

A.L. 3 ta' l-2003

**ATT DWAR SWIEQ FINANZJARI
(KAP. 345)**

**Regolamenti ta' l-2003 dwar *Exchange* ta' Investimenti
Rikonoxxut
(Htigiet ghal Rikonoxximent)**

BIS-SAHHA tas-setghat moghtija lilu fl-artikolu 3 ta' l-Att dwar Swieq Finanzjarji, il-Ministru tal-Finanzi, fuq parir ta' l-Awtorità ghas-Servizzi Finanzjarji ta' Malta bhala l-Awtorità Kompetenti, ghamel ir-regolamenti li ġejjin:–

1. (1) L-isem ta' dawn ir-regolamenti hu Regolamenti ta' l-2003 dwar *Exchange* ta' Investimenti Rikonoxxut (Htigiet ghal Rikonoxximent). Isem u Bidu fis-sehh.

(2) Dawn ir-regolamenti jidhlu fis-sehh fit-3 ta' Jannar, 2003.

2. F'dawn ir-regolamenti:

Tifsir.

“Att” tfisser l-Att dwar Swieq Finanzjarji u l-kliem u frazijiet użati ghandu jkollhom l-istess tifsira kif moghtija lilhom fl-Att imsemmi, sakemm ma jkunux definiti mod iehor hawnhekk; Kap. 345.

“applikant” tfisser persuna li tkun ghamlet applikazzjoni lill-Awtorità Kompetenti biex issir *Exchange* ta' Investimenti Rikonoxxut;

“strument” ghandu jkollha l-istess tifsira bhal dik moghtija mill-Att dwar Servizzi ta' Investimenti ; Kap. 370.

“*Exchange* ta' Investimenti Rikonoxxut” ghandha tfisser persuna li fir-rigward taghha l-Awtorità Kompetenti tkun harġet ordni ta' rikonoxximent;

“Skeda” tfisser l-Iskeda li tinsab ma' dawn ir-regolamenti.

3. (1) L-Iskeda tispeċifika l-htigiet ghal rikonoxximent li ghandhom ikunu sodisfatti minn applikant jekk ikun se jikkwalifika Htigiet ghal rikonoxximent.

bhala *Exchange* ta' Investimenti Rikonoxxut u li ghandhom ikunu sodisfatti minn kull *Exchange* ta' Investimenti Rikonoxxut fuq bazi kontinwa u li tibqa' sejra bla waqfien jekk trid tibqa' *Exchange* ta' Investimenti Rikonoxxut.

(2) Il-piż tal-prova lill-Awtorità Kompetenti li l-htigiet ghal rikonoxximent kienu jew ikunu qeghdin jiġu sodisfatti kif imiss jaqa' esklużivament fuq l-applikant jew fuq l-*Exchange* ta' Investimenti Rikonoxxut, skond il-każ.

Sodisfazzjon ta' htigiet ghal rikonoxximent.

4. (1) Meta tiġi biex tqis jekk applikant jew *Exchange* ta' Investimenti Rikonoxxut ikunux jissodisfaw il-htigiet ta' rikonoxximent li japplikaw ghalihom taht dawn ir-regolamenti, l-Awtorità Kompetenti tista' tqis kull ċirkustanza ohra li jidhrilha rilevanti f'kull każ partikolari.

(2) Applikant jew *Exchange* ta' Investimenti Rikonoxxut jistgħu jissodisfaw htigiet ta' rikonoxximent li japplikaw ghalihom taht dawn ir-regolamenti billi jidhlu fi ftehim ghas-sodisfazzjon ta' l-Awtorità Kompetenti dwar funzjonijiet speċifikati fil-ftehim imsemmi li għandu jitqiegħed fil-prattika f'isimhom minn xi persuna ohra.

(3) Ftehim tax-xorta msemmi fis-subregolament (2) hawn qabel għandu jsir bil-miktub, u għandu jsir bejn l-applikant jew *Exchange* ta' Investimenti Rikonoxxut, skond il-każ, u l-persuna li jkollha taqdi l-funzjonijiet kollha f'isem l-applikant jew *Exchange* ta' Investimenti Rikonoxxut. Tali ftehim għandu jkun esegwit minn uffiċjali awtorizzati kif imiss tal-korp governattiv ta' l-entitajiet rispettivi.

(4) Meta applikant jew *Exchange* ta' Investimenti Rikonoxxut jidhlu fi ftehim tax-xorta msemmi fis-subregolament (2) hawn qabel, kull tali ftehim m'għandux jaffettwa r-responsabbiltà imposta mill-Att fuq tali applikant jew *Exchange* ta' Investimenti Rikonoxxut li jissodisfaw il-htigiet ghal rikonoxximent li japplikaw ghalihom taht dawn ir-regolamenti.

(5) Ir-responsabbiltà ta' l-*Exchange* ta' Investimenti Rikonoxxut għal xi ksur tal-htigiet ghal rikonoxximent jew ta' xi regolamenti jew direttivi ohra mahruġin taht dan l-Att, m'għandhomx ikunu affettwati jew ridotti meta *Exchange* ta' Investimenti Rikonoxxut tidhol f'xi ftehim tax-xorta msemmi fis-subregolament (2) hawn qabel.

(6) Kull persuna li m'hix *Exchange* ta' Investimenti Rikonoxxut u tkun sa taqdi xi funzjoni speċifikata għat-termini ta' xi ftehim tax-xorta msemmi fis-subregolament (2) hawn qabel għandha tkun ikkonfermata, wara l-verifika dovuta, mill-applikant jew *Exchange* ta' Investimenti Rikonoxxut skond il-każ, bhala persuna idonea u xierqa

li tkun kapaċi u lesta taqdi tali funzjonijiet. Din il-konferma ghandha ssir mill-korp governattiv ta' l-applikant jew *Exchange* ta' Investimenti Rikonoxxut, skond il-każ, fil-forma ta' dikjarazzjoni bil-miktub f'dan is-sens li ghandha tkun sottomessa lill-Awtorità Kompetenti flimkien ma' vera kopja debitament awtentikata tal-ftehim rilevanti tax-xorta msemmija fis-subregolament (2) hawn qabel.

(7) Minkejja dak kollu hawn qabel provdut, l-*Exchange* ta' Investimenti Rikonoxxut ghandha tkun responsabbli lejn l-Awtorità Kompetenti ghas-supervizjoni tal-qadi kif imiss ta' kull funzjoni mwettqa minn xi hadd matul dak il-perjodu li fih kull ftehim tax-xorta msemmija fis-subregolament (2) hawn qabel jibqa' fis-sehh.

SKEDA

PARTI I - HTIĠIET TA' RIKONOXXIMENT

Riżorsi finanzjarji

1. (1) *L-Exchange* ta' Investimenti Rikonoxxut ghandu jkollha riżorsi finanzjarji biżżejjed għall-qadi kif ghandu jkun tal-funzjonijiet tagħha.

