Qorti ta' l-Appell
(Kompetenza Inferjuri)

Imħallef Anthony Ellul

Appell numru:- 26/2018

Finco Treasury Management Ltd. għall-kont u benefiċċju tal-Provinċjal Maltija tal-Agostinjani

Finco Treasury Management Ltd. għall-kont u benefiċċju tas-Salezjani ta' Don Bosco, Malta

Finco Treasury Management Ltd. għall-kont u benefiċċju tal-ġid ta' Saviour Brincat, ID 0731128M u Violet Brincat, ID 0555229M

Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Joseph Caruana, ID 0189352M u Janet Caruana, ID 0395404L

Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Anthony Galea, ID 0404735M

Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Secureline Technology Ltd., C22385

Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Maria Muscat, ID 0886839M

Finco Treasury Management Ltd. għall-kont u benefiċċju ta' Maria Stella Salomone, ID 0734446M

Finco Treasury Management Ltd. għall-kont u benefiċċju ta' 59 benefiċjarji oħra li huma: Abela Mario, Mosta, ID 14358M Abela Maurizio, ID 0298174M, Abela Saviour, ID 0559546M, Agius Josephine u Catherine, ID 801546M u 926146M, Aquilina Mario, ID 551855M, Aquilina Anna, ID 0316360M, Attard Montalto H & T, ID 0150350M u 710752M, Attard Montalto H, ID 0150350M, Bannister Nicholas, ID

0169737M, Bartolo R & J, ID 1017349M u 0375749M, Bartolo R & J, A/C No. 2, ID 1017349M u 0375749M, Bonello J & R, ID 0267352M u 0066950M, Bonello Paul, ID 589858M, Borg Louis u Anette, ID 550651M u 0256315L, Borg Tonio Hon Dr, ID 0416257M, Buhagiar D & V, ID 968544M u 651151M, Camilleri Francis, A/C 2, ID 885745M, Cappello J & M, ID 081953M u 116454M, Caruana H & M, ID 49446M u 712855M, Chlykova Ioulia, Passaport Russu Nru. 713452149, Deguara L & MF (ex Christopher), ID 958947M u 745449M, Deguara L & MF (ex Christine), ID 958947M u 745449M, Deguara L & MF, ID 958947M u 745449M, Dimech Kenneth, ID 359363M, Cofircont Società Fiduciaria SpA, 2589350152, Ebejer Cettina, ID 832844M, Fabri J & R, ID 707943M u 598040M, Buhagiar Prof Louis (ex Delta), ID 430554M, Fenech Alex, ID 775358M, Fenech Angele, ID 386560M, Galea Carmel, ID 16343M, Galea Salomone Arthur, ID 299662M, Silvestri Stefano, Passaport Taljan YA0184587, Mallia Carrie, ID 0000241M, Marich Yvonne, ID 0274919M, Mercieca Angela, ID 0004359G, Mizzi Paul u Antonia, ID 29557G u 001258G, Muscat Evelyn, ID 701633M, Norraz Co Ltd, C24598, Portelli Joseph, ID 365057M, Ray Dev, ID 0517147M, Zammit Tabona Simone, ID 2004318P, Rogerson Mary, ID 653254M; Passaport UK 210052393, Passaport Malti 1076007, Rusanov Alexander, Passaport Russu PP 71 1665660, Sammut C & V, ID 235464M u 613964M, Sant Fournier Victor, ID 191037M, Scerri Mario u Giacinta, ID 530057M u 583462M, Bonello Paul, A/c 2, ID 589858M, Scicluna Francis u Pasqualina, ID 809843M u 473043M, Spiteri Joseph u Carmen, ID 186548M u 082161M, Spiteri Joseph u Josephine, ID 125868M u 441169M, Sultana David u Carmen, ID 77841G u 826139M, Tanti David u Christine, ID 345662M u 29766M, Tanti Maria u Sant Dorothy, ID 263520M u 2373965M, Tanti Maria u Tanti David, ID 263520M u 345662M, Todd Stewart u Heather, ID 312841A, Vassallo Lydia, Passaport Malti 791843, Vella Aldo u Rita, ID 0339562M u 519764M, Zorzet Marco, Passaport Taljan YA8568303,

u

Hogg Capital Investments Limited bħala *Nominee* għall-erba' benefiċjarji li huma: Abela Jesmond, ID 292665M, Farrugia Vincent, ID

