

CHAPTER 204
CENTRAL BANK OF MALTA ACT

To make provision for the establishment of a Central Bank of Malta and the determination of its ~~functions~~ tasks and powers and to provide for matters ancillary or incidental thereto.

17th April, 1968
7th June, 1968
1st January, 2000
XX XXXX, 2011

ACT XXXI of 1967, as amended by Acts: X and XXIX of 1968, XVII and XX of 1971, XXIV of 1972, XIX and LVIII of 1974; Legal Notice 148 of 1975; and Acts: XX of 1981, XIII of 1983, XXXVIII of 1986, XI of 1988, XIV and XXVI of 1994, XXIV of 1995, IX and XVI of 1997, XVII of 2002, III of 2004, IX of 2005, I and IV of 2007.

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PART I
PRELIMINARY

1. Short title.

The short title of this Act is Central Bank of Malta Act.

2. Interpretation.

In this Act, unless the context otherwise requires –

“Bank” means the Central Bank of Malta established by article 3;

“bank” or “credit institution” has the same meaning assigned to it by article 2 of the Banking Act and includes any branch, agency or office in Malta of a bank or credit institution not incorporated in Malta;

“Board” means the Board of Directors of the Bank established by article 7;

“business of banking” has the same meaning assigned to it by article 2 of the Banking Act;

“competent authority” means any such authority or authorities, as the case may be, nominated to regulate the business of credit institutions, financial institutions or other financial services institutions under any law listed in the Schedule of this Act;

“directive” means a directive issued by the Bank under this Act;

“director”, in relation to the Bank, includes the Governor and the Deputy Governor;

“European Central Bank” means the bank established in accordance with Article 813 of the Treaty on European Union;

“European Union” or “Union” means the European Union referred to in the Treaties;

“financial institution” has the same meaning assigned to it by article 2 of the Financial Institutions Act and includes any branch in Malta of an institution not incorporated in Malta;

“Governor” and “Deputy Governor” mean respectively the Governor and the Deputy Governor of the Bank appointed under article 8;

“Malta” has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

“Member State” means a State which is a member of the European Union;

Cap. 371

Cap. 376.

“Minister” means the Minister responsible for finance;

~~“reserve assets” shall include:~~

~~foreign exchange assets comprising currency, deposits and securities in any currency other than the euro, and
monetary gold, Special Drawing Rights (SDRs) and reserve position in the International Monetary Fund;~~

“Statute” means the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty on the Functioning of the European Union;

~~“the Treaties” means the Treaty on European Union and the Treaty on the Functioning of the European Union, both signed at Lisbon on 13 December 2008 and as subsequently amended, establishing the European Community done at Rome on 25 March 1957 and as subsequently amended.~~

PART II

ESTABLISHMENT AND CONDUCT OF AFFAIRS OF BANK

3. Establishment of Bank.

- (1) There shall be a Bank to be called the Central Bank of Malta. The Bank shall form an integral part of the European System of Central Banks as established under the Treaties and shall participate in carrying out the tasks and complying with the objectives conferred upon it by the Treaties and the Statute and shall assume all rights and obligations consequential to such a status.
- (2) The Bank shall be a body corporate having a distinct legal personality and be capable, subject to provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any property for the purpose of its functionstasks, of suing and of being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions-tasks under this Act.

4. Objectives.

In accordance with the Treaties and the Statute, the primary objective of the Bank shall be to maintain price stability. Without prejudice to its primary objective, the Bank shall support the general economic policies in the UnionCommunity with a view to contributing to the achievement of the objectives of the Union-Community as laid down in Article 32 of the Treaty on European Union and shall act in accordance with the principles set out in Article-4 119 of the Treaty on the Functioning of the European Union.

5. Tasks of the Bank.

(1) In accordance with the Treaty~~iesy~~ and the Statute, the tasks of the Bank shall include the following -

- (a) to implement monetary policy;
- (b) to hold and manage ~~financial assets~~~~reserve assets~~;
- (c) to ensure the stability of the financial system;
- (d) to promote a sound and efficient payment system;
- (e) to provide for the circulation of euro bank notes;
- (f) to provide for the circulation of euro coins issued for and on behalf of the Government;
- (g) to advise the Government generally on financial and economic matters;
- (h) to compile and publish statistics as may be necessary to carry out its tasks.

(2) In accordance with the Treaty~~iesy~~ and the Statute, neither the Bank nor any member of the Board or any official of the Bank, when exercising any ~~function~~~~task~~, duty or power under this Act, shall seek or take instructions from the Government or any other body.

~~(3) The Bank may issue, amend or revoke directives as may be required for carrying into effect any of the provisions of this Act. Directives issued by the Bank shall be in the English language only.~~

6. Principal office of Bank.

The Bank shall have its principal office in Malta; it may open offices outside Malta and it may appoint agents and correspondents.

7. Board of Directors.

- (1) There shall be a Board of Directors which shall be responsible for the policy and general administration of the affairs and business of the Bank, except in relation to the ~~functions~~~~tasks~~ imposed, and the exercise of powers conferred, on the Bank by or under the Treaty~~iesy~~ or the Statute.
- (2) The members of the Board shall be the Governor, the Deputy Governor and the three other directors appointed under article 9.

8. Governor and Deputy Governor.

- (1) The Governor and the Deputy Governor shall be persons of recognised standing and experience in economic, financial or banking matters and shall each be appointed by the President of Malta, acting on the advice of the Prime Minister. They shall be appointed for a term of five years but shall be

eligible for re-appointment. They shall receive such remuneration as shall be set out in their respective letters of appointment.

- (2) (a) The Governor has the sole responsibility for the performance of the functions-tasks imposed, and the exercise of powers conferred, on the Bank by or under the Treatiesy and the Statute.

(b) Without prejudice to paragraph (a) of subarticle (2), the Governor shall be in charge of the day-to-day management and operations of the Bank in accordance with the policy of the Board and shall be answerable to the Board for his acts and decisions in this respect. The representation of the Bank in judicial proceedings shall be vested in the Governor.

- (3) The Deputy Governor shall perform such duties as the Governor may direct and, in the event of the absence of, or a vacancy in the office of, the Governor, the Deputy Governor shall perform the duties of the Governor and shall have and may exercise the powers and perform the functions-tasks of the Governor.

