement by the competent authority responsible for the supervision of the regulated market that technical conditions for the clearing and settlement of transactions concluded on the regulated market through a clearing and settlement system other than that designated by the regulated market are such as to allow smooth and orderly functioning of financial markets.

(2) Regulated markets shall not be prohibited from entering into appropriate arrangements with a central counterparty or clearing house and a clearing and settlement system of another Member State or EEA State with a view to providing for the clearing and, or settlement of some or all trades concluded by market participants under their systems:

Provided that the competent authority may prohibit a regulated market from entering into such arrangements where it considers this is necessary to maintain the orderly functioning of that regulated market.

PART III

LISTING AUTHORITY

- 11.** There shall be a Listing Authority having the following functions:
- (a) to authorise the admissibility of such financial instruments as it considers appropriate to any recognised list;
 - (b) to make Listing Rules for the better implementation and purposes of this Part of this Act;
 - (c) to ensure compliance with any requirements or conditions set out in Listing Rules for listed financial instruments to remain listed and to monitor the timely disclosure of information by issuers or any other person subject to the Listing Rules with the objective of ensuring effective and equal access to the public in Malta and in all Member States or EEA States where the transferable securities are traded;
 - (d) to act as the central competent administrative authority responsible for carrying out the obligations provided for in the Transparency Directive and for ensuring that the provisions adopted pursuant to this Directive are applied and to issue rules in furtherance of its responsibility under any provisions of the said Directive which rules shall be binding on issuers, shareholders and any other person as may be indicated in the said rules;
 - (e) to act as the authority competent to supervise bids for the purpose of the Listing Rules made or introduced pursuant to the Takeover Bids Directive.
- 12.(1)(a)** Without prejudice to paragraph (b), no financial instruments may be admitted to listing and trading on any recognised list unless the Listing Authority shall have first authorised the admissibility of such financial instruments to listing in accordance with any Listing Rules made under article 13.
- (b) The Minister may by regulations provide that any financial instruments which fall within a description or category specified in such regulation shall not be admissible to listing on any recognised list.
- (2) Every regulated market may admit to listing and trading to the recognised list concerned such financial instruments as may be

Constitution and functions of the Listing Authority.
Substituted by: XVII. 2002.114.
Amended by: IV. 2005.30; XX. 2007.25, 27.

Admissibility to listing.
Substituted by: XVII. 2002.114.
Amended by: IV. 2005.30; XX. 2007.14, 26.

considered appropriate and -

- (a) which have been authorised as admissible to listing by the Listing Authority; and
- (b) which do not fall within a description or category specified in any regulation made by the Minister under subarticle (1)(b) as not being admissible to any recognised list:

Provided that with the consent of the Listing Authority every regulated market may admit to listing financial instruments which are not traded.

Listing Rules.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.14, 27.

13. The Listing Authority may make Listing Rules:

- (a) setting out the requirements and conditions which must be satisfied by a person making an application for its financial instruments to be authorised as admissible to any recognised list;
- (b) setting out the requirements and conditions the applicant must continue to satisfy if its listed financial instruments are to remain listed on any of such lists;
- (c) setting out the manner and form in which an application for admissibility to listing must be made to the Listing Authority and any fees payable in connection therewith;
- (d) setting out the form of and information required to be set out in any prospectus or other document to be submitted to the Listing Authority in accordance with any Listing Rules made hereunder;
- (e) setting out the registration requirements in respect of any prospectus or other documents to be published in accordance with any Listing Rules made hereunder;
- (f) requiring in such circumstances as may be set out in the Listing Rules the publication of advertisements or other information in connection with applications for the admissibility to listing or admission to listing and trading of financial instruments on any recognised list;
- (g) setting out regulatory, investigatory, disciplinary and enforcement powers of the Listing Authority and regulated markets in relation to issuers of listed financial instruments;
- (h) setting out, without prejudice to the provisions of articles 17 and 18, the penalties for the breach of Listing Rules that may be imposed by the Listing Authority under article 19;
- (i) transposing, implementing and giving effect to the provisions, requirements, obligations, commitments and measures of the European parliament and of the Council issued in relation to the regulation of admissibility to listing of financial instruments on regulated markets and, or the regulation of issuers or

any other person subject to the Listing Rules, arising out of membership of, affiliation to or relationship with international or regional organisations or groupings of countries or out of any treaty, convention or other international agreement whether bilateral, regional or multilateral, to which Malta is a party;

- (j) anything that is incidental to or connected with any of the matters above as the Listing Authority may consider appropriate.

14. (1) The Listing Authority may establish a committee, hereinafter referred to as the "Listing Committee", to which it may delegate any of its functions and powers under this Part:

Listing committee.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.28.

Provided that the Listing Authority may not delegate its power:

- (a) to grant or refuse authorisation for admissibility to listing under this Part of the Act;
- (b) to discontinue the listing of any financial instruments under this Part of the Act.

(2) The Listing Committee shall be composed of such persons and have such powers and observe such procedure as is set out in the instrument setting it up.

(3) The Listing Authority may vary, amend or substitute any instrument setting up the Listing Committee.

15. (1) An application for admissibility to listing shall be made to the Listing Authority in such manner as may be required by the Listing Rules.

Listing.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.27, 29.

(2) The Listing Authority shall not authorise admissibility to listing unless it is satisfied that -

- (a) the requirements of any applicable Listing Rule, and
- (b) any other requirements imposed by the Listing Authority in relation to the application,

are complied with.

(3) An application for admissibility to listing shall be refused if the Listing Authority considers that granting it would be detrimental to the interests of investors.

16. (1) The Listing Authority shall notify the applicant of its decision regarding the approval of the prospectus within ten working days of the submission of the draft prospectus.

Notification of decision.
Substituted by:
XVII. 2002.114.
Amended by:
XX. 2007.30.

(2) The time limit referred to in subarticle (1) shall be extended to twenty working days if the offer involves transferable securities issued by an issuer which does not have any transferable securities admitted to trading on a regulated market and who has not previously offered transferable securities to the public.

- (3) (a) If the Listing Authority finds, on reasonable grounds, that the documents submitted to it are incomplete or

that supplementary information is needed, the time limits referred to in subarticles (1) and (2) shall apply only from the date on which such information is provided by the applicant.

(b) In the case referred to in subarticle (1) the Listing Authority should notify the applicant if the documents are incomplete within ten working days of the submission of the application.

(4) If the Listing Authority fails to give a decision on the prospectus within the time limits mentioned in subarticles (1) and (2), this shall not be deemed to constitute approval of the prospectus.

(5) If the Listing Authority decides to authorise admissibility to listing it shall give the applicant written notice accordingly.

(6) If the Listing Authority proposes to refuse authorisation for admissibility to listing, it shall give the applicant advance notice in writing of its intention to refuse the application stating the reasons for its proposed refusal and drawing the applicant's attention to its rights to make representations in accordance with subarticle (7).