696545M, Miceli Farrugia Alberto, ID 260863M, MSM Investments Limited, C25169,

u

Abela Paul, ID 0516535M, Abela Paul u Dorothy, ID 0516535M u 0243831M, Agius Anthony u Jane, ID 0582642M, 0193250M, Agius Emanuel u Carmen, ID 0582642M u 0193250M, Antignolo JW u MC, ID 0356557M u 0634856M, Aquilina Alexander, ID 0704052M, Asciak Beatrix, ID 0187738M, Attard Francis, ID 0074447M, Attard Mary, ID 0839348M, Azzopardi Carmelo u Michael, ID 0108255M u 0730558M, Azzopardi Tessie, ID 0776051M, Bartolo John u Ludgarda, ID 0268663M u 0187468M, Beck Noel, ID 0131657M, Bezzina Mario Anthony, ID 0823452M, Bondin John, ID 0940144M, Bonello Anthony u Mary Carmen, ID 0517344M u 0380448M, Bonello Lino, ID 0047332M, Bonnici Maria, (Qormi) ID 0768147M, Borg Alfred u Bernardette, ID 0337960M u 0217561M, Borg Gerald, ID 1048M, Borg Josephine, ID 0666441M, Borg Mario, ID 0446158M, Buhagiar Michelle, ID 0354455M, Callus Leonard, ID 0187940M, Camilleri Angela, ID 0342537M, Camilleri John, ID 0517465M, Caruana Anna, ID 0728857M, Cassar Maria Dolores, ID 0180334M, Cassar Mary Rose, ID 0561537M, Chetcuti Speranza, ID 0610357M, Clean Away Services Ltd, C9028, Cutajar Daniel, ID 0116696M, Cutajar Emanuela, ID 064747M, Cutajar Emanuel, ID 0359147M, Darmanin Richard, ID 0488741M, Darmanin Kissaun Roland (decd), ID 0431942M, Debono Salvu, ID 0739334M, Debrincat Mary Jane, ID 072348G, Ellul Ludgarda, ID 0231348M, Falzon Esther, (Estate of), ID 0240916M, Farrugia Carmel, ID 0863250M, Farrugia Maria, ID 0476945M, Felice Albert, ID 0390237M, Fenech Raymond u Anna, ID 0178054M u 0861154M, Filletti Joseph, ID 0236036M, Galea Philip, ID 0533758M, Gatt Generoso, ID 0692556M, Gatt Michael, ID 0519664M, Gellel Anthony, ID 0917646M, Gialanze J & C, ID 0668044M u 0490653M, Grech Stephen u Miriam, ID 0326558M u 0648059M, Grima Carmelo u Mary Doris, ID 0128944M u 0109146M, Grima Nicholas u Carmen, ID 0554154M u 0420300L, Griscti Anna, ID 0447661M, Griscti Joe, ID 0329660M, Harmsworth Charles, ID 0272751M, Inguanez Peter, ID 0649253M, Mallia Oreste, ID 0428360M, Mamo Joseph, ID 0114149M, Micallef Carmel, ID