(2) Minghajr preġudizzju għall-ġeneralità ta' dak hawn qabel provdut, kull *Exchange* ta' Investimenti Rikonoxxut ghandha tissodisfa f'kull żmien dawk il-htiġiet ta' riżorsi finanzjarji minimi u htiġiet ta' rappurtar finanzjarju minimi li jistgħu jkunu preskritti mill-Awtorità Kompetenti minn żmien għal żmien.

(3) Meta jitqies jekk il-htieġa f'(1) hawn qabel hijiex sodisfatta, l-Awtorità Kompetenti tista' minghajr preġudizzju għall-ġeneralità tas-setgħat tagħha, tqis iċ-ċirkustanzi kollha f'relazzjoni ma' *L-Exchange* ta' Investimenti Rikonoxxut, inklużi:

(a) kull attività magħmula jew proposta biex issir mill-*Exchange* ta' Investimenti Rikonoxxut;

(b) ir-riskji ġenerali, operattivi, legali u tas-swieq li għalihom hi esposta;

(c) l-ammont u kompożizzjoni tal-kapital tagħha;

(d) l-ammont u kompożizzjoni ta' l-assi finanzjarji likwidi tagħha;

(e) l-ammont u kompożizzjoni ta' xi riżorsi finanzjarji ohra;

(f) il-benefiċċji, responsabbiltajiet, riskji u espożizzjonijiet finanzjarji li jirriżultaw mill-konnessjonijiet tagħha ma' kull min ikun.

Adattabilità

2. (1) *L-Exchange* ta' Investimenti Rikonoxxut ghandha tkun persuna idonea u xierqa biex taqdi l-funzjonijiet tagħha u tkun ta' riputazzjoni tajba.

(2) Meta tqis jekk il-htiġiet ta' (1) hawn qabel humiex sodisfatti, l-Awtorità Kompetenti tista', bla preġudizzju għall-ġeneralità tas-setgħat tagħha, tiehu f'kunsiderazzjoni iċ-ċirkustanzi li ġejjin f'relazzjoni ma' *L-Exchange* ta' Investimenti Rikonoxxut:

(a) l-istruttura tal-propjetà u kontroll tagħha;

(b) l-impenn muri mill-korp governattiv tagħha biex jissodisfa l-htiġiet għal rikonoxximent u biex jikkonforma ma' obbligi ohra f'dan l-Att u taht dan l-Att;

(c) l-arranġamenti, prattiki u riżorsi biex twettaq l-obbligi tagħha f'relazzjoni ma' l-attivitajiet bhala *Exchange* ta' Investimenti Rikonoxxut għat-termini ta' l-Att jew ta' regolamenti magħmulin tahtu;

(d) l-arranġamenti biex tiżgura li timpjega jew tahtar individwi li huma onesti u juru livell għoli ta' integrità u huma kompetenti għall-funzjoni tagħhom;

(e) l-effettività ta' l-arranġamenti biex tikkontrolla konflitti ta' interess;

(f) l-indipendenza tal-funzjoni ta' konformità tagħha mill-funzjonijiet kummerċjali u tas-suq tagħha.

Kostituzzjoni u governanza

3. (1) Il-kostituzzjoni, governanza, struttura organizzattiva u sistemi ta' tmexxija ta' l-*Exchange* ta' Investimenti Rikonoxxut għandhom ikunu adegwati u xierqa.

(2) Meta tqis jekk il-htigiet ta' (1) hawn fuq humiex sodisfatti, l-Awtorità Kompetenti tista', bla hsara għall-generalità tas-setgħat tagħha, tqis iċ-ċirkustanzi li ġejjin f'relazzjoni ma' l-*Exchange* ta' Investimenti Rikonoxxut:

(a) safejn il-kostituzzjoni u l-organizzazzjoni tagħha jipprovdu għal governanza effettiva;

(b) l-arranġamenti magħmulin biex jiżguraw li l-korp governattiv tagħha għandu kontroll effettiv fuq il-funzjonijiet ta' l-*Exchange* ta' Investimenti Rikonoxxut;

(c) l-istruttura u organizzazzjoni tal-korp governattiv tagħha, inklużi d-distribuzzjoni ta' responsabbiltajiet u funzjonijiet fost l-uffiċjali, dipartimenti, membri, u kumitati;

(d) l-aċċess li d-dipartiment ta' konformità tagħha għandu għall-korp governattiv;

(e) id-daqs u l-kompożizzjoni tal-korp governattiv inklużi l-ghadd u responsabbiltajiet ta' membri eżekuttivi u mhux eżekuttivi;

(f) l-ghadd ta' membri indipendenti tal-korp governattiv;

(g) l-integrità u kompetenza tal-korp governattiv tagħha u ta' l-uffiċjali tagħha.

Sistemi u kontrolli

4. (1) L-*Exchange* ta' Investimenti Rikonoxxut ghandha tizgura li s-sistemi u kontrolli kollha wzati fil-qadi tal-funzjonijiet taghha huma adegwati u adatti ghad-daqs u x-xorta tan-negozju taghha.

(2) Sub-paragrafu (1) japplika b'mod partikolari, bla limitazzjoni, ghal sistemi u kontrolli li ghandhom x'jaqsmu ma':

(a) it-trasmissjoni ta' informazzjoni;

(b) il-valutazzjoni u mmaniġġar ta' riskji ghall-qadi tal-funzjonijiet ta' l-*Exchange* ta' Investimenti Rikonoxxut;

(c) l-ghemil u l-kontroll kontinwu tat-transazzjonijiet fl-*Exchange* ta' Investimenti Rikonoxxut;

(d) l-operazzjoni ta' l-arranġamenti msemmijin fil-paragrafu 5(2)(e) hawn taht; u

(e) il-harsien u l-amministrazzjoni ta' l-assi li huma propjetà ta' dawk li juzaw il-faċilitajiet ta' l-*Exchange* ta' Investimenti Rikonoxxut, meta jkunu rilevanti.