(7) An applicant who has received advance notice in writing of the Listing Authority's intention to refuse authorisation for admissibility to listing may make representations to the Listing Authority -

(a) within one month from the date on which the advance notice is served on the applicant; or

(b) within such longer period to be stated in the advance notice in writing as the Listing Authority may deem fit to allow in the particular case.

(8) If the Listing Authority decides to refuse an application for admissibility to listing it must give the applicant notice of its decision in writing stating the reasons for its refusal and drawing the applicant's attention to its right to refer the matter to the Tribunal.

(9) If the Listing Authority decides to refuse an application for admissibility to listing the applicant shall have a right of appeal to the Tribunal in accordance with article 43.

Discontinuation or suspension.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.14, 27,
31.

17. (1)(a) The Listing Authority may, in accordance with the Listing Rules, and whether of its own motion or at the request of a regulated market on which any financial instruments have been admitted to listing and trading, discontinue or suspend the listing of such financial instruments if it is satisfied that there are circumstances which warrant such suspension or discontinuance.

(b) Without prejudice to the right of the Listing Authority under paragraph (a) to demand suspension or removal of an instrument from trading, the market operator of the regulated market may suspend or remove from

trading a financial instrument which no longer complies with the bye-laws of the regulated market unless such a step would be likely to cause significant damage to the investors' interests or the orderly functioning of the market. The market operator of a regulated market that suspends or removes from trading a financial instrument shall make public this decision and communicate the relevant information to the Listing Authority. The Listing Authority shall inform the European regulatory authorities of the other Member States or EEA States of this decision.

- (c) When the Listing Authority demands the suspension or removal of a financial instrument from trading on one or more regulated markets, it shall immediately make public its decision and inform the European regulatory authorities of the other Member States or EEA States.

(2) If the listing of any financial instruments is suspended under subarticle (1) such financial instruments may still be treated as being listed for such purposes as may be set out in Listing Rules.

(3) If the Listing Authority discontinues or suspends the listing of any financial instruments, the issuer shall have a right of appeal to the Tribunal in accordance with article 43.

18. (1) If the Listing Authority -

- (a) proposes to discontinue or suspend the listing of financial instruments, or
 (b) decides to suspend the listing of financial instruments with immediate effect,

Notice of discontinuation or suspension.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.14, 32.

it must give the issuer of such financial instruments written notice.

(2) The discontinuance or suspension of the listing of financial instruments takes effect immediately or on such date as may be specified in the notice under subarticle (1),

(3) A notice given under subarticle (1) shall -

- (a) give details of the discontinuance or suspension;
 (b) state the Listing Authority's reason for the discontinuance or suspension, provided that the interest of a regulated market or the interest of the public or the investors shall constitute sufficient reason;
 (c) inform the issuer of financial instruments that he may make representations to the Listing Authority within such period as may be specified in the notice; and
 (d) inform the issuer of the date on which the discontinuance or suspension will take effect or of the date on which the suspension took effect if the notice under subarticle (1) states that suspension is to take place with immediate effect:

Provided that the obligation to give notice of a decision to

suspend the listing of financial instruments and the right of the issuer to make representations in relation thereto shall be without prejudice to the power of the Listing Authority to suspend the listing of any financial instruments with immediate effect.

(4) The Listing Authority may extend the period within which representations may be made to it.

(5) If having considered any representations made by the issuer of the financial instruments the Listing Authority decides -

- (a) to discontinue or suspend the listing of the financial instruments, or
- (b) if the suspension has taken effect, not to cancel it,

the Listing Authority shall give the issuer of the financial instruments written notice of its decision.

(6) If the Listing Authority decides to discontinue or suspend the listing of financial instruments, or if the suspension has taken effect, not to cancel it, the issuer of the financial instruments concerned shall have a right of appeal to the Tribunal in accordance with article 43 and a notice given under subarticle (5) shall inform the issuer of his right to refer the matter to the Tribunal.

(7) The effect of cancelling a discontinuance is that the financial instruments concerned are to be re-admitted to any recognised list on which the financial instruments concerned have been admitted to listing.

Penalty in respect of contraventions.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.27, 33;
L.N. 424 of 2007.

19. (1) If the Listing Authority considers that -

- (a) an issuer of listed financial instruments,
- (b) an applicant for admissibility to listing, or
- (c) any other person subject to the Listing Rules,

has contravened any provision of Listing Rules, it may, without recourse to a court hearing, impose on such issuer or applicant as the case may be, an administrative penalty not exceeding ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94).

(2) Nothing in this article shall prevent the Listing Authority from taking any other steps which it has power to take under this Part of the Act.

(3) A penalty under this article is payable to the Listing Authority as a civil debt.

(4) The Listing Authority may not take action against any issuer, applicant or person under this article after the end of the period of two years beginning with the first day on which it knew of the contravention unless proceedings against that issuer, applicant or person, in respect of the contravention were begun before the end of that period.

(5) For the purposes of subarticle (4) -

- (a) the Listing Authority is to be treated as knowing of a contravention if it has information from which the

contravention can reasonably be inferred; and

- (b) proceedings against a person in respect of a contravention are to be deemed to have begun when a notice is given to him under article 20.

20. (1) If the Listing Authority proposes to take action against any issuer, applicant or person under article 19 it shall give such issuer, applicant or person a notice to this effect, stating the reason for such action, and the person receiving such notice shall have the right to make representations in writing to the Listing Authority within fifteen days from receipt of such notice.

Notice of penalty.
Substituted by:
XVII. 2002.114.
Amended by:
XX. 2007.34.

(2) A notice about a proposal to impose a penalty must state the amount of the penalty proposed.

(3) A notice about the imposition of a penalty must state the amount of the penalty.

(4) If after hearing such representations the Listing Authority decides to take action against any issuer, applicant or person under article 19, such issuer, applicant or person shall have a right of appeal to the Tribunal under article 43.

21. In the fulfilment of its functions to ensure compliance with any requirements or conditions for listed financial instruments to remain listed, the Listing Authority shall have, *mutatis mutandis*, the regulatory and investigatory powers of the competent authority in terms of articles 32, 33 and 34.

Regulatory and investigatory powers of the Listing Authority.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30.

22. The Listing Authority may delegate any of its powers under article 19 and under Listing Rules made pursuant to article 13(b) and (c) to regulated markets in relation to any financial instruments listed on the regulated markets concerned:

Delegation of powers.
Substituted by:
XVII. 2002.114.
Amended by:
IV. 2005.30;
XX. 2007.14, 27, 35.