- (4) The Governor and the Deputy Governor shall devote the whole of their professional time to the service of the Bank and while holding that office shall not occupy any other office or employment whether remunerated or not:

Provided that they may be appointed in their capacity as Governor or Deputy Governor of the Bank, as the case may be, to sit on any board, commission or committee, by whatever name called, whether in Malta or outside Malta and provided further that such activity is not in the opinion of the Board in conflict with the performance of their duties under this Act.

- (5) The Governor and the Deputy Governor may be relieved of their office only if they no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct.

- (6) The Governor may be requested by the House of Representatives to report on the conduct of the Bank before a committee of the House of Representatives appointed for this purpose and to provide such committee with any information deemed necessary:

Provided that the Governor may not be so requested more often than once every six months.

9. Directors other than Governor and Deputy Governor.

- (1) For the purposes of this article, the term director shall exclude the Governor and the Deputy Governor.

- (2) The directors of the Bank, shall –

- (a) be appointed by the Prime Minister;

- (b) be persons of recognised standing and professional experience in economic, financial or banking affairs;
 - (c) hold office for a period of five years and on such terms and conditions as may be set out in their respective letters of appointment, and shall be eligible for re-appointment;
 - (d) be entitled to such honorarium as the Prime Minister may determine.
- (3) No person shall be appointed or shall remain a director who –
- (a) is a member of the House of Representatives;
 - (b) is a director or salaried official of an institution licensed to provide financial or banking services or holds more than one *per centum* of the ordinary paid up share capital of such institution;
 - (c) is an officer in the public service;
 - (d) under the law of any country has been adjudged bankrupt or made a composition with his creditors or is legally incapacitated or has been convicted of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud;
 - (e) holds any other position, or is otherwise in a position, which is in conflict with his duties as a director under this Act.
- (4) A director may be relieved of his office on the grounds of inability to perform the ~~functions~~ tasks of his office, or of misbehaviour; and for the purposes of this subarticle, repeated unjustified non-attendance of Board meetings may deem to amount to misbehaviour.

10. Disclosure of interest.

- (1) A Director who is directly or indirectly interested, otherwise than as a director or in common with other directors, in a contract made or proposed to be made by the Bank shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.
- (2) Any disclosure made under the preceding sub-article shall be recorded in the minutes of the Board and, after the disclosure, that director shall withdraw from the meeting while such contract is discussed or decided on by the Board.
- (3) No director shall obtain any credit accommodation from the Bank during his period of office.

11. Disqualification, resignation and filling of vacancies.

- (1) A director may resign his office on giving at least three months' notice of his intention in writing to the Prime Minister.
- (2) If a director dies, or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person shall be appointed in his place in accordance with the provisions of article 8 or 9, as the case may require.

12. Board procedure and quorum.

- (1) Meetings of the Board shall take place as often as may be required but not less frequently than ten times in each year, and there shall not be an interval greater than two months between a meeting of the Board and the next meeting.
- (2) Meetings of the Board shall be called by the Governor either on his own initiative or at the request of any two of the other directors.
- (3) The Governor shall preside as chairman at the meetings of the Board and, in his absence from any meeting, the Deputy Governor shall preside; and no decision shall be valid which is taken at a meeting of the Board at which neither the Governor nor the Deputy Governor is present.
- (4) Three members of the Board, one of whom shall be either the Governor or the Deputy Governor, shall form a quorum at any meeting.
- (5) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the directors.
- (6) Decisions shall be adopted by a simple majority of the votes of the directors present and voting. The chairman shall have an initial vote and, in the event of an equality of votes, he shall have and exercise a casting vote.
- (7) All acts done by any person acting in good faith as a director shall be as valid as if he were a director notwithstanding that some defect in his appointment or qualification be afterwards discovered. No act or proceeding of the Board shall be questioned on the ground of the contravention by a director of the provisions of article 10 (1).
- (8) Subject to the provisions of this article, the Board may regulate its own procedure.

13. Audit Committee.

The Board shall establish an Audit Committee to be chaired by one of the directors who is neither the Governor nor the Deputy Governor for the purposes of assisting it in fulfilling its responsibilities in matters related to the internal and external audit process, to the system of risk management and internal control and to the financial reporting process.

14. Staff appointments.

The appointment of officials and other employees of the Bank shall be made by the Board and on such terms and conditions as may be established by the Board.

15. Exclusion of liability.

- (1) The Bank, directors, officers or servants thereof, and any other person appointed to perform a function-task under this Act, or under any rules or regulations made thereunder, shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions-tasks under this Act, or any rules or regulations aforesaid unless the act or omission is shown to have been done or omitted to be done in bad faith.
- (2) The provisions of sub-article (1) shall also apply to the Bank and to any director, officer or servant thereof and to any other person appointed by the Bank, in the performance or purported performance of any function-task assigned to the Bank or to any director, officer, servant or other person under any other law.

16. Remuneration, etc.

No salary, fee, wage, allowance or other remuneration paid by the Bank shall be computed by reference to net or other profits of the Bank.

17. Monetary operations ~~Principal business~~ and other taskspowers of the Bank.

- (1) In accordance with the Treatiesy and the Statute, in order to achieve its objectives and to carry out its tasks, the operations of the Bank shall include the following:
 - (a) ~~to opening of~~ accounts ~~and accept and place deposits for persons~~ as provided in this Act, and, in special cases for other persons, with the prior approval of the Board, ~~to open accounts for and accept deposits from other persons~~;
 - (b) ~~to maintenance of~~ accounts with central banks or other domestic or foreign credit institutions and agents, ~~accept from, and place deposits with, any such credit institution or agent~~, and acting as correspondent, banker or agent for any central bank or other credit institution or other

monetary authority and for any international financial institution established under international treaties;

- (c) ~~to~~ subscription to, purchase, selling, discounting or re-discounting equity, debt or other financial instruments as may be approved by the Board, provided that any equity interests in an undertaking or immovable property as the Bank may in any way acquire in the course of the satisfaction of debts due to it shall be disposed of at the earliest suitable moment;
- (d) ~~to~~ issuing, purchase, selling, discounting or re-discounting financial instruments bearing the Bank's name in such form and for such terms and maturities as may be approved by the Board;
- (e) ~~to~~ granting to any credit or financial institution in Malta loans and advances against adequate security;
- (f) ~~to~~ entering into repurchase and reverse repurchase agreements; and
- (g) when it deems such action necessary to safeguard financial stability or in other exceptional circumstances, ~~to~~ granting a loan or advance to any credit institution incorporated in Malta against such forms of security as the Board may consider appropriate.