(3) Meta tqis jekk il-htigiet ta' (1) hawn qabel humiex sodisfatti, l-Awtorità Kompetenti tista', bla hsara ghall-generalità tas-setghat taghha, tiehu f'konsiderazzjoni ċ-ċirkustanzi li ġejjin f'relazzjoni ma' l-*Exchange* ta' Investimenti Rikonoxxut:

(a) it-tqassim ta' dmirijiet u responsabbiltajiet fost id-dipartimenti taghha;

(b) ir-rizorsi umani impjegati fid-dipartimenti taghha;

(c) l-arranġamenti ta' superviżjoni li ghalihom kull dipartiment hu responsabbli;

(d) l-arranġamenti li bihom il-korp governattiv hu kapaċi jzomm taht konsiderazzjoni l-allokazzjoni ta' responsabbiltajiet bejn, u l-hatra, superviżjoni u rimunerazzjoni ta' ufficjali tal-kumpanija;

(e) l-arranġamenti ghal verifika interna u esterna;

(f) is-sistemi ta' teknoloġija ta' l-informatika, inklużi sistemi ta' *back-ups* ghal dawn is-sistemi ta' teknoloġija ta' l-informatika u l-pjanijiet taghha ghal azzjoni fil-każ ta' hsara lil dawn is-sistemi ta' teknoloġija ta' l-informatika;

- (g) l-arrangamenti li bihom hi tkejjel u tikkontrolla tipi differenti ta' riskji;
 - (h) arrangamenti ghal proceduri ta' maniġġar ta' riskji;
 - (i) arrangamenti li bihom struzzjonijiet dwar l-ikklerjar u hlasijiet li jirriżultaw minn transazzjoni jiddahhlu fis-sistema taghha sal-punt meta drittijiet jew responsabbiltajiet li johorġu minn dik it-transazzjoni huma adempiti;
 - (j) arrangamenti u proċessi involuti fir-reġistrazzjoni ta' assi li huma propejetà ta' dawk li jużaw il-faċilitajiet ta' l-*Exchange* ta' Investimenti Rikonoxxut u miżmumin mill-*Exchange* ta' Investimenti Rikonoxxut, inklużi r-reġistrazzjoni ta' l-identità tal-propjetarji ta' tali assi u ta' persuni ohra li ghandhom interess fihom;
 - (k) ir-reġistrazzjoni ta' struzzjonijiet moghtija f' relazzjoni ma' assi li huma proprjetà ta' dawk li jużaw il-faċilitajiet taghha;
 - (l) ir-reġistrazzjoni ta' kull azzjoni mehuda fit-twettiq ta' struzzjonijiet riċevuti mill- *Exchange* ta' Investimenti Rikonoxxut f' relazzjoni ma' assi li huma proprjeta' ta' dawk li jużaw il-faċilitajiet taghha;
 - (m) is-sistemi u kontrolli ddisinjati biex jiżguraw il-konfidenzjalità ta' ċerti klassijiet ta' informazzjoni u l-użu kif ghandu jkun ta' tali informazzjoni.
- (4) L-*Exchange* ta' Investimenti Rikonoxxut ghandha tiżgura li ghandha l-hila tikkontrolla t-thaddim u l-kwalità ta' impenji kontrattwali ghal servizzi jew faċilitajiet li hi tghaddi biex ikunu operati minn partijiet terzi.

Harsien għall-investituri

5. (1) L-*Exchange* ta' Investimenti Rikonoxxut ghandha tiżgura li negozju mmexxi permezz tal-faċilitajiet taghha jitmexxa b' manjiera ordinata biex jaghti harsien kif ghandu jkun lill-investituri.

(2) Minghajr preġudizzju għall-ġeneralità tas-subparagrafu (1), l-*Exchange* ta' Investimenti Rikonoxxut ghandha, bis-saħħa ta' proceduri adatti li jkun jissodisfaw lill-Awtorità Kompetenti, tiżgura li:

- (a) l-aċċess għall-faċilitajiet ta' l-*Exchange* ta' Investimenti Rikonoxxut ikun soġġett għal kriterji mahsubin biex iharsu l-funzjonament ordnat tas-suq u l-interessi ta' l-investituri;
- (b) in-negozjar fl-*Exchange* ta' Investimenti Rikonoxxut ikun limitat għal strumenti li fihom ikun hemm suq proprju;

(c) isiru arrangamenti adatti ghal informazzjoni sensittiva ghall-prezzijiet li ghandha tkun aċessibbli (kemm mill-*Exchange* ta' Investimenti Rikonoxxut jew, fejn hu xieraq u mehtieg, minn dawk li jfornu l-istrumenti) lill-pubbliku;

(d) isiru arrangamenti adatti ghal informazzjoni sensittiva ghall-prezzijiet biex tinhażen, tithares u tkun ippubblikata jew b'xi mod iehor tkun aċessibbli (kemm mill-*Exchange* ta' Investimenti Rikonoxxut jew, fejn hu xieraq u mehtieg, minn dawk li jfornu l-istrumenti) lill-pubbliku;

(e) isiru arrangamenti sodisfaċenti biex ikun żgurat li jinqeda d-dmir fil-hin lejn id-drittijiet u responsabbiltajiet tal-partijiet fi transazzjonijiet li jsiru fl-*Exchange* ta' Investimenti Rikonoxxut (li huma drittijiet u responsabbiltajiet relatati ma' dawk it-transazzjonijiet);

(f) isiru arrangamenti adatti ghat-tqabbil ta' transazzjonijiet li jsiru fl-*Exchange* ta' Investimenti Rikonoxxut jew permezz taghha;

(g) isiru arrangamenti sodisfaċenti biex ikunu reġistrati transazzjonijiet li jsiru fl-*Exchange* ta' Investimenti Rikonoxxut, u transazzjonijiet (kemm jekk isiru fl-*Exchange* ta' Investimenti Rikonoxxut kemm jekk le) li ġew mghoddijin jew li jkunu se jiġu mghoddijin permezz tal-faċilitajiet taghha, u l-proċeduri ghar-rappurtar ta' tali transazzjonijiet;

(h) ikunu stabbiliti proċeduri adegwati biex jiżguraw konformità mill-*Exchange* ta' Investimenti Rikonoxxut mar-regolamenti u/jew direttivi kollha li hi soġġetta għalihom;

(i) ikunu ttiehdu miżuri adatti biex inaqqsu l-possibiltà li faċilitajiet ta' l-*Exchange* ta' Investimenti Rikonoxxut jistgħu jintużaw għal skop konness ma' abbuż tas-suq, negozju bis-sahha ta' informazzjoni minn ġewwa, jew xi reat kriminali iehor, u biex ihaffu l-kxif taghhom u jikkontrollaw kontinwament l-incidenta taghhom;

(j) ir-regoli taghha jkunu jipprovdu għall-applikazzjoni ta' l-artikolu 17 subartikoli (2) u (3) u l-artiklu 18 ta' l-Att f'kull ċirkustanza meta sospensjoni ta' kkwotar hija ordnata mill-*Exchange* ta' Investimenti Rikonoxxut; u

(k) isiru arrangamenti sodisfaċenti għall-harsien u amministrazzjoni ta' assi li jkunu proprjetà ta' dawk li jużaw dawk il-faċilitajiet, meta rilevanti.