0047153M, Micallef Carmel u Calcedonia, ID 0047153M u 0651046M, Micallef Paul u Maria Carmen, ID 0489556M u 044159M, Micallef Vella Josephine, ID 0830144M, Mifsud Catherine, ID 0340746M, Mifsud Maria Concetta, ID 01048948M, Muscat Anthony, ID 0636446M, Muscat John, ID 0140058M, Muscat John u Pauline, ID 0472757M u 0178060M, Pace Ermelinda, ID 0172249M, Pace Michael u Mary Anne, ID 0839854M u 0460260M, Pace Victor, ID 0420342M, Pullicino Patricia, ID 01045145M, Said Dr Martin ID 0305847M, Saliba Maria Assunta, ID 0800745M, Sammut Carmelo, ID 0103060M, Sammut Gaetano u Josephine, ID 0801948M u 0947149M, Sant Mary, ID 066039M, Scerri Mario, ID 0530057M, Schembri Mariano, ID 0338454M, Scicluna Paul u Anna, ID 0972046M u 0687948M, Seguna Rita, ID 0586658M, Silvio Mario, ID 0691649M, Spiteri Carmelo u Miriam, ID 0246345M u 0375349M, Vassallo Carmel u Mary Violet, ID 0489743M u 0758946M, Vella Alfred David, ID 0272567M, Vella Josianne, ID 0448070M, Vella Raymond, ID 040367M, Vidolich Paul u Carmen, ID 0636956M u 0835555M, Zammit Lupi Nicolette, ID 0425042M, Abdilla Joseph u Tessie, ID 0443750M u 0571849M, Abela Michael, ID 0762947M, Abela Nathalie, ID 0674342M proprja u bhala eredi ta' Joseph Abela (decd 28/01/2012), ID 0637433M, Agius Alfred u Josephine, ID 0448137M u 0253337M, AGL Alliance Group Ltd., C29129, Aquilina Bridgette, ID 0775257M, Azzopardi John u Gemma, ID 032848G u 019053M, Baldacchino Carmelo, ID 0636950M, Baldacchino Filippa, ID 0748249M, Baldacchino John u Marcelline, ID 0274138M u 095546M, Abela Anthony Not. bhala Ezekutur ta' Emanuel Bartolo, ID 053556M, Bonnici Brian u Josephine, ID 0408489M u 0245673M, Borg George u Imelda, ID 020548M u 0194347M, Borg George u Mary, ID 0456043M u 08244G, Borg Mary Anne Josephine, ID 0350350M, Brincat Joseph u Emanuela, ID 0487539M u 0567839M, Bugeja Angelo, ID 0783534M, Bugeja Joseph, ID 047050M, Bugeja Maria Assunta, ID 0843135M, Buhagiar Michael, ID 0136676M, Cachia Jane, ID 0462854M, Caligari Lilian, ID 053959M, Calleja Joseph, ID 0234557M, Camilleri Anthony u Grace, ID 0117052M u 065652M, Camilleri Walter, ID 0202033M, Cassar Albert, ID 0659548M, Cassar Anna, ID 0572662M, Cassar Euphrasia, ID 0681647M, Cassar Frans, ID 0627151M, Chircop John u Monica, ID 0497566M u 096563M, Ciantar Amabile u Marthese, ID 0729057M u 0627962M, Ciantar David, ID