(2) In accordance with the Treaties and the Statute, credit institutions may be required to hold minimum reserves with the Bank, and to report thereon.

(3) In managing and maintaining the ~~reserve~~ financial assets, the Bank may, in accordance with the guidelines and instructions of the European Central Bank, carry out any transactions that it deems suitable, and in particular it may:

- (a) hold, manage, acquire and sell, spot and forward, all types of ~~reserve~~ financial assets and precious metals; and
- (b) carry out any type of financial transactions with domestic or foreign institutions or with international organisations, including borrowing and lending operations.

(43) The Bank may invest its staff and pension funds and other internal funds of the Bank in financial instruments approved by the Board.

(54) The Bank may purchase, acquire or lease immovable property as the Bank may consider necessary or expedient for the provision, or future provision, of premises for the conduct of its business or for other similar requirements incidental to the performance of its ~~functions~~ tasks under this Act.

- (65) Subject to any other provisions of this Act, the Bank may generally conduct business as a bank, and do all things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.
- (76) (a) The Bank shall, in the exercise of its ~~functions~~ tasks as a ~~€~~central ~~B~~bank under this Act enjoy a special privilege over any funds held in the accounts of the Bank as well as securities, precious metals or any other assets belonging to its debtors and deposited with it as well as any other funds or other assets pledged in its favour by its debtors or by third parties to guarantee the obligations of its debtors.
- (b) The special privilege granted under this subarticle shall rank before any other privilege under any other law and notwithstanding the provision of any other law the funds and other assets subject to such privilege shall be applied to the satisfaction of the debt due to the Bank before any other claim.
- (c) The Bank may, subsequent to the prior notification to the debtor, apply any such funds or assets in satisfaction of the debts due to it without the necessity of any authorisation or sanction by any court or other authority, and may also, for such purpose, dispose of any such assets so held by it or pledged in its favour and apply the proceeds from such disposal directly to satisfy its claims.
- (87) The rights of the Bank to collateral security provided to it by a debtor or other counterparty shall not be affected by the insolvency proceedings against that debtor or counterparty, and such collateral security may be realised for the satisfaction of these rights.

18. Transfer of data or informationConfidentiality

Any data or information which is transferred within the Bank and, or between the Bank and other persons or entities under the provisions of this Act or of directives issued thereunder, shall be transferable without any restriction or limitation arising under any other law, in particular but not solely related to secrecy or confidentiality, provided that such data or information shall retain its secret or confidential status for other effects and purposes.

18. Monetary Policy.

(Deleted):

~~The sole authority and responsibility within the Bank to take decisions and to perform any function task or duty or to exercise any power relating to monetary policy shall vest in the Governor who, when performing this functiontask, shall act in accordance with the powers and duties conferred by the Treaties and the Statute.~~

~~The Committee shall be constituted of such number of persons as the Governor may determine and may also include suitably qualified persons from outside the Bank~~

~~being persons who the Governor is satisfied have knowledge or experience which is likely to be relevant to the Committee's functions.~~

~~Whenever the Governor is unable, by reason of absence, ill health or any other cause to discharge the functionstasks, duties and powers referred to in this article, or where the office of the Governor is vacant, the authority and responsibility vested in the Governor under sub article (1) shall, during such inability or vacancy, vest in the Deputy Governor.~~

~~The Bank may issue, amend or revoke directives related to the implementation of monetary policy and to the management of collateral in relation to monetary policy operations.~~

PART III

FINANCIAL PROVISIONS

19. Capital and Reserves.

- (1) The Bank shall have an authorised capital of twenty million euro which shall be fully paid and shall be held exclusively by the Government.
- (2) The Bank shall maintain a General Reserve Fund which shall be of not less than twenty million euro and which shall be available for any purpose as may be determined by the Board. Whenever amounts have been drawn from the General Reserve Fund, these shall be replaced, as may be decided by the Board, from the profits of the Bank arising in subsequent years.

20. Audit.

In accordance with Article 27 of the Statute, the accounts of the Bank shall be audited by independent external auditors appointed by the Board as recommended by the European Central Bank and approved by the Council of the European Union.

21. Annual accounts.

- (1) The financial year of the Bank shall begin on the first day of January and end on the thirty-first day of December.
- (2) The Bank shall, as soon as may be but not later than three months after the close of each financial year of the Bank, transmit to the Minister –
 - (a) a copy of the annual accounts certified by auditors; and
~~— a statement of the Bank's investments; and~~
 - (b) a report on its operations during that year;

and shall publish the report referred to in paragraph (eb).

- (3) The Minister shall, as soon as may be and, in respect of the requirement of paragraph (a), not later than the first sitting of the House of Representatives after the seventh day of April –
 - (a) cause a copy of the annual accounts, ~~and of the statement~~ and of the report aforesaid to be laid before the House of Representatives; and
 - (b) cause a copy of the annual accounts of the Bank to be published in the Gazette.
- (4) The Bank shall, as soon as may be after the last working day of each month, make up and publish a return of its assets and liabilities as at the close of business on that day. A copy of the return shall be transmitted to the Minister who shall cause it to be published in the Gazette.
- (5) The Bank shall observe the standard rules of accounting and reporting as may be established by the Governing Council of the European Central Bank under Article 26(4) of the Statute.

22. Determination and allocation of profits.

(1) Subject to the following provisions of this article, the net profits of the Bank for each financial year shall be determined by the Bank after meeting all expenditure for that year and after making such provision as it thinks fit for bad and doubtful debts, depreciation in assets, contributions to staff and pension funds and all other reserves and contingencies.

(2) After such allocations as may be determined by the Bank under the provisions of sub-article (1) have been made, the remainder of the net profits established as aforesaid shall be paid to the Government.