(3) Meta tqis jekk il-htigiet f'(1) u (2) (a) hawn qabel humiex sodisfatti, l-Awtorità Kompetenti tista', bla hsara għall-ġeneralita' tas-setgħat taghha, tqis ċ-ċirkustanzi li ġejjin f'relazzjoni ma' *Exchange* ta' Investimenti Rikonoxxut:

(a) l-addattabilità tal-kriterji ghas-shubija applikati mill-*Exchange* ta' Investimenti Rikonoxxut u l-applikazzjoni ta' tali kriterji b'mod oġġettiv u b'manjiera mhux diskriminatorja;

(b) il-mizuri maħsuba biex jimpedixxu l-użu tal-faċilitajiet tagħha għal skopijiet abużivi u mhux xierqa;

(c) il-mezzi ta' harsien maħsubin biex iharsu lill-investituri kontra frodi jew imġieba hażina, nuqqas ta' hsieb, negliġenza jew inkompetenza minn dawk li jużaw il-faċilitajiet tagħha;

(d) dawk l-arranġamenti maħsuba biex dawk li jużaw il-faċilitajiet tagħha jkunu jistgħu jikkontrollaw il-hin kollu l-użu tagħhom u jqajmu mistoqsijiet dwar l-użu ta' dawk il-faċilitajiet li jkunu rrapportati li għamli;

(e) arranġamenti biex dawk li jużaw il-faċilitajiet tagħha jkunu jistgħu jikkonformaw mal-htigiet regolatorji jew legali rilevanti;

(f) arranġamenti maħsubin biex inaqqsu r-riskju li l-faċilitajiet jintużaw b'modi li huma inkompatibbli ma' htigiet regolatorji jew legali rilevanti;

(g) regoli u proċeduri adottati għall-projbizzjoni ta' abbuż tas-suq, negozju bis-saħha ta' informazzjoni minn ġewwa jew xi forma oħra ta' prattiki ta' negozju abużivi minn dawk li jużaw il-faċilitajiet tagħha;

(h) arranġamenti u prattiki li jagħtu lill-membri u klijenti l-okkażjoni li jġibu l-aħjar prezz li jista' jingieb f'dak il-waqt għad-daqs u xorta tan-negozju tagħhom;

(i) arranġamenti u prattiki li jiżguraw trasparenza suffiċjenti qabel u wara negozju, waqt li jitqiesu l-prattiki fis-swieq u sistemi ta' negozju wżati;

(j) proċeduri li jagħtu hila lill-*Exchange* ta' Investimenti Rikonoxxut li tinfluwenza kondizzjonijiet tan-negozju jew ma tkomplix jew tissospendi n-negozju mill-ewwel meta hu meħtieġ biex iżzomm suq ordnat.

(4) Meta tikkunsidra jekk "suq adatt" ikunx jeżisti għall-finijiet tal-paragrafu (2) (b) hawn qabel, l-*Exchange* ta' Investimenti Rikonoxxut tista', bla hsara għall-generalita` tas-setgħat tagħha, tqis iċ-ċirkustanzi li ġejjin f'relazzjoni ma' istrument:

(a) l-eżistenza ta' numru suffiċjenti ta' persuni li diġà għandhom l-istrument jew huma interessati li jinnegozjaw fih biex johlqu forzi adegwati ta' provvista u domanda;

(b) safejn hemm limitazzjonijiet f'relazzjoni mal-persuni li jista' jkollhom istrument jew jinnegozjaw fih jew l-ammont ta' l-istrument li jista' jkun għand persuna;

(c) jekk hemmx informazzjoni adegwata fil-qasam pubbliku biex il-partecipanti fis-suq ikunu jistghu jaslu ghal għudizzju raġonevolment infurmat dwar il-valur ta' l-istrument u r-riskji assoċjati mieghu;

(d) l-adattabilità ta' tali istrument għal investituri jew klassi ta' investituri.

Kxif ta' informazzjoni minn min johroġ titoli

6. (1) *L-Exchange* ta' Investimenti Rikonoxxut għandha tiżgura li kull min johroġ titoli biex ikunu negozjati fiha huwa soġġett għal htigiet dwar kxif ta' informazzjoni adegwata fir-relazzjoni ma' tali titoli u li dawk il-htigiet ikunu implimentati kif għandu jkun f'kull waqt bl-iskop li jiżguraw li kull informazzjoni rilevanti tiġi mgħoddija kif għandu jkun lill-investituri.

(2) Ir-regoli ta' *l-Exchange* ta' Investimenti Rikonoxxut għandhom jagħmluha possibbli lill-*Exchange* ta' Investimenti Rikonoxxut, fil-każ ta' nuqqas ta' xi hadd li jkun hareġ titoli li jikkonforma ma' l-obbligi li jikxef, u fuq struzzjonijiet speċifiċi ta' l-Awtorità dwar l-Elenku għal dak l-iskop:

(a) li twaqqaf l-ammissjoni tat-titoli rilevanti milli jkunu negozjati;

(b) li tissospendi n-negozju tat-titoli rilevanti;

(c) li tippubblika l-fatt li dak li hareġ it-titoli naqas milli jikkonforma ma' l-obbligi tal-kxif ta' informazzjoni; u

(d) li tippubblika hija stess kull informazzjoni li dak li hareġ it-titoli naqas li jippubblika.

Dan il-paragrafu hu bla hsara għall-htigiet li hemm fil-paragrafu 5(2)(c) hawn fuq.

Promozzjoni u żamma ta' standards

7. (1) *L-Exchange* ta' Investimenti Rikonoxxut għandha tkun kapaċi u lesta li tippromwovi u iżomm standards għolja ta' integrità u negozju ġust fit-tmexxija ta' attivitajiet minn persuni fil-kors ta' l-użu tal-facilitajiet ipprovduti mill-*Exchange* ta' Investimenti Rikonoxxut.

(2) *L-Exchange* ta' Investimenti Rikonoxxut għandha tkun kapaċi u lesta li tikkoopera, billi taqşam informazzjoni jew b'mod ieħor, ma' l-Awtorità Kompetenti, u ma' kull awtorità, korp jew persuna oħra li għandhom responsabbiltà għas-superviżjoni jew regolamentazzjoni ta' xi attività jew servizz finanzjarju ieħor regolat, jew ma' regolatur barrani.

(3) Għall-finijiet tad-disposizzjoni ta' qabel din, l-*Exchange* ta' Investimenti Rikonoxxut għandu jkollha arrangamenti adatti mal-membri tagħha li tkun f'qagħda li tista' tikseb informazzjoni konfidenzjali mill-membri tagħha u tghaddi tali informazzjoni lill-Awtorità Kompetenti u lil korpi adatti oħra u, b'mod partikolari, tghin u tikkollabora ma' l-Awtorità Kompetenti bla dewmien biex twieġeb għal talba speċifika bil-miktub riċevuta mill-Awtorità Kompetenti fil-kors tal-qadi tal-funzjonijiet tagħha skond il-liġi.