0189479M, Ciantar Francis u Maria Rosaria, ID 0360755M u 0715853M, Colwill Martin Henry u Matthews Lewis, ID 0027586A u 002812A, Cordeiro Anna Mendes, ID 0730136M, Cuschieri Lawrence u Mary, ID 0393133M u 0304537M, Cutajar Graziella, ID 091075M, Cutajar Mario, ID 0914351M, Debono Carmelo, ID 0397646M, Debono Salvatore, ID 0474235M, Delia Paul, ID 0290444M, Demarco Grace, ID 0937547M, Demarco Michael Peter, ID 0353444M, Dimech, Peter (decd) u Maria, ID 0404449M u 0793654M, Ellul Carmen, ID 0547546M, Ellul Nicholas u Calleja Consolata u Baldacchino Mary, ID 0441858M, 0271357M u 0303054M, Fabri Agatha, ID 0441433M, Farrugia Christopher, ID 0000472M, Farrugia John Mary, ID 0361749M, Farrugia Mary, ID 0782836M, Fenech Carmel u Mary Grace, ID 0275157M u 0443358M, Filletti Raymond u Marie Therese, ID 0292858M u 0332261M, Formosa Georgina, ID 0661050M, Frendo Maurice u Iris, ID 0414346M u 0895852M, Frenznick Karlheinz u Jennifer, ID 013282A u 07268M, Galea Carmel u Antoinette, ID 0658962M u 0442362M, Galea Saviour, ID 0894151M, Gauci Marian, ID 0556556M, Giordmaina Victoria, ID 0757445M, Grech Stephen, ID 0120072M, Grima Mark Anthony, ID 0594255M, Hannon Paula, ID 0431878M, Hefford neè Borg Micolina, ID 0206276M, Hollier David u Rita, ID 0855854M u 0107959M, Lanzon Pauline, ID 0255345M, Lanzon Victor, ID 047445M, Magro Emanuel u Antoinette, ID 0132149M u 0241949M, Magro Emanuel, ID 0132149M, Mercieca James u Yvonne, ID 0205158M u 0356161M, Micallef Maria Dolores, ID 0420224M, Micallef Joseph u Phyllis, ID 0232460M u 0108362M, Mifsud Carmel, ID 0217163M, Mizzi Paul, ID 0602149M, Muscat Peter Paul u Antonia, ID 0614433M u 0034438M, Muscat Pio u Vittoria, ID 0828834M u 0645838M, O'Flaherty Albert, ID 0925545M, Pace Lawrence u Rita, ID 0368661M u 0278066M, Palmier Vincent u Marie Josette, ID 0427950M u 0639754M, Pisani Emanuel u Maria Dolores, ID 0048955M u 0746256M, Pizzuto Anthony, ID 0089253M, Pool Vanessa, ID 0274671M, Rizzo Frank, ID 0763345M, Saliba Chev John (decd) u Margaret, ID 0396235M u 0570641M, Sammut Emanuel, ID 0984150M, Scerri Carmelo, ID 042145G, Sciberras Philip u Ruth Rose, ID 0326161M u 0118365M, Scifo Vincenzo, ID 0571746M, Spiteri Andrew u Josephine, ID 0900445M u 0763138M, Spiteri Mary Carmen, ID 0025153G, Sultana Carmelo, ID 0722040M, Tabone Victoria, ID 0720149M, Vella Alfred, ID 0775647M, Vella David u Carmen, ID