PART IV

COLLECTION OF STATISTICAL AND OTHER INFORMATION

23. Collection of Statistical and other Information.

(1) Without prejudice to the tasks of the Bank to collect statistical information under the Treaties and the Statute and any legal acts issued thereunder, and without prejudice to the provisions of article 36 (2), the Bank may require a ~~reporting agent as defined in sub-article (3)~~any person or entity which is licensed, authorised or registered by a competent authority, any branch of a foreign legal person, or any other person or entity, as may be determined by the Bank, to provide the Bank with such statistical and other information as

the Bank may consider necessary to carry out its functions-tasks under this Act or any other Act to implement instructions or guidelines issued in terms of the Treaty and the Statute, and the Bank may enquire into and ask for clarifications of any information so provided.

- (2) It shall be the duty of every person or entity required to provide the Bank with statistical and other information to comply with such requirement, without the possibility of invoking any professional or other secrecy restrictions. It shall be the duty of every reporting agent required to provide the Bank with information as specified in subarticle (1), to comply with such requirement.

For the purpose of this article and of the following article, a “reporting agent” may include:

a credit institution licensed under the Banking Act;

*a financial institution licensed under the Financial Institutions Act;
a person licensed under the Investment Services Act;*

a person licensed to conduct business of insurance under the Insurance Business Act or a person registered or enrolled to conduct insurance intermediaries’ activities under the Insurance Brokers and other Intermediaries Act;

a person who has issued a debt security, and is not a credit institution licensed under the Banking Act or a person licensed under the Investment Services Act;

a person who has acted as an agent in connection with arranging or managing the issue of a debt security, and is not a credit institution licensed under the Banking Act or a person licensed under the Investment Services Act;

a person who holds reserve assets and liabilities or carries out cross border transactions which the Bank determines relevant to compile balance of payments statistics or to establish the balance sheet of the stock of external financial assets and liabilities for Malta, otherwise referred to as the international investment position;

a recognised investment exchange under the Financial Markets Act; or

any other person who the Bank determines, after consultation with such person, is in possession of information considered relevant to carry out its tasks under this Act.

- (3) The Bank may issue directives providing for the definition and imposition of reporting requirements, establishing the standards for transmission and accuracy of statistical and other information, and specifying the conditions under which the right to verify or to carry out the compulsory collection of statistical and other information may be exercised under the provisions of subarticle (4).

~~(4) Except as provided for under Part VIII of this Act, information collected under the provisions of this article shall be subject to the duty of professional secrecy.~~

- (4) The Bank shall have the right to verify the accuracy and quality of statistical and other information submitted under this article, and to carry out its compulsory collection. The right to verify statistical and other information or to carry out its compulsory collection shall comprise the right to:

- a. require submission of documents;
- b. examine the books and records of the persons or entities referred to in subarticle (1);
- c. take copies or extracts from such books and records; and
- d. obtain written or oral explanations.

Any reference to documents, books or records under this article includes a reference to the electronic form of any such documents, books or records.

- (5) Except as provided for under Part VIII and Part IX of this Act, information collected under the provisions of this article shall be subject to the duty of professional secrecy.
- (6) When it deems it necessary in the carrying out of its tasks under this Act and any other Act, the Bank shall prepare and publish statements, consolidating and, or aggregating statistical and other information so furnished under this article and, where necessary, under article 36(1).
- (7) The duty of any public authority to consult the National Statistics Office under article 39(2) of the Malta Statistics Authority Act (Cap. 422) when it undertakes activities with statistical implications shall not apply to the Bank in relation to the execution of its tasks under this Act.

24. Collection of Statistical Information.

~~In accordance with the Treaty and the Statute and the guidelines and instructions of the European Central Bank, the Bank may, issue directives providing for the definition and imposition of statistical reporting requirements, establishing the standards for transmission and accuracy of statistical information, and specifying the conditions under which the right to verify or to carry out the compulsory collection of statistical information may be exercised under the provisions of subarticle (2).~~

~~The Bank shall have the right to verify the accuracy and quality of the statistical information submitted under subarticle (1), and to carry out its compulsory collection. The right to verify statistical information or to carry out its compulsory collection shall comprise the right to:~~

- ~~require submission of documents;~~
- ~~examine the books and records of the reporting agent;~~
- ~~take copies or extracts from such books and records; and~~
- ~~obtain written or oral explanations.~~

~~Any reference to documents, books or records under this article includes a reference to the electronic form of any such documents, books or records.~~

~~When it deems it necessary in the carrying out of its functions under this Act, the Bank shall prepare and publish statements, consolidating and, or aggregating statistical information so furnished under this article and, where necessary, under article 36(1).~~

~~Where a reporting agent contravenes or fails to comply with a reporting requirement under the provisions of article 23 or fails to comply with a requirement contained in any directive issued under article 24 (1), the European Central Bank shall impose sanctions as set out in Article 7 of Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank.~~

(Deleted)

PART V

RELATIONS WITH GOVERNMENT

25. Adviser to Government.

The Bank shall advise the Government generally on financial and economic matters.

26. Banker to Government.

- (1) The Bank may act as banker to the Government and may open accounts for ~~and accept deposits from~~ the Government.
- (2) The Bank may open accounts for ~~and accept deposits from~~ funds, corporations and institutions controlled by the Government or established by law and act as banker to any such funds, corporations and institutions.

27. Prohibition of public sector financing.

- (1) The Bank shall not grant overdrafts or any other type of credit facility to ~~Community~~ institutions or bodies of the European Union or the government or to any public authority or bodies governed by public law, or to any public undertaking or government-owned corporation of any Member State, nor shall the Bank directly purchase their debt instruments.
- (2) Government-controlled credit institutions shall be given the same treatment as other credit institutions with regard to the supply of reserves.

28. Bank as agent for Government.

In accordance with the provisions of this Act and in conformity with its duties and ~~functionstasks~~, the Bank may act generally as agent for the Government.

29. Information to Minister.

The Bank shall keep the Minister informed of the policy of the Bank:

Provided that:

- (a) this does not result in interference with the independence of the members of the Bank's decision making bodies;
- (b) the special status of the Governor in his capacity as member of the Governing Council and General Council of the European Central Bank is fully respected; and
- (c) confidentiality requirements resulting from the Statute are observed.