Regoli, regolamenti u konsultazzjoni

8. (1) L-*Exchange* ta' Investimenti Rikonoxxut għandha tiżgura li proċeduri adatti jkunu adottati biex tagħmel regoli jew regolamenti, biex iżzomm ir-regoli jew regolamenti tagħha taħt konsiderazzjoni, u biex temendhom.

(2) Il-proċeduri li hemm riferenza għalihom fid-dispożizzjoni ta' qabel għandhom jinkludu proċeduri għall-konsultazzjoni ma' dawk li jużaw il-faċilitajiet ta' l-*Exchange* ta' Investimenti Rikonoxxut f'każijiet li jitolbu dan.

(3) Minghajr preġudizzju għall-ġeneralità tal-paragrafu (1) hawn qabel, l-*Exchange* ta' Investimenti Rikonoxxut għandha tiżgura li r-regolamenti tagħha jindirizzaw, il-hin kollu, kull wahda mill-materji li ġejjin:

- (a) Amministrazzjoni ta' l-*Exchange* ta' Investimenti Rikonoxxut;
- (b) Kriterji għall-akkwist, żamma u sospensjoni ta' jew skwalifika minn shubija;
- (c) Kondotta xierqa ta' regoli ta' negozju;
- (d) Kriterji għall-awtorizzazzjoni ta' persuni biex jutilizzaw il-faċilitajiet ta' l-*Exchange* ta' Investimenti Rikonoxxut;
- (e) Regoli u proċeduri li jehtiegu li l-membri jfornu lill-*Exchange* ta' Investimenti Rikonoxxut b'dik l-informazzjoni u dokumentazzjoni kif tkun raġonevolment mitluba mill-*Exchange* ta' Investimenti Rikonoxxut biex tiżgura l-użu kif għandu jkun u legali tal-faċilitajiet tagħha;
- (f) Regoli u proċeduri li għandhom x'jaqsmu ma' servizzi ta' negozju, hlas u depożiti, meta huma rilevanti;
- (g) Htiġiet minimi u proċeduri għall-elenkar u negozju ta' strumenti fl-*Exchange* ta' Investimenti Rikonoxxut, inklużi htiġiet ta' elenkar kontinwu;
- (h) Regoli u proċeduri relatati ma' l-amalgamazzjoni ta' kumpanniji elenkati;

(i) Htiġiet minimi u proċeduri relatati mat-thassir mill-elenku ta' strumenti mill- *Exchange* ta' Investimenti Rikonoxxut.

(4) *L-Exchange* ta' Investimenti Rikonoxxut ghandha tikkonsulta lil dawk li jużaw il-faċilitajiet tagħha fuq arrangamenti li hi tkun qed tipproponi tagħmel biex tittratta ma' dhul minn multi skond il-paragrafu 9(3) hawn isfel jew dwar bidliet li hi tkun qed tipproponi biex tagħmel f'dawk l-arrangamenti.

Dixiplina

9. (1) *L-Exchange* ta' Investimenti Rikonoxxut ghandu jkollha arrangamenti effettivi biex tikkontrolla l-hin kollu u tinforza konformità:

(a) mar-regoli u regolamenti tagħha (inklużi regoli relatati ma' transazzjonijiet fi strumenti elenkati fl-*Exchange* ta' Investimenti Rikonoxxut meta tali transazzjonijiet ma jsirux fl-*Exchange* ta' Investimenti Rikonoxxut); u

(b) ma' l-arrangamenti magħmulin minnha kif imsemmi fil-paragrafu 5(2)(e) hawn qabel.

(2) Arrangamenti magħmulin bis-sahha tal-paragrafu (1) ghandhom jinkludu proċeduri għall-investigat ta' lmenti magħmulin lill-*Exchange* ta' Investimenti Rikonoxxut dwar l-imġieba ta' persuni fil-kors ta' l-użu li jagħmlu tal-faċilitajiet ta' dik l-*Exchange* ta' Investimenti Rikonoxxut.

(3) Meta arrangamenti magħmulin bis-sahha tal-paragrafu (1) jinkludu disposizzjoni li titlob il-hlas ta' multi, ghandhom jinkludu arrangamenti biex ikun żgurat li kull ammont imhallas b'dan il-mod japplika biss b'wahda jew aktar mill-manjieri li ġejjin:

(a) biex ikopri l-ispejjeż magħmulin mill-*Exchange* ta' Investimenti Rikonoxxut fil-kors ta' l-investigazzjoni ta' ksur li dwaru l-multa tithallas, jew fil-kors ta' xi appell kontra d-deċiżjoni ta' l-*Exchange* ta' Investimenti Rikonoxxut f'relazzjoni ma' dak il-ksur;

(b) għall-benefiċċju ta' dawk li jużaw il-faċilitajiet ta' l-*Exchange* ta' Investimenti Rikonoxxut;

(ċ) għall-Iskema ta' Kumpens għall-Investimenti mwaqqfa għat-termini ta' l-Att dwar Servizzi ta' Investimenti;

(d) għal skopijiet karitattevoli.

Lmenti

10. (1) *L-Exchange* ta' Investimenti Rikonoxxut ghandu jkollha arrangamenti effettivi ghall-investigazzjoni u rizzoluzzjoni ta' lmenti li jirrizultaw mill-qadi, jew nuqqas ta' qadi, ta' xi waħda mill-funzjonijiet tagħha: Izda dak hawn qabel provdut ma jestendix għal ilmenti dwar il-kontenut ta' regoli magħmulin mill-*Exchange* ta' Investimenti Rikonoxxut.

(2) L-arrangamenti għandhom jinkludu arrangamenti biex ilment ikun investigat b'mod ġust u imparzjali minn persuna indipendenti mill-*Exchange* ta' Investimenti Rikonoxxut, u biex hi tirrapporta fuq ir-rizultat ta' l-investigazzjoni tagħha lill- *Exchange* ta' Investimenti Rikonoxxut u lil min ikun ilmenta.

(3) L-arrangamenti għandhom jagħtu lill-persuna msemmija fis-subparagrafu (2) is-setgħa li tirrikkmanda, jekk jidhrilha xieraq, li l-*Exchange* ta' Investimenti Rikonoxxut:

- (a) tagħmel hlas ta' kumpens lil min ikun għamel l-ilment,
- (b) tirrimedja l-materja li dwarha jkun sar l-ilment, jew tiehu ż-żewġ passi flimkien.

(4) Subparagrafu (2) m'għandux ikun mifhum li qiegħed jimpedixxi lill-*Exchange* ta' Investimenti Rikonoxxut milli tagħmel arrangamenti għall-investigazzjoni inizjali ta' lment immexxija mill-*Exchange* ta' Investimenti Rikonoxxut.