0313358M u 0117660M, Warrington Dawn, ID 0387885M, Zammit Andrew u Josephine, ID 0985648M u 0759259M, Zammit Emanuel u Maria Antoinette, ID 0412353M u 0219755M, Zammit Nazzarena, ID 0134034M, Zammit Montebello Frank u Shelagh, ID 0383245M u 0038103L, Agius Carmel sive Lino, ID 0554845M, Agius Thomas, (Estate of), ID 0136222M, Amato Mark Anthony, ID 0367368M, Apap Ray u Zammit J u Xuereb C, ID 0767357M, 0647256M u 0102421M, Aquilina Anthony u Giovanna, ID 0646829M u 0193233M, Attard Peter u Josephine, ID 0160287M u 01235375M, Barbara Louis u Clementina, ID 0420547M u 0506448M, Bezzina Alfred, ID 0475137M, Bezzina Norma, ID 0477543M, Borg Richard, ID 0356572M, Brincat Victor, ID 0693752M, Buttigieg Victor, ID 0679953M, Camilleri Joseph u Tereza, ID 090162M u 047663M, Camilleri Samuel u Alison, ID 0391866M u 0466473M, Caruana Henry, ID 0319437M, Casha Anthony, ID 0506038M, Casha Anthony u Jane, ID 0506038M u 0100838M, Cassar Delia Dr Joseph u Dorothy, ID 019344M u 0651246M, Chatlani Edward, ID 0723259M, Cilia John u Mary, ID 0157944M u 0147647M, Debono Emanuel u Maria Carmela, ID 070350M u 0452251M, Degiorgio Alfred, ID 0817446M, Farrugia Jeffrey, ID 0359352M, Farrugia Joseph u Emanuela, ID 0847854M u 0094258M, Genovese Carmen, ID 0487250M, Grech Elizabeth, ID 0105746M, Guillaumier Catherine, ID 01013944M, Lowell Leslie u Marina, ID 0480345M u 0734952M, Magri Paul, ID 0272547M, Magri Philip, ID 0391554M, Pulis Gerald, Estate of, ID 027313M, Salerno Felix, ID 0421855M, Sammut Michael, ID 0054767M, Tabone Mario, ID 0007858M, Vella Spiridione, ID 044344M, Zammit Carmen, ID 0545145M, Agius Zoe, ID 01098647M, Aquilina Mary Doris, ID 0822344M, Aquilina Nicholas u Mary Carmen, ID 0656736M u 0525136M, Bartolo Alex u Dolora, ID 031851M u 0223501L, Bartolo Gaetano, ID 0832455M, Bonello Anna, (Estate of) ID 0871549M, Bonello Carmelo u Theresa bhala BoV Portfolio, No. 300002295, ID 0816643M u 501044M, Bonello Francis, ID 0877944M, Bonello Maria Antoinette, ID 0784148M, Bonnici Carmelo k/a Karmenu, ID 0083438M, Bonnici Jane, ID 0680852M, Bonnici Mary, ID 0420238M, Borg Alfred u Carmen, ID 0693548M u 0098852M, Borg Francis u Pauline, ID 0258942M, Borg George, (Estate of the late), ID 0757646M, Cachia Paul, ID 0559348M, Calleja Patrick, ID 0118961M, Camilleri Gerald, (Estate of), ID 0133317M, Cardona Dorothy, ID

0278651M, Caruana Susanna, ID 0465856M, Cauchi Ronald, ID 0519742M, Ciappara Vincenzo, ID 0353438M, Cutajar Grazio, ID 0040352M, D'Agostino Edward, ID 0352346M, Degabriele Grace, ID 0709660M, Falzon Dieter, ID 0253574M, Farrugia Anthony, ID 0996850M, Galea Paul, ID 0662938M, Gauci Carmel u Mary Grace, ID 0501762M u 0329465M, Grech Arnold u Doris, ID 0744237M u 0427135M, Grech Carmel, ID 0556630M, Grech Flavia, ID 0598444M, Grima Victor u Mary, ID 0192933M u 0413536M, Kodurand Peter D u Rose, ID 02007000P u 0337550M, Lautier Catherine, ID 0680950M, Lewis Joseph, ID 0539346M, Magro Alfred u Alfreda, ID 0533840M u 079243M, Magro Alfred, ID 0533840M, Micallef Mario, ID 0789652M, Micallef Victor, ID 0839749M, Mifsud Anthony, ID 0296148M, Mifsud Anthony u Judith, ID 0431038M u 0535640M, Mifsud John Mary, ID 0466355M, Mizzi John Baptist u Elizabeth, ID 0006050G u 0036849G, Pace Alfred, ID 0180636M, Pace Luigia k/a Aloisia, ID 0420454M, Pace Maria Dolores, ID 0702050M, Pace Mary, ID 0557247M, Pace Paul, ID 0123551M, Pace Vincent, ID 0679441M, Ransely Gordon A u Carmen, ID 0691446M u 0405948M, Rapa Espedito k/a Eddie, ID 03139G u 0543236M, Riolo Michael, ID 0668635M, Santucci Margaret, ID 0488165M, Schembri Edwin u Maria, ID 0945244M u 0852345M, Scicluna Modesta k/a Maud, ID 0143046M, Farrugia Susan, ID 69256M, f'isimha proprju u f'isem l-eredi l-ohra tal-mejtin Staines Robert u Mary Rose sive May, ID 0653625M u 0394134M, Tanti Giulio, ID 0531934M, Tanti Joseph u Josephine, ID 0728451M u 0087851M, Vassallo Francis u Carmen, ID 0072338M u 0574340M, Vella Mary, ID 0623147M, Xuereb Giulio, ID 0578242M, Xuereb John, ID 0422456M, Zammit Antonio, ID 0424348M, Zarb John u Antonia, ID 0332339M u 0583642M, Borg Charles u Valerie, ID 0221451M u 0198851M, Borg Marco, ID 0343656M, Camilleri Raymond, ID 0367961M, Ciantar Emanuel, ID 0023336M, Debono Leonard u Maria Concetta, ID 0223549M u 0210353M, Falzon Mario u Maria, ID 0200452M u 0802845M, Grech Rita, ID 0426657M, Muscat Carmel u Carmen, ID 0771253M u 0809955M, Portelli Francis, ID 0426029M, Psaila Paul, ID 0388262M, Said Anna Marie, (Estate of), ID 061860M, Sammut neè Vassallo Ruth, ID 0299074M, Shaw Mariella, ID 0406563M, Spiteri Angelo u Josephine, ID 0223255M u 0817155M, Sultana Maria Josepha, ID 0636844M, Vella Carmen, ID 057649G, Vella John, ID 040140G,