Provided that:

- (a) if the Listing Authority delegates any of its powers to impose an administrative penalty under article 19(1) and (2) to the regulated markets concerned, article 19(3) and article 20 shall apply *mutatis mutandis* to the regulated markets concerned;
- (b) any penalty imposed under article 19 shall, in all cases, be payable to the Listing Authority unless the Listing Authority otherwise consents in writing:

Provided further that if the Listing Authority delegates any of its powers under article 19(1) and (2) as aforesaid neither the Listing Authority nor the regulated markets concerned to which such powers have been delegated may take action against any issuer, applicant or person after the end of the period of two years beginning with the first day on which either the Listing Authority or the regulated markets concerned, knew of the contravention unless proceedings against that issuer, applicant or person, in respect of the contravention were begun before the end of that period.

Non-liability for acts done in good faith.

Substituted by: XVII. 2002.114.

23. Neither the Listing Authority nor any committee, officer or employee thereof, nor any person appointed to perform any functions thereby shall be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions of the Listing Authority under this Act, unless the act or omission is shown to have been done in bad faith.

PART IV

CENTRAL SECURITIES DEPOSITORY

Substituted by: XX. 2007.36.

Authorisation requirement.

Amended by:

V. 1992.2;

XIV. 1994.32;

XXV. 1995.433;

XVIII. 2002.110,

115;

IV. 2005.30.

Substituted by:

XX. 2007.36.

24. (1) No person shall operate a central securities depository or shall provide, or hold itself out to be or provide, the service of a central securities depository in or from Malta unless such person is in possession of a written authorisation issued by the competent authority under this Part.

(2) Any body corporate or unincorporate may apply in writing to the competent authority for an authorisation under this Part, authorizing it to act as a central securities depository for the purposes of this Act.

(3) Authorisation to act as a central securities depository may be granted only where the competent authority is satisfied that the applicant complies and will be in a position to comply with the applicable requirements laid down in this Act and regulations and Financial Market Rules issued hereunder.

(4) Nothing in this Act or in any regulation made hereunder shall be construed as enabling or empowering a central securities depository to perform a function or activity which requires an approval or authorisation in terms of the Central Bank of Malta Act or any other law.

Cap. 204.

Determination of an application.

Amended by:

XVII. 2002.110.

Substituted by:

XX. 2007.36.

25. (1) In determining an application the competent authority shall have regard to such information and other factors as it may consider relevant or material to the application.

(2) The competent authority may, upon receipt of an application duly made in accordance with this Part grant or refuse to grant an authorisation. Where the competent authority issues an authorisation, the central securities depository shall be responsible for ensuring that the provisions of the Act, regulations made thereunder and Financial Market Rules issued by the competent authority, which are applicable to central securities depositories are complied with.

(3) An authorisation shall state the date on which it shall take effect.

(4) Where the competent authority refuses an application for an authorisation it shall give the applicant a notice to that effect stating the reasons for the refusal.

(5) If the competent authority refuses an application for an authorisation the applicant shall have a right of appeal to the

Tribunal in accordance with Part VI of this Act.

(6) An authorisation may, in accordance with such regulations as may be prescribed, be varied, suspended or revoked by the competent authority.

(7) An authorisation issued to a central securities depository under this article shall identify the financial instruments, designated or otherwise, which the central securities depository would be authorised to provide services to and shall further identify the functions it is authorised to carry out.

26. Without prejudice to any other power or function conferred on it by law or regulation, the functions of a central securities depository may include the following:

- (a) provision of custody or depository facilities in respect of financial instruments;
- (b) maintenance of registers of members and holders of financial instruments and recording of transactions and holdings in financial instruments;
- (c) provision, management and administration of a securities clearing and settlement system in respect of financial instruments, including the provision of access and interoperable links between such a system and other securities clearing and settlement systems, central securities depositories, central counterparties and clearing houses, and other services ancillary to the above;
- (d) authentication of register of members or holders of designated financial instruments or of any extract thereof; and
- (e) such other ancillary or consequential functions related to the above including any preparatory and other related corporate administrative services in relation to issues of financial instruments which are listed or to be listed, as may be established by Financial Market Rules:

Provided that no central securities depository may be authorised to carry out solely ancillary or consequential functions.

27. (1) An authorisation may be revoked by an order issued in writing by the competent authority at the request, or with the consent, of the central securities depository or otherwise as provided in this Act.

(2) An authorisation may be revoked by an order issued in writing without the consent of a central securities depository, if it appears to the competent authority that the central securities depository:

- (a) is failing, or has failed, to satisfy the requirements for authorisation under this Act, regulations or Financial Market Rules made hereunder; or

Functions of a central securities depository.
Amended by:
XVII. 2002.110, 116.
Substituted by:
XX. 2007.36.

Revocation of an authorisation.
Added by:
XVII. 2002.117.
Substituted by:
XX. 2007.36.

- (b) is failing or has failed, to comply with any other obligation imposed on it by or under this Act, regulations or Financial Market Rules made hereunder; or
- (c) does not make use of the authorisation within twelve months, expressly renounces the authorisation or has not operated for the preceding six months; or
- (d) has obtained the authorisation by making false statements or by any other irregular means; or
- (e) no longer meets the conditions under which authorisation was granted.

(3) An order under subarticles (1) and (2) revoking an authorisation hereinafter referred to as a "revocation order" shall specify the date on which it is to take effect.

(4) A revocation order may contain such transitional provisions and other terms and conditions as the competent authority may consider necessary or expedient.

(5) If a revocation order is issued, a central securities depository shall have a right of appeal to the Tribunal in accordance with Part VI.

Special rules for designated financial instruments.
Amended by:
V.1992.2;
XVII. 2002.110, 118.
Substituted by:
XX. 2007.36.

28. (1) Notwithstanding the provision of any other law, the title to and rights in respect of designated financial instruments, the register of which is maintained in a central securities depository, may be created and, or transferred by an entry on the register maintained in a central securities depository and no instrument in writing shall be required for this purpose.

(2) Notwithstanding the provisions of any other law, the title to and rights in respect of designated financial instruments, the register of which is maintained in a central securities depository, may be held or evidenced in a dematerialised or uncertificated form.

Cap. 16.

(3) The provisions of article 1966(3) and (4) of the Civil Code shall not apply in respect of designated financial instruments and the privilege referred to in Title XXI of Part II of Book Second of the said Code shall arise where the pledge has been duly registered with a central securities depository.

(4) The authentic record of members and holders of financial instruments and of transactions and holdings of a designated financial instrument may be held, maintained and evidenced by a central securities depository duly authorised in terms of this Part.

(5) The register and documents kept by a central securities depository in respect of designated financial instruments shall, at a reasonable cost, be open for inspection by any person as may be prescribed by regulations which shall establish which records and registers held by a central securities depository will be open to public inspection and under what conditions.

29. The provisions of articles 4B, 6, 7, and 9 of Part II of this Act shall apply *mutatis mutandis* to central securities depositories authorised under this Part.

Application of other articles.
Amended by:
V. 1992.2;
XVII. 2002.110, 119.
Substituted by:
XX. 2007.36.

