
L.N. 129 of 2024**MALTA FINANCIAL SERVICES AUTHORITY ACT
(CAP. 330)****Recovery and Resolution (Amendment) Regulations, 2024**

IN EXERCISE of the powers conferred by article 20A and 20D of the Malta Financial Services Authority Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority and of the Resolution Authority, has made the following regulations:

1. (1) The title of these regulations is the Recovery and Resolution (Amendment) Regulations, 2024 and they shall be read and construed as one with the Recovery and Resolution Regulations, hereinafter referred to as the "the principal regulations".

Citation and
Scope.

S.L. 330.09.

(2) The purpose of these regulations is to implement the relevant provisions of Article 2 of Regulation (EU) 2022/2036 of the European Parliament and of the Council of 19 October 2022 amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institutions with a multiple-point-of-entry resolution strategy and methods for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities; and transpose the relevant provisions of Article 1 and Article 3 of Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC.

2. Regulation 44A of the principal regulations shall be amended as follows:

Amends
regulation 44A
of the principal
regulations.

(a) sub-regulation (2) thereof shall be substituted by the

following new sub-regulation:

"(2) Where the conditions laid down in sub-regulation (1) are fulfilled and the financial instrument portfolio of such retail client does not, at the time of the purchase, exceed five hundred thousand euro (€500,000), the seller shall, on the basis of the information provided by the retail client in accordance with sub-regulation (3), ensure that both of the following conditions are met at the time of the purchase:

(a) the retail client does not invest an aggregate amount exceeding 10% of that client's financial instrument portfolio in liabilities referred to in sub-regulation (1); and

(b) that initial investment amount invested in one or more liabilities instruments referred to in sub-regulation (1) is at least ten thousand euro (€10,000).";

(b) immediately after sub-regulation (5) thereof, there shall be added the following new sub-regulation:

"(6) Where the value of total assets of the institutions and entities referred to in paragraphs (b), (c) or (d) of the definition "entity" which are subject to the requirement referred to in regulation 45E does not exceed EUR 50 billion, the only applicable requirement shall be that set out in sub-regulation (2)(b).

Amends
regulation 45D
of the principal
regulations.

3. Sub-regulation (4) of regulation 45D of the principal regulations shall be substituted by the following new sub-regulation:

"(4) For the purpose of regulation 45H(2), where more than one G-SII entity, that are part of the same G-SII, are resolution entities or third-country entities that would be resolution entities if they were established in the Union, the relevant European resolution authorities shall calculate the amount referred to in sub-regulation 3:

(a) for each resolution entity or third-country entity that would be a resolution entity if it were established in the Union; and

(b) for each Union parent undertaking as if it were the only resolution entity of the G-SII.".

4. Sub-regulation (2) of regulation 45H of the principal regulations shall be substituted by the following new sub-regulation:

Amends regulation 45H of the principal regulations.

"(2) The Resolution Committee and the European resolution authorities referred to in sub-regulation (1) shall, where more than one G-SII entity, that are part of the same G-SII, are resolution entities or third-country entities that would be resolution entities if they were established in the Union, discuss and, where appropriate and consistent with the G-SII's resolution strategy, agree on:

(a) the application of Article 72e of the CRR; and

(b) any adjustment to minimise or eliminate the difference between the sum of the amounts referred to in paragraph (a) of regulation 45D(4) and point (a) of Article 12a of the said CRR for individual resolution entities or third-country entities, and the sum of the amounts referred to in paragraph (b) of regulation 45D(4) and point (b) of Article 12a of the said CRR:

Provided that, the adjustment mentioned above may be applied on condition that:

(a) the adjustment may be applied in respect of differences in the calculation of the total risk exposure amounts between the relevant Member States or third-countries by adjusting the level of the requirement; and

(b) the adjustment shall not be applied to eliminate differences resulting from exposures between resolution groups:

Provided further that, the sum of the amounts referred to in paragraph (a) of regulation 45D(4) and point (a) of Article 12a of the said CRR for individual resolution entities or third-country entities that would be resolution entities if they were established in the Union shall not be lower than the sum of the amounts referred to in paragraph (b) of regulation 45D(4) and point (b) of Article 12a of the said CRR."

5. In the second proviso of sub-regulation (1) of regulation 45L of the principal regulations, the word "disturbance." shall be substituted by the word "disturbance:" and immediately after there shall be added the following new proviso:

Amends regulation 45L of the principal regulations.

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"Provided further that where, in accordance with sub-regulation (1), the Resolution Committee has set a compliance deadline ending after 1st January 2024, the application date of regulation 45 as regards regulation 45I(3) shall be the same as the compliance deadline."
