

*Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,661, 9 ta' Lulju, 2021*

*Taqsimha B*

**L.N. 285 of 2021**

**INVESTMENT SERVICES ACT  
(CAP. 370)**

**Investment Services Act (Exemption)  
(Amendment) Regulations, 2021**

IN EXERCISE of the powers conferred by article 12 of the Investment Services Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

**1.** (1) The title of these regulations is the Investment Services Act (Exemption) (Amendment) Regulations, 2021 and these regulations shall be read and construed as one with the Investment Services Act (Exemption) Regulations, hereinafter referred to as "the principal regulations".

Citation, scope and commencement. S.L. 370. 02.

(2) The scope of these regulations is, in part, to transpose:

(a) Article 1 of Directive (EU) 2020/1504 of the European Parliament and of the Council of 7 October 2020 amending Directive 2014/65/EU on markets in financial instruments; and

(b) Article 1(1)(a) of Directive 2021/338 of the European Parliament and of the Council of 16 February 2021 amending Directive 2014/65/EU as regards information requirements, product governance and position limits, and Directives 2013/36/EU and (EU) 2019/878 as regards their application to investment firms, to help the recovery from the COVID-19 crisis.

(3) These regulations shall have the following commencement dates:

(a) regulations 2, 3(d) and 3(e) shall come into force on 10 November 2021; and

(b) regulation 3(b) shall come into force on 28 February 2022.

**2.** In sub-regulation (2) of regulation 1 of the principal regulations, for the words "(o) and Article 5(2), of MiFID,," there shall be substituted the words "(o), (p) and Article 5(2) of MiFID,".

Amends regulation 1 of the principal regulations.

Amends  
regulation 3 of  
the principal  
regulations.

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

(a) paragraph (o) thereof shall be deleted;

(b) the first proviso to paragraph (p) thereof shall be substituted by the following new proviso:

"Provided that:

a. for each of those cases individually and on an aggregate basis, the activity is ancillary to their main business, when considered on a group basis;

b. those persons are not part of a group the main business of which is the provision of investment services within the meaning of MiFID, the performance of any activity listed in Annex I to Directive 2013/36/EU, or acting as a market maker for commodity derivatives;

c. those persons do not apply a high-frequency algorithmic trading technique, and

d. those persons report upon request to the competent authority the basis on which they have assessed that their activity under sub-paragraphs (i) and (ii) is ancillary to their main business:";

(c) in paragraph (z) thereof, for the words "to the said service; and" there shall be substituted the words "to the service;"; and

(d) in paragraph (dd) thereof, for the words "Financial Markets Act." there shall be substituted the words "Financial Markets Act; and", and immediately thereafter there shall be added the following new paragraph:

"(ee) crowdfunding service providers as defined in paragraph (e) of Article 2(1) of Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937.".