Zammit Quentin, ID 0435880M, Zerafa Joseph u Mary, ID 0315633M u 0629036M,

u

Debattista Carmel u Marthese, ID 0931651M u 0771854M, Debono Bartholomew u Josephine, ID 037455M u 0272158M, Fleri Soler Joseph, ID 0478729M, Debono Carmelo, ID 0561248M, Sister Mariella Ebejer għan-nom tal-Augustinian Sisters Servants of Jesus & Mary, Malta Province, ID 0076565M, Bajada Juliette, ID 075142M, Borg Louis u Nicolina k/a Lina Borg Vassallo, ID 0294548M u 0188648M, Micallef Leone, ID 0678853M, Scicluna Joseph u Mary Rose, ID 0322954M u 0528555M (appellati),

u

Gravino Anthony (decd) u Maria Carmela, ID 0300136M u 0225837M

u

Borg Rev Fr Valentino, ID 054655M, Friggieri Anthony, ID 0557163M, Schembri Odette, ID 0706262M, Spiteri George, ID 0366857M,

u

Borg Albert, ID 0147643M

u

Grima Joseph u Rosanna, ID 80848M u 76747M

vs

La Valette Funds SICAV p.l.c. (SV1),
Bank of Valletta p.l.c. (C2833),
Valletta Fund Management Ltd. (C 18603) li mit-22 ta' Novembru 2016 bdiet tissejjaħ BOV Asset Management Ltd
(appellanti)

10 ta' Jannar, 2020.

1. **Din is-sentenza hi b'riferenza għall-appell li ppreżenta il-Bank of Valletta plc, La Valette SICAV plc u BOV Asset Management Ltd minn deċiżjoni tal-Arbitru għas-Servizzi Finanzjarji tat-23 ta' Frar 2018 li permezz tagħha laqa' l-ilment tal-appellati Debattista u oħrajn, u *ai termini* tal-Artikolu 26(3)(ċ)(iv) tal-Kap. 555 tal-Liġijiet ta' Malta ikkundanna lill-appellanti *in solidum* bejniethom iħallsuhom il-kumpens li jissemma fl-Appendiċi X, taħt il-kolonna '*Kapital li ma tħallasx lura*' mehmuż mad-decizjoni appellata.**

2. Fit-30 ta' Ġunju, 2016 l-appellati (tlettax b'kollox) ippreżentaw l-ilment tagħhom quddiem l-Arbitru għas-Servizzi Finanzjarji (każ numru: 347/2016). Il-fatti ta' dan il-każ huma kważi kollha identiċi għal dak tal-appell deċiż illum fl-ismijiet: **Anthony Gravino et vs La Valette Funds SICAV p.l.c.** (appell numru: 23/2018). Ir-rikors tal-appell u tweġiba tal-appellat huma l-istess bħal dawk tal-appell numru 23/2018. L-istess ukoll kienu l-ilment preżentat quddiem l-Arbitru u t-tweġiba li ngħatat.