PART VI

RELATIONS WITH CREDIT AND FINANCIAL INSTITUTIONS

30. Banker to credit and financial institutions.

- (1) The Bank may act as banker to credit and financial institutions in Malta and may open accounts for ~~and accepts deposits from such~~ credit ~~and financial~~ institutions.
- (2) The Bank may also open accounts ~~and place deposits~~ with credit institutions.

31. Other credit and financial institutions as agents.

(1) The Bank may ~~in exceptional circumstances~~ appoint one or more ~~other~~ credit or financial institutions in Malta to act as its agent for the issue, re-issue, exchange and withdrawal of currency notes and coins, or for other purposes, on such terms and conditions as may be agreed between the Bank and each of such ~~other~~ credit or financial institutions.

(2) The Bank may also appoint one or more agents to provide services related to the storage, authentication, processing, counting and packaging of currency notes and coins.

~~32. Deposits of credit institutions with Bank.~~

(Deleted)

~~In accordance with the Treatisesy and the Statute, credit institutions may be required to hold minimum reserves with the Bank, and to report thereon.~~

~~33. Interest rates of credit and financial institutions.~~

~~(Deleted). Notwithstanding anything else contained in any other law, credit and financial institutions may determine the rate of interest payable on deposits held by credit institutions, and the rate of interest that they may charge on loans, advances and any other credit facility as well as in the issue of debentures or debenture stock or other instruments creating or acknowledging indebtedness.~~

PART VII

PAYMENT SYSTEMS AND PAYMENT SERVICES

34. Payment systems.

- (1) *The Bank shall, in accordance with the Treaties and the Statute, oversee and regulate the operation of, and the participation in, domestic payment systems as well as any form of cash or security transactions, whether domestic or cross-border, that may be involved therein, and may itself establish and operate such a payment system.*
- (2) *No person shall organise, establish, operate or participate in a domestic payment system unless such system is approved-licensed and authorised by the Bank and, without prejudice to sub-article (3), the Bank shall have the right to order:*

- (a) *the termination and closure of a payment system which has been set up, or is being operated, without the necessary licence and authorisation, until an application for authorisation is filed and approved, and*
- (b) *the suspension or revocation of a payment system which has been licensed and authorised, but is or has been operated in breach of such licence and authorisation, or of any term or condition imposed by the Bank,*

and the person concerned shall abide by any such orders issued by the Bank.

- (3) *Any person who contravenes or fails to comply with the provisions of sub-article (2) shall be guilty of an offence and shall be liable on conviction to a fine (multa) not exceeding forty-five thousand euro or to imprisonment not exceeding two years, or to both such fine and imprisonment;*
- (4) *No proceedings for an offence under sub-article (3) shall be commenced without the consent of the Attorney General.*
- (5) *The Bank may issue, amend or revoke directives in respect of any or all of the objects mentioned in subarticle (1) including, without prejudice to the generality of the aforesaid, the regulation of licensing and authorisation of the payment systems, -the regulation of clearing houses, settlement agents and participants in payment systems as well as the legal enforceability of payments made through such systems and the collateral given in connection with the operation of such a payment system:*~~*The Bank may issue directives in respect of:*~~

~~*including, without prejudice to the generality of the aforesaid, the regulation of clearing houses, settlement agents and participants in payment systems as well as the legal enforceability of payments made through such systems and the collateral given in connection with the operation of such a payment system;*~~

~~*cross border credit transfer services provided by credit and financial institutions or by any person that by way of business executes cross border credit transfers; and*~~

~~*electronic payment services, including, but not limited to, the provision of debit and credit card, and electronic money, services;*~~

Provided that the Bank's powers to issue directives under this subarticle shall be exercised in accordance with the Treaty, ~~Article 22 of the Statute and any regulations issued thereunder, article 22 of the Statute.~~

- (6) Unless otherwise provided in the directives made in virtue of sub-article (5), payments, set-off or netting made through or within a payment system including any collateral given by a participant in connection with any such system, shall, notwithstanding any other law relating to bankruptcy or insolvency or to the regulation and enforcement of collateral or otherwise regulating the validity of such payments, set-off or netting and the giving of collateral, be final and binding on all parties thereto and may not be attacked or impugned in any court of law. To the extent specified by the Bank in directives as aforesaid, any payment order, set-off or netting made through or within a payment system by a participant and any collateral given in connection with such a system shall, notwithstanding any other law as aforesaid, not be the subject of an attachment or seizure order, nor of a warrant of prohibitory injunction issued at the request of the creditors of the participant.

- (7) *In this article and in any directive issued hereunder, unless the context otherwise requires:*

“participant” means any person, including the Bank, who participates in a payment system and may include an indirect participant approved by the Bank;

“payment system” or “system” means a formal arrangement between three or more participants, excluding the system operator of that system, a possible settlement agent, a possible central counterparty, a possible clearing house or a possible indirect participant, with common rules and standardised arrangements for the clearing, whether or not through a central counterparty, or execution of transfer orders between the participants. The Bank may also, on a case-by-case basis, designate as a payment system such a formal arrangement between two participants where the Bank considers that this is warranted on grounds of systemic risk. An arrangement entered into between interoperable systems shall not constitute a system;

~~“payment system” or “system” means a formal arrangement between three or more participants with common rules and standardised arrangements, for the execution of transfer orders between participants, including a clearing house, or for the settlement of payments relating to securities, which is approved by the Bank, and may include a payment, clearing, settlement, securities clearing, securities settlement, netting and, or, similar system. The Bank may also, on a case by case basis, designate as a payment system such a formal arrangement between two participants where the Bank considers that this is warranted on grounds of systemic risk.~~

34A. Payment services.

- (1) The Bank may, in order to promote the stable and sustainable development and provision of payment instruments, issue, amend or revoke directives which impose conditions on the provision of payment services, including, but not limited to, the provision of credit transfer, direct debit, debit and credit card services as well as, the use of cheques. The Bank may, further, through such directives impose limitations on payments conducted by means of any particular type of payment service or payment instrument or establish or limit

the discharge of certain payment obligations conducted by means of any particular type of payment service or payment instrument.