Regoli fil-każ ta' nuqqas fir-rigward ta' kuntratti tas-suq

11. (1) *L-Exchange* ta' Investimenti Rikonoxxut ghandu jkollha regoli għal każijiet ta' nuqqas li, fil-każ ta' membru ta' l-*Exchange* ta' Investimenti Rikonoxxut ma jkunx, jew jidher li ma jkunx, jissodisfa l-obbligi tiegħu fir-rigward ta' kuntratt wiehed jew aktar tas-suq, tagħmilha possibbli li tittiehed azzjoni fir-rigward ta' kuntratti tas-suq mhux adempiti li hu jkun wiehed mill-partijiet fihom.

(2) Ir-regoli jistgħu jawtorizzaw it-tehid ta' l-istess azzjoni jew ta' azzjoni simili dwar xi membru li jidher li x'aktarx mhux se jasal biex jissodisfa l-obbligi tiegħu fir-rigward ta' kuntratt tas-suq wiehed, jew aktar.

(3) *L-Exchange* ta' Investimenti Rikonoxxut ghandu jkollha arrangamenti adegwati biex tiżgura li l-partijiet f' kuntratt jiġu notifikati kemm jista' jkun malajr bin-nuqqas, l-identità tal-partijiet l-oħra fil-kuntratt, u b'kull deċiżjoni meħuda taht ir-regoli dwar kuntratti li jkunu parti fihom.

Kooperazzjoni ma' awtoritajiet oħra

12. L-*Exchange* ta' Investimenti Rikonoxxut ghandha tkun kapaċi u lesta li tikkoopera, billi taqsam informazzjoni jew b'xi mod ieħor, ma' xi awtorità jew korp ieħor li ghandu responsabbiltà dwar kull materja li tirrizulta minn, jew li tkun konnessa ma', nuqqas ta' membru ta' l-*Exchange* ta' Investimenti Rikonoxxut.

L.N. 3 of 2003

**FINANCIAL MARKETS ACT
(CAP. 345)**

**Recognised Investment Exchange
(Recognition Requirements) Regulations, 2003**

IN exercise of the powers vested in him by article 3 of the Financial Markets Act, the Minister of Finance, acting upon the advice of the Malta Financial Services Authority as the Competent Authority has made the following regulations:-

1. (1) The title of these regulations is the Recognised Investment Exchange (Recognition Requirements) Regulations, 2003. Title and commencement.

(2) These regulations shall come into force on the 3rd January 2003.

2. In these regulations: Interpretation.

“Act” means the Financial Markets Act and the words and expressions used shall have the same meaning as is given to them in the said Act, unless otherwise defined herein; Cap. 345.

“applicant” means a person who has submitted an application to the Competent Authority to become a Recognised Investment Exchange;

“instrument” shall have the same meaning as that provided in the Investment Services Act ; Cap. 370.

“Recognised Investment Exchange” shall mean a person in respect of whom the Competent Authority has issued a recognition order;

“Schedule” means the Schedule to these regulations.

3. (1) The Schedule sets out the recognition requirements which must be satisfied by an applicant if it is to qualify as a Recognised Investment Exchange and which must be satisfied by each Recognised Investment Exchange on a continuing and ongoing basis if it is to remain a Recognised Investment Exchange Recognition requirements.

(2) The burden of proving to the Competent Authority that the recognition requirements have been or are being properly satisfied rests exclusively on the applicant or the Recognised Investment Exchange, as the case may be.

Satisfaction of
recognition
requirements.

4. (1) In considering whether an applicant or a Recognised Investment Exchange satisfies the recognition requirements applying to it under these regulations, the Competent Authority may take into account any other circumstances that it may deem relevant in each particular case.

(2) An applicant or a Recognised Investment Exchange may satisfy recognition requirements applying to it under these regulations by entering into an agreement to the satisfaction of the Competent Authority for any functions specified in the said agreement to be performed on its behalf by another person.

(3) An agreement of the kind mentioned in subregulation (2) above shall be made in writing, and entered into between an applicant or a Recognised Investment Exchange, as the case may be, and the person who is to perform any functions on behalf of such applicant or Recognised Investment Exchange. Such agreement shall be executed by duly authorised officials of the governing body of the respective entities.

(4) Where an applicant or a Recognised Investment Exchange enters into any agreement of the kind mentioned in subregulation (2) above, any such agreement shall not affect the responsibility imposed by the Act on such applicant or Recognised Investment Exchange to satisfy recognition requirements applying to it under these regulations.

(5) The liability of the Recognised Investment Exchange for any breaches of the recognition requirements or any other regulations or directives issued under the Act, shall not be affected or reduced as a result of the Recognised Investment Exchange entering any agreement of the kind mentioned in subregulation (2) above.

(6) Any person who, not being a Recognised Investment Exchange, is to perform any specified function in terms of any agreement of the kind mentioned in subregulation (2) above shall be confirmed, after due verification, by the applicant or the Recognised Investment Exchange as the case may be, as being a fit and proper person being able and willing to perform such functions. This confirmation shall be made by the governing body of the applicant or Recognised Investment Exchange, as the case may be, in the form of a written declaration to

that effect which shall be submitted to the Competent Authority together with a duly authenticated true copy of the relevant agreement of the kind mentioned in subregulation (2) above .

(7) Notwithstanding anything in the foregoing, the Recognised Investment Exchange shall be responsible towards the Competent Authority for the supervision of the proper performance of any functions performed by any person throughout any such period that any agreement of the kind mentioned in subregulation (2) above shall remain in force.

SCHEDULE

PART I - RECOGNITION REQUIREMENTS

Financial resources

1. (1) The Recognised Investment Exchange must have financial resources sufficient for the proper performance of its functions.

(2) Without prejudice to the generality of the foregoing, each Recognised Investment Exchange shall satisfy at all times those minimum financial resources requirements and minimum financial reporting requirements that may be prescribed by the Competent Authority from time to time.

(3) In considering whether the requirement in (1) above is satisfied, the Competent Authority may, without prejudice to the generality of its powers, take into account all the circumstances in relation to a Recognised Investment Exchange, including:

- (a) any activity carried on or proposed to be carried on by the Recognised Investment Exchange;
- (b) the general, operational, legal and market risks to which it is exposed;
- (c) the amount and composition of its capital;
- (d) the amount and composition of its liquid financial assets;
- (e) the amount and composition of any other financial resources;
- (f) the financial benefits, liabilities, risks and exposures arising from its connection with any person.

Suitability

2. (1) The Recognised Investment Exchange must be a fit and proper person to perform its functions and be of good standing.