3. Fil-każ tal-lum id-differenza fil-fatti hi li l-appellati aċċettaw l-offerta tal-Bank of Valletta fi ġranet differenti matul ix-xahar ta' Ġunju, 2011 (ara '*Form of Acceptance and Transfer*' li kull wieħed iffirma). Hemm min mill-appellati aċċetta l-offerta fl-4, 16, 24, 27, 28 jew 30 ta' Ġunju, 2011. Inoltre, bis-saħħa tal-ftehim l-appellati irċevew ħlas f'ammont skont l-investiment li kellhom u n-numru ta' ismha li l-BOV xtara mingħandhom. Hemm ukoll tlieta mill-appellati li rċevew kumpens addizzjonali wara dak oriġinali li sar mill-bank wara li f'Ġunju, 2011 l-appellati aċċettaw l-offerta tiegħu. Fid-deċiżjoni l-Arbitru osserva li l-MFSA imponiet multa amministrattiva u l-bank ħallasha. Kompla:

> *"Għall-MFSA, l-Offerta ma kinitx ikkonkludiet il-każ, kif kienet l-intenzjoni tal-BOV li min jeħodha kien ikun qed iċedi kwalunkwe dritt legali kontra l-BOV. Fil-fatt permezz ta' Direttiva tat-28 ta' Ġunju 2011, l-MFSA obbliga lill-Bank biex jiżgura illi l-aċċettazzjoni ta' din l-Offerta kellha tkun mingħajr preġudizzju għal kwalunkwe dritt li wħud mill-investituri kellhom għall-kumpens jew, addirittura, jerġgħu jitpoġġew fil-qagħda finanzjarja tagħhom qabel ma investew fil-Property Fund.*
>
> *Permezz ta' ittra tal-1 ta' Ġunju 2012, l-MFSA infurmat lill-BOV li kienet se tiġi appuntata kumpannija professjonali li taġixxi b'mod indpendenti sabiex, fost affarijiet oħra, kellhla tikklasifika lill-investituri bħala dawk li kienu jikkwalifikaw għall-kumpens u oħrja li ma kinux jikkwalifikaw.*
>
> *Ġiet appuntata d-ditta ta' Mazars, li r-rapport tagħhom tlesta fil-21 ta' Jannar, 2013. L-MFSA għaddiet lista ta' investituri li, skont dan ir-rapport kellhom jingħataw kumpens, u l-BOV ħallas lil dawk l-investituri li kienu eliġibbli skont ir-rapport tal-Mazars.*

Skont dawn il-kriterji ġie deċiż min kellu jingħata kumpens u min ma kellux jingħata kumpens. Minkejja li l-BOV kien niżżel fl-Offerta li din kienet tikkonkludi l-każ għal min jaċċettaha (in full and final settlement), xorta waħda għamel ħlasijiet lil diversi investituri skont il-kriterji li stabilixxew il-Mazars.

Il-Bank of Valletta, f'isem il-Grupp, ħallas din id-differenza lil numru ta' investituri, iżda oħrajn li nstabu li kellhom "l-esperjenza" jew li t-tranzazzjoni kienet fuq bażi ta' 'Execution Only' ma ngħatawx id-differenza bejn dak li investew u l-ammont imħallas bl-Offerta jew mingħajrha".