30. (1) The Minister, acting on the advice of the competent authority, may make regulations setting out:

Powers of the Minister to make regulations.
Amended by:
XVII. 2002.110, 120.
Substituted by:
XX. 2007.36.

- (a) the requirements and conditions which must be satisfied by a person if it is to provide the services of a central securities depository in respect of which the competent authority may issue an ‘authorisation’ under this Act;
- (b) the requirements which a central securities depository must continue to satisfy if it is to remain authorised, including the amount of fees to be payable to the competent authority;
- (c) the circumstances and the manner in which an authorisation or the requirements and conditions to which it is subject may be varied, suspended or revoked;
- (d) requirements for the authorisation, operation, functions, regulation and supervision of a central securities depository;
- (e) requirements for the creation, holding or evidencing of title to and rights in respect of Financial Instruments in a dematerialised or uncertificated form;
- (f) arrangements for the investigation of complaints and or grievances about central securities depositories and remedies in respect thereof;
- (g) arrangements for the ascertainment of compliance by central securities depositories and the scrutiny of rules and requirements of central securities depositories;
- (h) exemptions from the requirement for an authorisation which may be subject to such variations, additions, adaptations and modifications as may be prescribed and which may be subject to such conditions or other requirements, including other forms of authorisation and notification procedures;
- (i) the categories or classes of financial instruments which, for the purpose of the Act, qualify as designated financial instruments;
- (j) prescribing anything that is incidental to or connected with any of the above matters.

(2) Regulations made under this article may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different categories or classes of financial instruments and for different circumstances or purposes.

Financial Market Rules.

Amended by:
XVII. 2002.110,
121.

Substituted by:
XX. 2007.36.

31. The competent authority may from time to time issue Financial Market Rules which shall be binding on central securities depositories authorised under this Part and on others as may be specified, and such Rules may be issued in respect of any matter raised in this Part, including Rules for the better regulation of and for securing compliance by central securities depositories and their officials with the requirements and obligations arising under this Act or regulations made thereunder.

PART V

REGULATORY AND INVESTIGATORY POWERS

Power to require information.

Added by:
XVII. 2002.122.

Amended by:
IV. 2005.30;
XX. 2007.14, 37.
Cap. 370.

32. (1) The competent authority may, by notice in writing, require -

- (i) any regulated market or central securities depository;
- (ii) any person who holds or held a licence under the Investment Services Act, or who appears to be or to have been acting as a licence holder thereunder; or
- (iii) any person who is or was an officer, employee or agent of a regulated market or central securities depository, or any other person who is or was involved in the operations of a regulated market or central securities depository;
- (iv) any person who is or was carrying on, or who appears to be or have been carrying on any activity in connection with quoted financial instruments;
- (v) any auditor of a regulated market who appears to be in possession of relevant information;
- (vi) any other person who appears to be in possession of relevant information;

to do all or any of the following -

- (a) to furnish to the competent authority, at such time and place and in such form as it may specify, such information and documentation as it may require, including the power to require existing telephone and existing data traffic records;
- (b) to furnish to the competent authority any information or documentation as it may require verified in such manner as it may specify;
- (c) to attend before the competent authority, or before a person appointed by it, at such time and place as it may specify, to answer questions and provide such information and documentation as it may require;
- (d) to give the competent authority any assistance which it may require and which that person is reasonably able

to give.

(2) Without prejudice to anything which the competent authority may require under subarticle (1), all information in respect of listed financial instruments held on the Register of the Central Securities Depository shall be freely accessible to the competent authority.

(3) The competent authority may take copies of any documents furnished, provided or to which it has access under this article.

33. (1) The competent authority may, whenever it deems it necessary or expedient, appoint an inspector or inspectors to investigate and report on the affairs of any persons referred to in article 32(1)(i) to (vi).

Appointment of inspectors.
Substituted by:
XVII. 2002.123.
Amended by:
XX. 2007.38.

(2) An inspector appointed under subarticle (1) -

- (a) may, if he thinks it necessary or expedient for the purposes of an investigation, investigate the affairs of any person mentioned in subarticle (1);
- (b) shall have and may exercise all the powers, conferred on the competent authority by article 32, and any requirement made by him shall be deemed to be and have the same force and effect as a requirement of the competent authority;
- (c) may, and if so directed by the competent authority shall, make interim reports and on the conclusion of his investigation shall make a final report to the competent authority.

(3) In appointing an inspector or inspectors under subarticle (1) the competent authority may direct that the investigation shall be carried out within such time and shall be confined to such specific or general matters as the competent authority may deem fit.

(4) For the purposes of this article inspectors may include an advocate, a person authorised to carry on the profession of accountant or auditor in terms of the Accountancy Profession Act, or a person considered by the competent authority as possessing suitable expertise to exercise such function.

Cap. 281.

(5) In the event that it results that the investigated person shall have been in breach of any provision of law, regulation or in breach of a licence condition, the competent authority shall have power to order that all reasonable expenses of an investigation pursuant to this article be paid by any of the persons concerned. Any such order shall be communicated to the persons concerned by a notice for payment. A notice for payment under this article shall:

- (a) be in writing; and
 - (b) require the authorised person to pay the expenses of and incidental to the investigation before the end of such period being not less than fourteen days from the date of service of the notice, as may be specified in the notice.
- (6) Any person who is aggrieved by a decision of the

competent authority with respect to any order concerning the expenses of and incidental to an investigation under this article shall have a right of appeal to the Tribunal in accordance with article 43.

Right of entry.
Added by:
XVII. 2002.124.

34. (1) Any officer, employee or agent of the competent authority, on producing, if required, evidence of his authority, may enter premises occupied by a person on whom a notice has been served under article 32 or whose affairs are being investigated under article 33, for the purpose of obtaining therefrom the information or documents required by that notice, or otherwise for the purpose of the investigation, and of exercising any of the powers conferred by the said articles.

(2) Where any officer, employee or agent of the competent authority has cause to believe that if such notice as is referred to in subarticle (1) were served it would not be complied with or that any documents to which it could relate would be removed, tampered with or destroyed, such officer, employee or agent may, on producing, if required, evidence of his authority, enter any premises referred to in subarticle (1) for the purpose of obtaining therefrom any information or documents specified in the authority, being information or documents that could have been required under such notice as is referred to in subarticle (1).

(3) For the purposes of any action taken under the provisions of this article, the competent authority may request the assistance of the Commissioner of Police, who may for such purpose exercise such powers as are vested in him by law.

Grounds for decision.
Added by:
XX. 2007.39.

34A. Any decision taken under this Act by the competent authority in terms of any provisions which transpose the Directive, including any regulations, Financial Market Rules or administrative provisions made thereunder for the said transposition, shall state the grounds on which such a decision has been based.