(2) The Bank is appointed as competent authority for the purposes of Article 9 of Regulation (EC) No 924/2009 of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001], and shall be responsible to monitor compliance with this Regulation and to take all the necessary measures to ensure such compliance].

35. Appeals.

Any person who:

(a) is aggrieved by decisions taken by the Bank under article 34 (2) or under any directives issued under articles 34 (5) or 34A~~article 34 (5)(a)~~;

(b) is a party to any disputes in respect of rights and obligations arising under any directives issued under articles 34(5) or 34A(1) or under the provisions of Regulation (EC) No 924/2009 of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001; or

~~(b) is a party to any disputes in respect of rights and obligations arising under any directives issued under articles 34 (5)(b) and (c) or 34A; or~~

(c) has had an administrative penalty imposed upon him pursuant to article 56~~(1)~~;

may appeal to the Financial Services Tribunal established under article 21 of the Malta Financial Services Authority Act within such period and under such conditions as established under that Act.

PART VIII

RELATIONS WITH THE COMPETENT AUTHORITY

36. Information, inspection and reporting by the competent authority.

(1) The Bank may require the competent authority to pass to it any information in the possession of or accessible to the competent authority which is necessary for the Bank in the discharge of its duties under this Act or any other Act.

(2) The Bank may, in writing, request the competent authority to inspect, verify and file a report to the Bank on any matter which the Bank may reasonably require in the exercise of its duties under this Act or any other Act and the competent authority shall comply with such request.

37. Information to competent authority.

- (1) The Bank shall pass to the competent authority any information in the possession of or accessible to the Bank when so requested by the competent authority in the exercise of its duties under any law.
- (2) The Bank shall discuss with the competent authority matters of mutual interest resulting from information collected under article 23.

38. Confidentiality.

Any information exchanged between the Bank and the competent authority shall be subject to the duty of professional secrecy.

PART IX

RELATIONS WITH INTERNATIONAL AND OTHER ORGANISATIONS

39. Participation in International Organisations.

In accordance with the Treaties and the Statute, the Bank may own shares and undertake other participations in international and national organisations and may further participate in international monetary agreements to the extent necessary to carry out its tasks and duties under the law and to fulfil its international obligations.

40. Banking Services.

The Bank may open accounts and provide banking services to international and other organisations outside Malta, including to their representative offices in Malta, as may be necessary to fulfil Malta's international obligations.

41. Disclosure of Information.

Without prejudice to any other provisions on the disclosure of information under the ~~Treaties~~ and the Statute or legal acts issued thereunder, ~~the~~ Bank may, ~~on the basis of international agreements or upon reciprocity agreements, or otherwise in order to fulfil its international obligations including in situations of instability in the financial system,~~ disclose information in its possession to international and other bodies, authorities and, or organisations, when this is required to carry out its duties under the law or to fulfil its international obligations including in situations of instability in the financial system:

Provided that the bodies, authorities and, or institutions receiving the information are obliged to use such information solely for such purposes as may be specifically agreed upon with the Bank:

Provided further that the bodies, authorities and, or institutions to which information is disclosed are subject to obligations of professional secrecy.

PART X

CURRENCY

42. Issue of euro banknotes.

The Bank shall issue euro banknotes in accordance with Article 12806 of the Treaty on the Functioning of the European Union and Article 16 of the Statute.

43. Issue of euro coins.

- (1) The Bank shall issue euro coins in Malta. In doing so, the Bank shall act as agent for the Government.
- (2) The volume of euro coins to be issued in Malta shall be subject to prior approval by the European Central Bank in terms of Article 12806 of the Treaty on the Functioning of the European Union.
- (3) The Bank shall have the sole right in Malta of issuing numismatic euro coins not intended for circulation which are legal tender only in Malta.

43A. Limitations on cash payments

Without prejudice to the Treaties and the Statute and any legal acts issued thereunder, the Bank may issue, amend or revoke directives in order to establish limitations on payments in currency notes and coins or on the ability to discharge certain obligations through the use of currency notes and coins.

44. Reference to~~Definition of~~ currency note or coin.

For the purposes of the following provisions of this Part of the Act, any reference to the terms "currency note" or "coin", shall be a reference to~~mean~~ euro banknotes or euro coins or any other note or coin, by whatever name called, which is legal tender in the country outside Malta in which it is issued.

45. Forgery and uttering of currency.

- (1) Whosoever forges any currency note or utters any forged currency note knowing the same to be forged shall be liable, on conviction, to

imprisonment for a term of not less than two years and not exceeding nine years:

Provided that where a forged currency note is uttered by a person who proves that at the time at which it came into his custody or possession he did not know the same to be forged, the punishment shall be reduced to a term of imprisonment of not less than two months and not exceeding three years.

- (2) Whosoever makes use of legal facilities or materials to manufacture any currency note in violation of the rights and conditions under which such facilities or materials are to be used shall be liable, on conviction, to imprisonment for a term of not less than two years and not exceeding ten years.

46. Possession of forged notes.

Whosoever without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the person accused) purchases or receives from any person, or has in his custody or possession, a forged currency note knowing the same to be forged shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding five years.

47. Making or having in possession paper or implements for forgery.

Whosoever without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the person accused) –

- (a) makes, uses, or knowingly has in his custody or possession, any paper intended to resemble and pass as special paper such as is provided and used for the making of any currency note, or any such special paper,
- (b) makes, uses, or knowingly has in his custody or possession, any frame, mould or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines, or devices, peculiar to and used in or on any such paper,
- (c) engraves or in anywise makes upon any plate, wood, stone, or other material or produces in electronic or digital form, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part the words, figures, letters, marks, lines, or devices, peculiar to and used in or on any currency note,
- (d) uses or knowingly has in his custody or possession any plate, wood, stone, or other material or any other electronic or digital storage device, upon which any such words, letters, figures, marks, lines, or devices, have been engraved, produced or stored in electronic or digital form, or in anywise made as aforesaid,

- (e) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines, devices, holograms or other components have been printed or in anywise made as aforesaid,

shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding five years.

48. Mutilation and defacement of euro banknotes.

Whosoever without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the accused person) mutilates, cuts, tears, or perforates with holes, any currency note or in any way defaces any currency note by writing, printing, drawing, or stamping thereon, or by attaching or affixing thereto anything in the nature or form of an advertisement, shall be liable, on conviction, to a fine (*multa*) not exceeding one hundred and fifteen euro.