4. Dwar dan it-tieni pagament xehed b'affidavit uffiċjal tal-BOV li qal:

> *"8. Qiegħed nirreferi wkoll għall-Independent Review ta' Marccus and Mazars Group ('Mazars') li kien iddetermina u kkonkluda liema investituri tal-La Valette Multi Manager Property Fund kellhom jiġu meqjusa bħala 'experienced investors' jew 'inexperienced investors'. Kienet l-Awtorita' għas-Servizzi Finanzjarji ta' Malta, u mhux il-Bank, li qabbdet lil Mazars sabiex jagħmel dan l-eżerċizzju. Dawk l-investituri li Mazars identifikat bħala 'inexperienced investors' kienu wkoll rċevew pagament ulterjuri ex gratia ta' Ewro 0.25 għal kull sehem. Dan il-pagament kien sar mingħajr preġudizzju għad-drittijiet tal-Bank…..".*

5. Għall-kumplament japplikaw l-istess provi u dak kollu li nkiteb japplika *mutatis mutandis* għal dan l-appell ukoll.

6. Fl-ewwel lok il-qorti tordna li ssir l-istess korrezzjoni fl-okkju skont l-ordni mogħtija fis-sentenza tal-appell numru 23/2018, u għall-istess raġuni.

7. Sabiex il-qorti tevita milli toqgħod tirrepeti dak kollu li diġa' ntqal fis-sentenza tal-appell **Anthony Gravino et vs La Valette Funds SICAV p.l.c.** (appell numru: 23/2018), tiddikjara li l-konsiderazzjonijiet *kollha* li għamlet f'dik is-sentenza japplikaw *mutatis mutandis* għal dan l-appell.

8. Hu veru li wħud mill-appellati aċċettaw l-offerta qabel l-24 ta' Ġunju, 2011 ċjoe' meta l-MFSA ħarġet ir-rapporti. Madankollu dan ma jbiddel xejn mill-konsiderazzjonijiet li għamlet din il-qorti fl-appell 23/2018 u japplikaw għal dan il-każ ukoll. Dawk li ffirmaw qabel kienu jafu x'kienet l-offerta fuq il-mejda u kienu wkoll jafu li hemm rapport preliminari tal-Awtorita' għas-Servizzi Finanzjarji ta' Malta li jissemma fl-offerta li l-BOV għamel fis-26 ta' Mejju, 2011. Madankollu xorta għażlu li jaċċettaw l-offerta. Hu veru li l-bank impona *deadline* sal-aħħar ta' Ġunju, 2011 sabiex l-investituri jaċċettaw l-offerta. Madankollu jibqa' l-fatt li min iffirma ħa l-flus li kienu offruti lilu u żammhom, u ma pproponiex kawża

sabiex jattakka l-validita tal-ftehim minħabba vizzju tal-kunsens għal xi waħda mir-raġunijiet kontemplati mil-liġi.

9. Inoltre, it-tieni pagament li sar lil tlieta mill-appellati ma ġabitx fix-xejn it-transazzjoni li saret f'Ġunju, 2011 u dan wara kollox kif inhu evidenti mill-affidavit Anatoli Grech uffiċjal tal-Bank of Valletta plc u l-ittra li bagħat l-istess bank lil min sar il-ħlas (ara paragrafu 10 tas-sentenza li ngħatat illum fl-appell numru 30.18, **Finco Treasury Management Ltd nomine et vs La Valette Funds SICAV plc et**).

Għaldaqstant, għall-istess raġunijiet li ngħataw fis-sentenza Anthony Gravino et vs La Valette Funds SICAV p.l.c. (appell numru: 23/2018) li ngħatat fis-16 ta' Diċembru 2019, tilqa' l-appell u tħassar id-deċiżjoni tal-Arbitru tat-23 ta' Frar 2018 in kwantu tirreferi għall-appellati Carmel u Marthese Debattista, Bartolomew u Josephine Debono, Joseph Fleri Soler, Carmelo Debono, sister Mariella Ebejer nomine, Juliette Bajada, Louis u Nicolina Borg Vassallo, Leone Micallef, Joseph u Mary Rose Scicluna, u tiċħad l-ilment tagħhom bl-ispejjeż kontrihom.

Anthony Ellul.