No enquiries to be made into the affairs of any person trading on a regulated market.
Substituted by:
XXVI. 2002.125.
Amended by:
IV. 2005.30;
XX. 2007.14, 40.
Cap. 476.

35. Nothing in this Act or any regulations made thereunder, or in any bye-laws of a regulated market shall authorise the Minister, the competent authority, the Listing Authority, any regulated market or any person whomsoever to enquire or cause an enquiry to be made into the affairs of any person except for the purpose of ensuring compliance with the provisions of this Act, any regulations made thereunder, the bye-laws of the regulated market concerned and the Prevention of Financial Markets Abuse Act or any regulations made thereunder.

Report on market abuse.
Added by:
XVII. 2002.126.
Substituted by:
IV. 2005.30.
Amended by:
XX. 2007.14, 41.
Cap. 476.

36. Where any regulated market suspects that there may exist circumstances to indicate that any violation of the provisions of the Prevention of Financial Markets Abuse Act may have been committed, is being committed or is likely in the circumstances to be committed, it shall without undue delay report such suspicion to the competent authority.

37. (1) The competent authority shall act as the contact point in terms of and for the purposes of subarticle (1) of article 56 of the Directive.

(2) The competent authority shall cooperate with other European regulatory authorities whenever necessary for the purpose of carrying out its duties under the Directive. It shall render the necessary assistance to other European regulatory authorities, in particular by exchanging information and cooperating in any investigatory or supervisory function. In terms of the Directive, the competent authority may use its powers for the purposes of cooperation even in cases where the conduct under investigation does not constitute an infringement of any provisions of this Act, regulations or Financial Market Rules issued thereunder.

(3) Upon receipt of a request from European regulatory authorities designated as contact points within the individual Member States or EEA States under subarticle (1) of Article 56 of the Directive, the competent authority shall immediately take the necessary measures in order to gather the information required for the carrying out of their duties pursuant to the Directive. If the competent authority is not able to supply the required information immediately, it shall notify the requesting European regulatory authority of the reasons.

(4) At the time of communicating information to the European regulatory authorities, whether designated as contact points or not, the competent authority may stipulate that the information must not be disclosed without its express agreement, in which case such information may be exchanged solely for the purposes for which the competent authority had given its agreement.

(5) Where a European regulatory authority exchanging information with the competent authority stipulates at the time of communication of the information that such information must not be disclosed without its express agreement, such information may be used by the competent authority solely for the purposes for which the European regulatory authority would have given its agreement.

(6) Information received by the competent authority from contact points in the other Member States or EEA States may be transmitted to other bodies or natural or legal persons, provided that:

- (a) the express agreement of the contact points which disclosed the information is obtained; and
- (b) the information is used solely for the purposes for which the contact points gave their agreement:

Provided further that in duly justified circumstances the competent authority can transmit information to other bodies or natural or legal persons without satisfying the conditions in paragraphs (a) and (b), in which case the competent authority shall immediately inform the contact point that sent the information.

(7) Where the competent authority receives confidential

Co-operation with
European
regulatory
authorities.

Added by:
XVII. 2002.126.

Amended by:
IV. 2003.20;
XX. 2007.42.

information from contact points in the other Member States or EEA States or from overseas regulatory authorities under article 37C, or when other bodies or natural or legal persons receive confidential information from the competent authority, they may only use such confidential information in the course of their duties, in particular:

- (a) to monitor the proper functioning of trading venues within the meaning of the Directive;
- (b) to impose penalties or adopt other administrative measures and to consider representations received in their regard;
- (c) in appeals under article 42; or
- (d) to investigate complaints received from consumers in terms of article 20 of the Malta Financial Services Authority Act.

Cap. 330.

(8) Without prejudice to the powers of the competent authority under this Act or any other law, where the competent authority has good reason to suspect that acts contrary to the provisions of the Directive are being or have been carried out on the territory of another Member State or EEA State by entities not subject to its supervision, it shall notify this in as specific a manner as possible to the contact point in the other Member State or EEA State.

(9) Where the information in the possession of the competent authority had originated from a European regulatory authority or an overseas regulatory authority, it may not be disclosed to a European regulatory authority or to any other third party without the express agreement of the European regulatory authority or the overseas regulatory authority which had transmitted it and, where appropriate, solely for the purposes for which that authority had given its agreement.

(10) Where a European regulatory authority suspects that acts carried out by entities not subject to its supervision and which are contrary to the provisions of the Directive are being or have been carried out in Malta and notifies the competent authority to this effect, the competent authority shall take appropriate action. The competent authority shall inform the notifying European regulatory authority of the outcome of any such action and, to the extent possible, of significant interim developments:

Provided that any such action taken by the competent authority shall be without prejudice to the powers and functions of the European regulatory authority that has forwarded the information.

(11) The competent authority may exercise the following powers at the request of or for the purposes of assisting a European regulatory authority:

- (a) the powers of inquiry under article 32;
- (b) the power to appoint inspectors under articles 33 and 36;
- (c) the powers to issue directives under article 5;

- (d) the powers of entry under article 34;
- (e) the power to communicate to the European regulatory authority information which is in the possession of the competent authority, whether or not as a result of the exercise of any of the above powers.

37A. (1) The competent authority may request the co-operation of a European regulatory authority in supervisory functions or for on-site verifications or investigations, and a European regulatory authority may likewise request the co-operation of the competent authority in the performance of its supervisory functions or in verifications or investigations.

Co-operation in supervisory functions, onsite verifications or investigations.

Added by:
XX. 2007.43.

(2) In the exercise of such co-operation between the competent authority and European regulatory authorities the provisions of article 17A of the Investment Services Act shall apply *mutatis mutandis*.

Cap. 370.

37B. The competent authority may refuse to act on a request for co-operation in carrying out supervisory functions, on-site verifications or investigations in terms of article 37A or to exchange information with European regulatory authorities designated as contact points under article 56(1) of the Directive, in the circumstances laid down in article 17B of the Investment Services Act.

Refusal to co-operate.

Added by:
XX. 2007.43.

Cap. 370.

37C. (1) Co-operation agreements with overseas regulatory authorities or other authorities, bodies and natural or legal persons in a country that is not a Member State or EEA State may be entered into only if the information disclosed is subject to guarantees of professional secrecy at least equivalent to those required under article 38. Such exchange of information must be intended for the performance of the functions of those overseas regulatory authorities or other authorities, bodies and natural or legal persons:

Co-operation with overseas regulatory authorities.

Added by:
XX. 2007.43.
Amended by:
III. 2009.15.

Provided that the transfer of personal data to countries that are not Member States or EEA States shall be in accordance with the provisions of Chapter IV of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(2) In the conclusion of co-operation agreements providing for the exchange of information with overseas regulatory authorities, other authorities or with bodies and natural or legal persons in countries that are not Member States or EEA States, the provisions of article 17D(2) of the Investment Services Act shall apply *mutatis mutandis*.