(2) In considering whether the requirements in (1) above are satisfied, the Competent Authority may, without prejudice to the generality of its powers, take into account the following circumstances in relation to a Recognised Investment Exchange:

- (a) the structure of its ownership and control;

(b) the commitment shown by its governing body to satisfying the recognition requirements and to complying with other obligations in or under the Act;

(c) its arrangements, policies and resources for fulfilling its obligations in relation to its activities as a Recognised Investment Exchange in terms of the Act or any regulations made thereunder;

(d) its arrangements for ensuring that it employs or appoints individuals who are honest and demonstrate high standards of integrity and are competent for their role;

(e) the effectiveness of its arrangements to control conflicts of interest;

(f) the independence of its compliance function from its commercial and marketing functions.

Constitution and governance

3. (1) The constitution, governance, organisational structure and management systems of the Recognised Investment Exchange must be adequate and appropriate.

(2) In considering whether the requirements in (1) above are satisfied, the Competent Authority may, without prejudice to the generality of its powers, take into account the following circumstances in relation to a Recognised Investment Exchange:

(a) the extent to which its constitution and organisation provide for effective governance;

(b) the arrangements made to ensure that its governing body has effective control over the functions of the Recognised Investment Exchange;

(c) the structure and organisation of its governing body, including the distribution of responsibilities and functions among its officers, departments, members, and committees;

(d) the access which its compliance department has to the governing body;

(e) the size and composition of its governing body including the number and responsibilities of executive and non-executive members;

(f) the number of independent members of the governing body;

- (g) the integrity and competence of its governing body and of its officers.

Systems and controls

4. (1) The Recognised Investment Exchange must ensure that all the systems and controls used in the performance of its functions are adequate and appropriate for the scale and nature of its business.

(2) Sub-paragraph (1) applies in particular to, without limitation, systems and controls concerning:

- (a) the transmission of information;
- (b) the assessment and management of risks to the performance of the functions of the Recognised Investment Exchange;
- (c) the effecting and monitoring of transactions on the Recognised Investment Exchange;
- (d) the operation of the arrangements mentioned in paragraph 5(2)(e) below; and
- (e) the safeguarding and administration of assets belonging to users of the facilities of the Recognised Investment Exchange, where relevant.

(3) In considering whether the requirements in (1) above are satisfied, the Competent Authority may, without prejudice to the generality of its powers, take into account the following circumstances in relation to a Recognised Investment Exchange:

- (a) the distribution of duties and responsibilities among its departments;
- (b) the staffing resources of its departments;
- (c) the supervisory arrangements for which each department is responsible;
- (d) the arrangements by which the governing body is able to keep the allocation of responsibilities between, and the appointment, supervision and remuneration of company officers under review;
- (e) arrangements for internal and external audit;
- (f) its information technology systems, including back-up systems to such information technology systems and its plans for action in the event of a failure of any such information technology systems;

(g) the arrangements by which it measures and controls different types of risk;

(h) arrangements for risk management procedures;

(i) arrangements under which clearing and settlement instructions arising from a transaction are entered into its systems to the point at which any rights or liabilities arising from that transaction are discharged;

(j) arrangements and processes involved in the recording of assets belonging to users of the facilities of the Recognised Investment Exchange and held by the Recognised Investment Exchange, including the recording of the identity of the owners of, and other persons being interested in, such assets;

(k) the recording of instructions given in relation to any assets belonging to users of its facilities;

(l) the recording of any action taken in fulfilment of any instructions received by the Recognised Investment Exchange in relation to any assets belonging to users of its facilities;

(m) the systems and controls designed to ensure the confidentiality of certain classes of information and the proper use of any such information.

(4) The Recognised Investment Exchange must ensure that it is able to control the performance and quality of any contractual commitments for any services or facilities that it outsources to third parties.

Safeguards for investors

5. (1) The Recognised Investment Exchange must ensure that business conducted by means of its facilities is conducted in an orderly manner and so as to afford proper protection to investors.

(2) Without prejudice to the generality of sub-paragraph (1), the Recognised Investment Exchange must, by virtue of appropriate procedures to the satisfaction of the Competent Authority, ensure that:

(a) access to the Recognised Investment Exchange's facilities is subject to criteria designed to protect the orderly functioning of the market and the interests of investors;

(b) dealings on the Recognised Investment Exchange are limited to instruments in which there is a proper market;

(c) appropriate arrangements are made for price-sensitive information to be made available (whether by the Recognised Investment Exchange or, where appropriate, by issuers of the instruments) to the public;

(d) appropriate arrangements are made for price-sensitive information to be stored, protected and published or otherwise made available (whether by the Recognised Investment Exchange or, where appropriate, by issuers of the instruments) to the public;

(e) satisfactory arrangements are made for securing the timely discharge of the rights and liabilities of the parties to transactions effected on the Recognised Investment Exchange (being rights and liabilities in relation to those transactions);

(f) appropriate arrangements are made for the matching of transactions effected on or through the Recognised Investment Exchange;

(g) satisfactory arrangements are made for recording transactions effected on the Recognised Investment Exchange, and transactions (whether or not effected on the Recognised Investment Exchange) which are cleared or to be cleared by means of its facilities, and the procedure of reporting such transactions;

(h) adequate procedures are established to ensure compliance by the Recognised Investment Exchange with all the regulations and/or directives to which it is subject;

(i) appropriate measures are adopted to reduce the extent to which the facilities of the Recognised Investment Exchange can be used for a purpose connected with market abuse, insider dealing or any other criminal offence, and to facilitate their detection and monitor their incidence;

(j) its rules provide for the application of article 17 sub-articles (2) and (3) and article 18 of the Act in any circumstances where a suspension of listing is ordered by the Recognised Investment Exchange; and

(k) satisfactory arrangements are made for the safeguarding and administration of assets belonging to users of those facilities, where relevant.

(3) In considering whether the requirements in (1) and (2) (a) above are satisfied, the Competent Authority may, without prejudice to the generality of its powers, take into account the following circumstances in relation to a Recognised Investment Exchange:

(a) the suitability of the criteria for membership applied by the Recognised Investment Exchange and the application of such criteria in an objective and non-discriminatory manner;

(b) the measures designed to prevent the use of its facilities for abusive or improper purposes;

(c) the safeguards designed to protect investors against fraud or misconduct, recklessness, negligence or incompetence by users of its facilities;

(d) those arrangements designed to enable users of its facilities to monitor their use thereof and raise queries about any use of those facilities which they are reported to have made;

(e) arrangements to enable users of its facilities to comply with any relevant regulatory or legal requirements;

(f) arrangements designed to reduce the risk that its facilities will be used in ways which are incompatible with relevant regulatory or legal requirements;

(g) rules and procedures adopted for the prohibition of market abuse, insider dealing and any other form of abusive trading practices by users of its facilities;

(h) arrangements and practices enabling members and clients to obtain the best price available at the time for their size and type of trade;

(i) arrangements and practices ensuring sufficient pre- and post-trade transparency, taking account of the practices in those markets and the trading systems used;

(j) procedures enabling the Recognised Investment Exchange to influence trading conditions or discontinue or suspend trading promptly when necessary to maintain an orderly market.

