

L.N. of 2023

**MALTA FINANCIAL SERVICES AUTHORITY ACT
(CAP. 330)**

Recovery and Resolution (Amendment No. 2) Regulations, 2023

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: -

Citation.

S.L. 330.09

1. The title of these regulations is the Recovery and Resolution (Amendment No. 2) Regulations, 2023 and they shall be read and construed as one with the Recovery and Resolution Regulations, hereinafter referred to as the “the principal regulations.”

Amends regulation 2 of the principal regulations

2. In sub-regulation (1) of regulation 2 of the principal regulations, immediately after the definition “director”, there shall be added the following new definition:

“DORA Regulation” means Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009. (EU) No 648/2012. (EU) No 600/2014 and (EU) No 909/2014 and (EU) 2016/1011, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder; ”.

Amends regulation 10 of the principal regulations.

3. Regulation 10 of the principal regulations shall be amended as follows:

(a) paragraph (c) of sub-regulation (7) shall be substituted by the following:

“(c) a demonstration of how critical functions and core business lines could be legally and economically separated, to the extent necessary, from other functions so as to ensure continuity and digital operational resilience upon the failure of the institution.”;

(b) paragraph (q) of sub-regulation (7) shall be substituted by the following:

“(q) a description of essential operations and systems for maintaining the continuous functioning of the institution’s operational processes, including network and information systems as referred to in the DORA Regulation.”

Amends the Schedule annexed to the principal regulations

4. The Schedule annexed to the principal regulations shall be amended as follows:

(a) paragraph (16) of Section A thereof, shall be substituted by the following:

“(16) arrangements and measures necessary to maintain the continuous functioning of the institution’s operational processes, including network and information systems that are set up and managed in accordance with the DORA Regulation.”;

(b) paragraph (14) of Section B thereof, shall be substituted by the following:

“(14) an identification of the owners of the systems identified in paragraph (13), services level agreements related thereto, and any software and systems or licences, including a mapping to their legal entities, critical operations and core business lines as well as an identification of critical ICT third-party services providers as defined in Article 3, point (23) of the DORA Regulation.”;

(c) immediately after paragraph (14) of Section B thereof, there shall be added the following new paragraph:

“(14a) the results of institutions’ digital operational resilience testing under the DORA Regulation.”;

(d) paragraph (4) of Section C thereof, shall be substituted by the following:

“(4) the extent to which the service agreements, including contractual arrangements on the use of ICT services, that the institution maintains are robust and fully enforceable in the event of resolution of the institution.”;

(e) immediately after paragraph (4) of Section C thereof, there shall be added the following new paragraph:

“(4a) the digital operational resilience of the network and information systems supporting critical functions and core business lines of the institution, taking into account major ICT-related incident reports and the results of digital operational resilience testing under the DORA Regulation.”.