Cap. 370.

(3) Where the information in the possession of the competent authority had originated from a European regulatory authority or an overseas regulatory authority, it may not be disclosed to an overseas regulatory authority or to any other third party without the express agreement of the European regulatory authority or the overseas regulatory authority which had transmitted it and, where

appropriate, solely for the purposes for which that authority had given its agreement.

Cap. 370.

(4) Without prejudice to the foregoing provisions of this article, at the request of, or for the purposes of assisting an overseas regulatory authority, the competent authority may exercise the powers listed in article 17(11) of the Investment Services Act, and for the purposes of this subarticle the words "European regulatory authority" shall be read as "overseas regulatory authority".

Confidentiality of information.
Substituted by:
XVII. 2002.127.
Amended by:
IV. 2003.21;
IV. 2005.30.
Substituted by:
XX. 2007.44.
Amended by:
L.N. 424 of 2007.

38. (1) Regulated markets, central securities depositories, the Listing Authority, the competent authority, their respective members, officers, employees or agents, as well as auditors, inspectors and experts, as the case may be, engaged in terms and for the purposes of any of the provisions of this Act -

- (a) shall deal with all documents and other information relating to the relevant regulated market or to dealings therewith or therein, or otherwise obtained for the purposes of, or pursuant to, any of the provisions of this Act or of any regulations made thereunder and not yet officially divulged, as confidential and protected by the duty of professional secrecy, and shall not disclose the same to any other person;
- (b) are prohibited from using such documents and information and all other matters which are confidential and protected by the duty of professional secrecy and which come to their knowledge by virtue of their position, in order to secure any advantage for themselves or for any third parties whether such third parties are connected or not with the financial instruments market.

Cap. 370.

(2) Article 26 of the Investment Services Act shall apply *mutatis mutandis* to regulated markets, the Listing Authority, the competent authority, their respective members, officers, employees or agents, as well as auditors, inspectors and experts engaged for the purposes of any of the provisions of this Act, bound by the obligation of confidentiality in terms of subarticle (1).

Cap. 476.

(3) Any person who acts in contravention of this article shall, without prejudice to the provisions of the Prevention of Financial Markets Abuse Act, be guilty of an offence against this Act, and shall on conviction be liable to a fine (*multa*) of eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Cap. 476.

(4) Any person other than those mentioned in subarticles (1) and (2) who acquires any documents or any other information to which the said sub-articles relate and who uses such documents or information, with intent to secure advantage either for himself or any other person, shall, without prejudice to the Prevention of Financial Markets Abuse Act, be guilty of an offence against this Act and shall on conviction be liable to the same penalty

established for an offence against the provisions of this article.

39. (1) If, on an application by the competent authority made to the Civil Court, First Hall, the said court is satisfied:

Powers of the Court to make certain orders.
Added by:
XXVII. 2002.128.
Amended by:
XX. 2007.14, 45.

- (a) that there is reasonable likelihood that a person will contravene any of the provisions of this Act, the regulations made thereunder or the bye-laws of a regulated market or will contravene or fail to comply with any obligation, requirement, Financial Market Rule, Listing Rule, directive or order made or given under any of the provisions of this Act, the regulations made thereunder or the bye-laws of a regulated market; or
- (b) that a person has contravened any such provision or has contravened or failed to comply with any such obligation, requirement, directive, Financial Market Rule, Listing Rule or order and that there is a reasonable likelihood that the contravention will continue or be repeated,

the court may give such orders as it may deem appropriate to restrain the contravention.

(2) If, on an application by the competent authority made to the Civil Court, First Hall, the said court is satisfied -

- (a) that a person has contravened any of the provisions of this Act, the regulations made thereunder, the bye-laws of a regulated market or any obligation, requirement, Financial Market Rule, Listing Rule, directive or order made or given under any of the provisions of this Act or under the bye-laws of a regulated market; and
- (b) that there are steps which could be taken for remedying the contravention,

the court may give such orders as it may deem appropriate to require that person and any other person who appears to the court to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy it or to mitigate its effect, as appropriate.

(3) If, on an application by the Competent Authority made to the First Hall Civil Court, the court is satisfied -

- (a) that a person has contravened any of the provisions of this Act, the regulations made thereunder, the bye-laws of a regulated market or any obligation, requirement, Financial Market Rule, Listing Rule, directive or order made or given under any of the provisions of this Act, the regulations made thereunder or the bye-laws of a regulated market; or
- (b) that any person has been knowingly concerned in the contravention,

it may make an order restraining him from disposing of, or otherwise dealing with, any assets of his which it is satisfied he is

reasonably likely to dispose of or otherwise deal with.

(4) If, on an application made under subarticle (1), the court is further satisfied that -

- (a) profits have accrued to any person as a result of the contravention; or
- (b) an investor has suffered loss or has been otherwise adversely affected as a result of that contravention,

the court may order the person responsible for the contravention to pay into court such sum as appears to it to be just having regard to the extent of the profit, loss or adverse effect as aforesaid, and order such sum to be paid out as the court may direct to the persons who have entered into transactions as a result of which profits have accrued or losses or adverse effects have been suffered as aforesaid.

(5) For the purposes of this article the court may order the production by any person of such accounts and the provision of such information, and verified in such manner, as the court may deem appropriate.

(6) The First Hall Civil Court shall after hearing the person or persons mentioned in this article and the competent authority determine an application made under this section with urgency.

(7) The provisions of this article shall be without prejudice to any right of any aggrieved person to bring proceedings directly in respect of any right such person may otherwise have independently of the competent authority.

(8) The provisions of this article shall be without prejudice to the right of any person to demand the issue of any precautionary act under Title VI of Book Third of the Code of Organization and Civil Procedure.

Cap. 12.

Administrative penalties.
Added by:
XX. 2007.46.
Amended by:
L.N. 424 of 2007.

39A. (1) Where any person contravenes or fails to comply with any provision of this Act, other than Part III thereof, including failure to cooperate in an investigation, or of any regulations, Financial Market Rules made thereunder adopted in the implementation of the Directive, the competent authority may by notice in writing and without recourse to a court hearing impose on any such person or persons, as the case may be, an administrative penalty which may not exceed ninety-three thousand and one hundred and seventy-four euro and ninety-four cents (93,174.94).

(2) The competent authority may disclose to the public any penalty imposed under the immediately preceding subarticle:

Provided that the competent authority shall withhold such publication where it deems that such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

(3) Persons upon whom notice is served under subarticle (1) shall have a right of appeal to the Tribunal in accordance with article 43.

(4) Where a notice as referred to in subarticle (1) has not been appealed, or where such notice has been appealed, within fifteen days of the determination by the Tribunal of such appeal, the administrative penalty as contained in the notice or as reduced or increased by the decision of the Tribunal shall be due to the competent authority. Upon the service of a copy of the notice of the decision as the case may be, by means of a judicial act on the person indicated in the notice or decision, the said notice or decision shall constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure. Cap. 12.