49. Coinage offences.

- (1) Whosoever counterfeits or utters any counterfeit coin or, without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the accused person) lightens or impairs or melts down any coin or introduces or utters any ~~counterfeit or~~ debased coin knowing the same to be counterfeit or debased shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding nine years:

Provided that where a counterfeit or debased coin is introduced or uttered by a person who proves that at the time at which it came into his custody or possession he did not know the same to be counterfeit or debased, the punishment shall be reduced to a term of imprisonment of not less than two months and not exceeding three years.

- (2) Whosoever, without the authority of the Bank, makes or knowingly keeps in his possession any die or other instrument or machine exclusively intended for coinage shall, on conviction, be liable to imprisonment for a term of not less than nine months and not exceeding two years.

- (3) Whosoever makes use of legal facilities or materials to manufacture coins in violation of the rights or the conditions under which such facilities or materials are to be used, shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding five years.

50. Obligation to deliver counterfeit currency notes and coins to the Bank.

- (1) Notwithstanding the provisions of any other law, a person who is in possession of any counterfeit currency note or coin shall be obliged to withdraw from circulation such currency note or coin which that person

knows or has sufficient reason to believe to be counterfeit, and shall immediately deliver it over to the Bank.

- (2) A professional cash handler shall have an obligation to ensure that euro currency notes and coins which it has received and which it intends to put back into circulation are checked for authenticity and counterfeits are detected. Any counterfeits so detected shall be delivered immediately to the Bank.
- (3) Any currency note or coin which the Bank, after examination, has determined to be counterfeit may be destroyed or otherwise disposed of in such manner and under such conditions as the Bank may determine.
- (4) If, in the course of criminal proceedings, the court deems it necessary to order the destruction of counterfeit currency notes or coins, it shall consult with the Bank beforehand and shall, if and as the Bank may require, refrain from ordering their destruction and proceed to consign such currency notes or coins to the Bank for examination.
- (5) Where a professional cash handler or any other person delivers counterfeit currency notes or coins to the Bank in accordance with subarticle (1), that person shall upon request provide the Bank with information on his identity and the identity of the person through whom it received such currency notes or coins if available, as well as information on the relevant date, time and method of receipt. The provision of such information shall be considered a necessary measure in terms of paragraphs (d), (e) and (f) of article 23(1) of the Data Protection Act.
- (6) In this article, unless the context otherwise requires:

“professional cash handler” means a credit or financial institution, and within the limits of its payment activity, a payment services provider, and any other institution engaged, even if on a secondary basis, in the processing and distribution to the public of currency notes and coins, including:

- (a) *an establishment whose activity consists in exchanging currency–notes and coins of different currencies; and*
- (b) *a transporter of funds.*

50A. Power to issue directives on the authenticity and fitness checking of currency notes and coins.

The Bank, in order to protect the integrity of euro currency notes and coins, and to implement the provisions of Decision ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes and of Regulation 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation, may issue, amend or revoke directives which lay down rules and procedures on the authentication, fitness checking and recirculation of euro currency notes and coins. Without prejudice to the

generality of the aforesaid, the Bank may, in any such directives, lay down procedures to carry out on-site inspections, conduct any monitoring exercise and impose reporting requirements related to the authentication and fitness checking of euro currency notes and coins and may further impose administrative measures to ensure compliance with any such directives.

51. Reproduction of euro banknotes.

Notwithstanding anything contained in the foregoing articles, under duly warranted circumstances the Bank may, acting in accordance with the provisions of Decision ECB/2003/4 of 20 March 2003, and where it deems appropriate, provide confirmation that a reproduction of a euro banknote is lawful.

52. Jurisdiction over offenders outside Malta.

A person in Malta who has committed any of the offences stipulated in articles 45 to 49 outside Malta in relation to the euro may be charged and prosecuted for those offences before the courts in Malta and shall, on conviction, be liable to the punishment stipulated under these articles as if these offences had been committed in Malta.

53. Previous convictions outside Malta.

The courts in Malta shall, when awarding punishment to an offender for any of the offences stipulated in articles 45 to 49, including the circumstances specified under article 52, and in the case where the offences relate to the euro, consider any previous convictions and, or punishment awarded by any court outside Malta for any similar offence committed by that offender.

54. Compilation of information on counterfeit euro banknotes and euro coins.

There shall be a unit within the Bank which shall have sole responsibility in Malta to analyse suspected counterfeit euro banknotes and euro coins in accordance with Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, as may be subsequently amended, and to carry out any tasks or other duties consequential thereto.

55. Sanctions for medals and tokens similar to euro coins.

- (1) In accordance with the provisions of Council Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins, and as subsequently amended, whosoever, unless authorised by the Commission of the European Union, produces, sells, imports or distributes for sale or for other commercial purposes medals and tokens, other than exempted medals and tokens as provided in the said Regulation, similar to euro coins shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding

twenty three thousand euro, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Subarticle (1) shall not apply to medals and tokens issued before 6 December 2004.

Whosoever, unless authorised by the Commission of the European Union, produces, sells, imports or distributes for sale or for other commercial purposes medals and tokens, other than exempted medals and tokens, similar to euro coins:

which have the terms “euro” or “euro cent” or the euro symbol on their surface; or

having their size inside the reference band appearing in Annex II of Council Regulations (EC) No 2182/2004 concerning medals and tokens similar to euro coins.; or

having on their surface any design similar to any of the national obverse designs or to the common reverse face of euro coins, or is identical or similar to the edge design of the two euro coin,

shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) not exceeding twenty three thousand euro, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

The following shall be exempted medals or tokens:

medals and tokens bearing the terms “euro” or “euro cent” or the euro symbol without an associated nominal value unless their size is outside the reference band;

medals and tokens whose size is inside the reference band and which:

are pierced with a hole of over six millimetres in their centre, or when their shape is polygonal but limited to six edges, provided the condition under subarticle (3)(b) is satisfied; or

are made of alloys containing gold, silver and platinum with a millesimal fineness in weight of at least 375, 500 and 850 respectively; or

fulfil the conditions laid down in sub article (3).