(4) In considering whether a “proper market” exists for the purposes of paragraph (2) (b) above, the Recognised Investment Exchange may, without prejudice to the generality of its powers, take into account the following circumstances in relation to an instrument:

(a) the existence of a sufficient number of persons already holding the instrument or interested in dealing in it to bring about adequate forces of supply and demand;

(b) the extent to which there are any limitations in relation to the persons who may hold or deal in the instrument or the amount of the instrument which may be held;

(c) whether there is adequate information in the public domain to enable market participants to make a reasonably informed judgement about the value of the instrument and the risks associated with it;

- (d) the suitability of such instrument for any investor or class of investors.

Disclosure by issuers of securities

6. (1) The Recognised Investment Exchange must ensure that any issuers whose securities are traded thereon are subject to satisfactory disclosure requirements in relation to such securities and that these requirements are properly implemented at all times for the purpose of ensuring that all relevant information is properly disclosed to investors.

(2) The rules of the Recognised Investment Exchange must enable the Recognised Investment Exchange, in the event of a failure by an issuer to comply with the obligation of disclosure, or upon the specific instructions of the Listing Authority to that effect:

- (a) to discontinue the admission of the relevant securities to trading;
- (b) to suspend trading in the relevant securities;
- (c) to publish the fact that the issuer has failed to comply with the obligation of disclosure; and
- (d) to make public itself any information which the issuer has failed to publish.

This paragraph is without prejudice to the requirement in paragraph 5(2)(c) above.

Promotion and maintenance of standards

7. (1) The Recognised Investment Exchange must be able and willing to promote and maintain high standards of integrity and fair dealing in the carrying on of activities by persons in the course of using the facilities provided by the Recognised Investment Exchange.

(2) The Recognised Investment Exchange must be able and willing to cooperate, by the sharing of information or otherwise, with the Competent Authority, and with any other authority, body or person having responsibility for the supervision or regulation of any regulated activity or other financial service, or with an overseas regulator.

(3) For the purposes of the foregoing provision the Recognised Investment Exchange must have appropriate arrangements with its members enabling it to obtain confidential information from its members and to disclose such information to the Competent Authority and other appropriate bodies and in particular, to assist and collaborate with the Competent Authority without delay in response to a specific written

request received from the Competent Authority in the performance of its functions according to law.

Rules, bye-laws and consultation

8. (1) The Recognised Investment Exchange must ensure that appropriate procedures are adopted for it to make rules or bye-laws, for keeping its rules or bye-laws under review, and for amending them.

(2) The procedures referred to in the foregoing provision must include procedures for consulting users of the Recognised Investment Exchange's facilities in appropriate cases.

(3) Without prejudice to the generality of paragraph (1) above, the Recognised Investment Exchange must ensure that its bye-laws address, at all times, each of the following matters:

- (a) Administration of the Recognised Investment Exchange;
- (b) Criteria for the acquisition, retention and suspension of and disqualification from membership;
- (c) Appropriate conduct of business rules;
- (d) Criteria for the authorisation of persons to utilise the facilities of the Recognised Investment Exchange;
- (e) Rules and procedures requiring its members to furnish the Recognised Investment Exchange with such information and documentation as may be reasonably required by the Recognised Investment Exchange to ensure the proper and lawful use of its facilities;
- (f) Rules and procedures relating to trading, settlement and depository services, where relevant;
- (g) Minimum requirements and procedures for the listing and trading of instruments on the Recognised Investment Exchange, including continuing listing requirements;
- (h) Rules and procedures relating to the amalgamation of listed companies;
- (i) Minimum requirements and procedures relating to the de-listing of instruments from the Recognised Investment Exchange.

(4) The Recognised Investment Exchange must consult users of its facilities on any arrangements it proposes to make for dealing with penalty income in accordance

with paragraph 9(3) below or on any changes which it proposes to make to those arrangements.

Discipline

9. (1) The Recognised Investment Exchange must have effective arrangements for monitoring and enforcing compliance with:

(a) its rules and bye-laws (including rules in relation to transactions in instruments listed on the Recognised Investment Exchange where such transactions are not effected on the Recognised Investment Exchange); and

(b) the arrangements made by it as mentioned in paragraph 5(2)(e) above.

(2) Arrangements made pursuant to paragraph (1) must include procedures for investigating complaints made to the Recognised Investment Exchange about the conduct of persons in the course of using the facilities of that Recognised Investment Exchange.

(3) Where arrangements made pursuant to paragraph (1) include provision for requiring the payment of penalties, they must include arrangements for ensuring that any amount so paid is applied only in one or more of the following ways:

(a) towards meeting expenses incurred by the Recognised Investment Exchange in the course of the investigation of the breach in respect of which the penalty is paid, or in the course of any appeal against the decision of the Recognised Investment Exchange in relation to that breach;

(b) for the benefit of users of the facilities of the Recognised Investment Exchange;

(c) towards the Investment Compensation Scheme set up in terms of the Investment Services Act;

(d) for charitable purposes.

Complaints

10. (1) The Recognised Investment Exchange must have effective arrangements for the investigation and resolution of complaints arising in connection with the performance of, or failure to perform, any of its functions:

Provided that the foregoing does not extend to complaints about the content of rules made by the Recognised Investment Exchange.

(2) The arrangements must include arrangements for a complaint to be fairly and impartially investigated by a person independent of the Recognised Investment Exchange, and for him to report on the result of his investigation to the Recognised Investment Exchange and to the complainant.

(3) The arrangements must confer on the person mentioned in sub-paragraph (2) the power to recommend, if he thinks it appropriate, that the Recognised Investment Exchange:

- (a) makes a compensatory payment to the complainant;
- (b) remedies the matter complained of, or takes both of those steps.

(4) Sub-paragraph (2) is not to be construed as preventing the Recognised Investment Exchange from making arrangements for the initial investigation of a complaint to be conducted by the Recognised Investment Exchange.

Default rules in respect of market contracts

11. (1) The Recognised Investment Exchange must have default rules which, in the event of a member of the Recognised Investment Exchange being or appearing to be unable to meet his obligations in respect of one or more market contracts, enable action to be taken in respect of unsettled market contracts to which he is a party.

(2) The rules may authorise the taking of the same or similar action in relation to a member who appears to be likely to become unable to meet his obligations in respect of one or more market contracts.

(3) The Recognised Investment Exchange must have adequate arrangements for ensuring that parties to the contract are notified as soon as reasonably practicable of the default, the identity of the other parties to the contract and of any decision taken under the rules in relation to contracts to which they are a party.

Cooperation with other authorities

12. The Recognised Investment Exchange must be able and willing to cooperate, by the sharing of information or otherwise, with any other authority or body having responsibility for any matter arising out of, or connected with, the default of a member of the Recognised Investment Exchange.