40. (1) Any person who contravenes or fails to comply with any of the provisions of article 32 or of any court order made under article 39 or fails to comply with any condition, obligation, requirement, order, directive, Financial Market Rule, Listing Rule or regulation made or given under any of the provisions of this Act shall be guilty of an offence under this Act. Offences.
Added by:
XXVII. 2002.128.
Amended by:
XX. 2007.14, 47.

(2) Any person who knowingly or recklessly gives the competent authority, any person appointed by it under article 32(1)(c) or any inspector appointed under article 33, information which is false or misleading shall be guilty of an offence.

(3) Any person who removes, destroys, conceals or fraudulently alters any book, document or other paper, including information stored in electronic format, which is or is likely to be relevant to a request for information or documentation or an inspection or an investigation in terms of this Act, shall be guilty of an offence.

(4) Any person who obstructs a person exercising rights conferred by this Act shall be guilty of an offence under this Act.

41. (1) A person guilty of an offence under the provisions of section 40 shall be liable on conviction to a fine (*multa*) not exceeding four hundred and sixty-five thousand and eight hundred and seventy-four euro and sixty-eight cents (465,874.68) or to a term of imprisonment not exceeding four years, or to both such fine and imprisonment. Criminal proceedings.
Added by:
XXVII. 2002.128.
Amended by:
L.N. 424 of 2007.

(2) No proceedings for an offence under this Act shall be commenced without the consent of the Attorney General.

(3) The provisions of this Act shall not affect any criminal proceedings that may be competent under any other law.

41A. If it appears to the competent authority or the Listing Authority that a person has contravened any of the provisions of this Act or of any regulations made under this Act or has contravened or failed to comply with any condition, obligation, requirement, Financial Market Rules, Listing Rules or directives made or given under any of the provisions of this Act, the competent authority or the Listing Authority, as the case may be, may publish a statement to that effect. Issue of public statement.
Added by:
XX. 2007.48.

PART VI

FINANCIAL SERVICES TRIBUNAL

Appeal to
Financial Services
Tribunal.
Added by:
XXVII. 2002.128.
Amended by:
XX. 2007.14, 49;
L.N. 424 of 2007.

42. (1) The Tribunal shall have the exclusive competence to determine all appeals as may be referred to it under articles 4(11), 16(9), 17(3), 18(6), 20(4), 25(5), 27(5), 33(6) and 39A or under any regulations made by the Minister under articles 3 and 49.

(2) An appeal shall also lie to the Tribunal from any decision of a regulated market to suspend or revoke membership of any of its members or to impose a penalty in excess of one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69).

Ground for appeal.
Added by:
XXVII. 2002.128.
Amended by:
IV. 2005.30;
XX. 2007.14, 50.

43. (1) An appeal to the tribunal under article 42 shall lie only on any of the following grounds -

(a) that the competent authority, the Listing Authority or the regulated market concerned, as the case may be, has wrongly applied any of the provisions of this Act, of the regulations made thereunder, or of the bye-laws of the regulated market concerned; or

(b) that the decision of the competent authority, the Listing Authority or the regulated market concerned, as the case may be, constitutes an abuse of discretion, provided that the discretion of any of the aforesaid bodies may not, so long as it has been exercised properly, be queried by the tribunal.

(2) An appeal made under this section shall not, unless the tribunal otherwise determines in the course of the proceedings, suspend the operation of any decision from which the appeal is made except in the case of an appeal from a decision to discontinue the listing of any financial instruments as is mentioned in article 18(5) in which case the decision shall become operative on the date of the decision of the tribunal dismissing the appeal, or on the date on which the appeal is abandoned.

Applicability of
article 21 of the
Malta Financial
Services Authority
Act.
Added by:
XXVII. 2002.128.
Substituted by:
XX. 2007.51.
Cap. 330.

44. Subject to article 43 of this Act, the provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to appeals that may be brought before the Tribunal under this article.

PART VII

MISCELLANEOUS

Trading outside
regulated markets.
Added by:
XXVII. 2002.128.
Amended by:
IV. 2005.30.
Substituted by:
XX. 2007.52.

45. (1) Quoted financial instruments may be traded outside the regulated market on which they are listed.

(2) The Minister may make regulations to establish conditions and procedures under which quoted financial instruments may be traded outside the regulated markets on which such quoted financial instruments are listed and other than by means of facilities provided by any such regulated markets.

46. Notwithstanding the provisions of any other law, the transfer of quoted financial instruments in quoted companies need not be made by an instrument in writing.

Transfer of financial instruments.
Added by:
XXVII. 2002.128.
Amended by:
IV. 2005.30.

47. The provisions of article 1966(3) and (4) of the Civil Code shall not apply with respect to quoted financial instruments and the privilege referred to in Title XXI of Part II of Book Second of the said Code shall arise where the pledge has been duly registered with a regulated market in accordance with the bye-laws.

Civil Code.
Added by:
XXVII. 2002.128.
Amended by:
IV. 2005.30;
XX. 2007.53.
 Cap. 16.

48. (1) Without prejudice to the provisions of article 17 the Listing Authority shall have the power to suspend temporarily the trading in financial instruments on any regulated market, if in its opinion, the orderly transaction of business is being prevented, or is likely to be prevented because of the occurrence of:

Temporary suspension of operations.
Substituted by:
XVII. 2002.129.
Amended by:
IV. 2005.30;
XX. 2007.14.

- (a) any emergency or natural disaster;
- (b) any economic, financial or political crisis; or
- (c) any other event which disrupts trading.

(2) The Minister may recommend to the Listing Authority the temporary suspension of trading if he is of the opinion that the orderly transaction of business of a regulated market is being disrupted because of any of the occurrences referred to in subarticle (1)(a), (b) or (c) which in the opinion of the Minister merits such closure.

(3) The Listing Authority may order that for such time as it may determine no trading of any kind may be transacted in one or more specified financial instruments of quoted companies if it has reasons to believe that this would be in the interest of the regulated market concerned, the public or investors generally:

Provided that a temporary suspension ordered by the Listing Authority under this article may not be of more than thirty days in a period of three months unless such longer suspension is approved by the Minister.

(4) No transaction may be executed at any time in the event of the temporary suspension of trading under this article. Any transaction so executed in contravention of this subsection shall be invalid.

49. (1) The Minister, acting on the advice of the competent authority, may make regulations:

- (a) to give effect to the provisions of this Act, including regulations for the better regulation of regulated markets and central securities depositories and, or the admissibility to listing of financial instruments thereon and to provide for the direct or indirect membership of, or access to, regulated markets within the terms of and in line with Malta's international commitments;
- (b) to govern the transfer of ownership and, or delivery of

Power to make regulations.
Added by:
XVII. 2002.130.
Substituted by:
IV. 2003.22.
Amended by:
IV. 2005.30;
XX. 2007.14, 54.

- financial instruments quoted on a regulated market, clearing and settlement of transactions effected on a regulated market, payment in respect of the transfer of financial instruments quoted on a regulated market, pledging of financial instruments quoted on a regulated market;
- (c) to regulate the application of article 50 to regulated markets and to commercial partnerships other than companies;
- (d) to regulate the transposition, implementation and giving effect to the provisions, requirements, obligations and commitments relating to regulation of regulated markets and, or the admissibility to listing of financial instruments thereon arising out of membership of, affiliation to or relationship with international or regional organisations or groupings of countries or out of any treaty, convention or other international agreement whether bilateral, regional or multilateral, to which Malta is a party;
- (e) to transpose, implement and give effect to the provisions and requirements of the Directive, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder.

(2) Regulations made under this article, may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different cases, circumstances or purposes and may give to the competent authority such powers of adaptation of the regulations as may also be so specified.

(3) Where regulations have been issued in terms of this article, the competent authority may issue Financial Market Rules within the meaning of article 4 of this Act for the better carrying out and to better implement the provisions of the regulations.

Exemptions from duty on documents.
Amended by:
V. 1992.5;
XVI. 1994.14;
XVII. 2002.110;
131;
IV. 2005.30.
Substituted by:
XX. 2007.55.
 Cap. 364.

Executive title.
Added by:
XVII. 2002.132.
Amended by:
XX. 2007.56.
 Cap. 12.

50. Notwithstanding anything contained in the Duty on Documents and Transfers Act, or in any Act replacing that Act, no duty shall be payable in accordance with that Act in respect of any transfer of any financial instruments of a quoted company, or the transfer of any financial instruments of the Government or any body corporate established by law, where such transfer is made either on a regulated market or outside the regulated market on which they are listed in terms of article 45.

51. (1) An order for the payment of expenses of and incidental to, an investigation under article 33(5) shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organisation and Civil Procedure.

(2) If all or any of the amount payable under an order under article 33(5) is outstanding at the end of the specified period, the Competent Authority may proceed to enforce payment after two days from the service on the debtor of an intimation for payment

made by means of a judicial act.

52. Neither the competent authority, nor the Listing Authority, nor any officer or employee of the competent authority or the Listing Authority, nor any other person appointed thereby to perform a function under this Act shall be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions under this Act or any regulations or Financial Market Rules or Listing Rules made thereunder, unless the act or omission is shown to have been done in bad faith.

Exclusion of liability.
Added by:
XVII. 2002.132.
Amended by:
XX. 2007.57.

53. The purpose of this Act is to regulate regulated markets, central securities depositories, and to provide for orderly trading in transferable securities and for matters ancillary or incidental thereto or connected therewith, and to implement the relevant provisions of the Directive which shall be interpreted and applied accordingly.

Objective.
Added by:
XX. 2007.58.

Transitory provision - Act XX of 2007.

155. (1) With effect from such date* as the Minister may by order establish, hereinafter "the operative date", the Malta Stock Exchange plc shall continue in the personality of the Malta Stock Exchange established under Part IV of the Financial Markets Act prior to the repeal of such Part by this Act; and subject to the exclusion of the property described in subarticle (3), the Malta Stock Exchange plc shall accordingly succeed to all its assets, rights, liabilities and obligations, including the recognition order issued to the Malta Stock Exchange in terms of Part II of the Financial Markets Act, which, unless specifically cancelled or repealed, shall remain in force until the operative date.

Transitory provisions.

(2) With effect from the operative date:

- (a) the competent authority shall issue in favour of the Malta Stock Exchange plc an authorisation in terms of Part II of the Financial Markets Act. Upon the issue of such authorisation, the recognition order referred to in subarticle (1) shall automatically lapse;
- (b) the Malta Stock Exchange plc shall be deemed to have satisfied the requirements of Part IV of the Financial Markets Act and the competent authority shall issue an authorisation in its favour with effect from such date.

(3) All authorisations, decisions, licenses, warrants, approvals, notices and other acts or commitments made or taken by the Malta Stock Exchange, including any membership or admission to the official list and any other recognised list and any Council Notice or bye-laws, as well as agreements, contracts of employment and relative staff appointments and conditions, shall as from the operative date be deemed to have been made or taken and assumed by the Malta Stock Exchange plc, and shall, unless specifically cancelled or repealed, remain in force accordingly, with such modifications and adaptations as are strictly necessary to implement fully and correctly the succession and devolution of the business and the rights and obligations as aforesaid of the Malta Stock Exchange to and in favour of the Malta Stock Exchange plc in terms of this Part.

(4) The immovable property and rights relating thereto as described in the Schedule to this Part shall devolve to the Land Department or another entity whose shares are wholly owned by Government which shall within

*1st November, 2007 - see Legal Notice 319 of 2007.

one month from the operative date cause a declaratory public deed to be published containing a detailed description of the allocation and the devolution in its favour of and of its succession to the immovable property and rights relating thereto which prior to the operative date were vested in the Malta Stock Exchange, subject to the provisions of this Part, and a note thereon shall be duly enrolled at the Public Registry and the Land Registry, as the case may be.

(5) The succession, as from the operative date, of the assets, rights, liabilities and obligations in favour of Malta Stock Exchange plc and the Land Department or another entity whose shares are wholly owned by Government, as the case may be, described in this Part, shall be valid and effective even as regards third parties by operation of law without the need for any other formality, other than the public deed and notes required under this article, and shall be exempt from the payment of income tax, duty on documents and other fiscal charges, notwithstanding any other provision of law.

(6) Unless the context otherwise requires, any reference in any law to the Malta Stock Exchange shall after the operative date be deemed to be a reference to the Malta Stock Exchange plc; and any reference to the Council, a member of the Council or any officer or employee of the Malta Stock Exchange shall after the operative date be deemed to be a reference to the Board of Directors, a director of the company and to officers or employees of the company, respectively.

SCHEDULE

(Article 155)

The immovable property devolving in favour of the MSE (Holdings) Limited consisting of offices and premises known as the "Malta Stock Exchange" or "*Borża ta' Malta*", with all the buildings and improvements thereon, including all rights and appurtenances relating thereto, formerly known as the "Post Office Central Mailing Room", formerly also known as the "Barrakka Garrison Church", situated at Castille Place, Valletta, without an official number, together with its surrounding garden, measuring approximately one thousand one hundred and thirty square metres (1130m²) and is bounded altogether on the North-East and the North-West by Castille Place and the South-East by the Upper Barrakka Gardens, as better described in the emphyteutical lease between the Malta Stock Exchange and the Commissioner of Lands acting on behalf of the Government of Malta, signed on the 11 December 2007 in the acts of Vincent Miceli, Notary Public in Malta at the Lands Department.