(3) The conditions referred to in subarticle (2)(b)(iii) are the following:

the combinations of diameter and edge height of medals and tokens are consistently outside the ranges defined in each of the cases specified in item 2 of Annex II of Council Regulations (EC) No 2182/2004 concerning medals and tokens similar to euro coins; and

~~the combinations of diameter and metal properties of medals and tokens are consistently outside the ranges defined in each of the cases specified in item 3 of Annex II of Council Regulations (EC) No 2182/2004 concerning medals and tokens similar to euro coins.~~

~~(4) In this article:~~

~~“reference band” means the set of combinations between the values for diameter and values for edge height included in the reference range for diameter and the reference range for edge height respectively;~~

~~“reference range for diameter” is the one between 19.00 millimetres and 28.00 millimetres; and~~

~~“reference range for edge height” is the one included between 7.00% and 12.00% of each value within the reference range for diameter.~~

~~(5) The provisions of this article shall not apply to medals and tokens issued before the 6 December 2004.~~

PART XI

GENERAL

56. Administrative penalties.

~~(1) The Bank may impose Minister may by regulations provide for administrative penalties which may be ~~imposed and~~ recovered by the Bank without recourse to a court hearing and which may be imposed either as a one-time penalty or on a daily cumulative basis until compliance in respect of the following:~~

- ~~(a) where any person contravenes or fails to comply with a requirement contained in any directive issued under articles 34(5), 34A(1), 43A, 50A or 60A;~~
- ~~(b) where a person or entity contravenes or fails to comply with a reporting requirement under the provisions of article 23, or with any directive issued thereunder;~~
- ~~(c) where any person contravenes or fails to comply with any obligation relating to counterfeit currency notes or coins or the authentication and fitness checking of euro currency notes and coins under the provisions of article 50;~~
- ~~(d) upon any body corporate where the offences referred to in articles 45 to 49 are committed for their benefit by any person, acting either~~

individually or as part of an organ of the body corporate, who has a senior position within the body corporate, on the basis of –

(i) a power of representation of the body corporate, or

(ii) an authority to take decisions on behalf of the body corporate, or

(iii) an authority to exercise control over the body corporate,

or where such person aids or acts as an accessory in the commission of such offences or the attempted commission of such offences;

(e) upon any body corporate where the lack of supervision or control by the person referred to in paragraph (d) has rendered possible the commission of an offence referred to in the same paragraph for the benefit of that body corporate by a person under its authority; and

(f) where any person (payment service provider) contravenes or fails to comply with the provisions of Regulation (EC) No 924/2009 of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001;

Provided that an administrative penalty imposed by the Bank may not be greater than:

(a) fifty thousand euro in case of a one-time penalty; and

(b) five hundred euro per day for every day in the case of a daily cumulative –penalty, and the accumulated penalty shall not exceed fifty thousand euro (€50,000).

~~(1) — The Minister may by regulations provide for administrative penalties which may be imposed and recovered by the Bank without recourse to a court hearing:~~

~~Provided that an administrative penalty may not be greater than twenty three thousand euro;~~

~~Provided further that the Minister may not issue regulations providing for penalties and, or sanctions where regulations providing for similar penalties and, or sanctions have been adopted by the European Central Bank under the Treaty or the Statute.~~

~~Without prejudice to the generality of the provisions of sub-article (1), the Minister may by such regulations prescribe administrative penalties only in respect of the following:~~

~~(a) where a participant in a payment system contravenes or fails to comply with a requirement contained in any directive issued under article 34;~~

~~where any person contravenes or fails to comply with the provisions of article 50 to withdraw from circulation currency notes and coins and to deliver them to the Bank;~~

~~(e) upon any body corporate where the offences referred to in articles 45 to 49 are committed for their benefit by any person, acting either individually or as part of an organ of the body corporate, who has a senior position within the body corporate, on the basis of—~~

~~(i) a power of representation of the body corporate, or~~

~~(ii) an authority to take decisions on behalf of the body corporate, or~~

~~(iii) an authority to exercise control within the legal person,~~

~~or where such person aids or acts as an accessory in the commission of such offences or the attempted commission of such offences; and~~

~~(d) upon any body corporate where the lack of supervision or control by the person referred to in paragraph (c) has rendered possible the commission of an offence referred to in the same paragraph for the benefit of that body corporate by a person under its authority.~~

57. Recovery of Administrative penalties.

- (1) Where by virtue of ~~regulations made under~~ the provisions of article 56, the Bank imposes an administrative penalty, it shall so notify the person or, in the case of an entity under article 23, the person in charge of the administrative affairs of that entity, on whom the penalty is being imposed by means of a notice in writing.
- (2) Where an administrative penalty is imposed on a ~~reporting agent~~ person or entity in respect of a breach of the provisions referred to in article 56 ~~(2)~~ (ab), such penalty shall be without prejudice to the obligation of the undertaking to meet the costs of the verification and, or, the compulsory collection procedure, as the case may be.
- (3) Where a notice imposing an administrative penalty is served on any person or entity and:
 - (a) such person or entity does not appeal to the Financial Services Tribunal (hereinafter in this article “the Tribunal”) in accordance with the provisions of article 35 and fails to pay to the Bank the administrative penalty within thirty days from the date of service of such notice; or
 - (b) such person or entity appeals to the Tribunal and fails to pay to the Bank the administrative penalty as confirmed or reduced by the Tribunal within fifteen days from the date of the decision of the Tribunal;

then, in each case, the Bank shall be entitled to recover the sum due as a civil debt and the provisions of subarticle (4) hereof shall apply.

- (4) A notice as is referred to in subarticle (3) or, as the case may be, the decision of the Tribunal shall, upon the service of a copy thereof by means of a judicial act on the person indicated in the notice or the decision of the Tribunal, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

58. Bye-laws.

The Board may make bye-laws, not inconsistent with this Act, for the good order and management of the Bank.

59. Exemption from income tax and duty on documents and transfers.

The Bank shall be exempt from any liability for the payment of income tax and duty on documents and transfers under any law for the time being in force.

60. Power to issue regulations.

The Minister may, by regulations, amend the Schedule to this Act.

60A. Power to issue, amend and revoke directives

(1) The Bank may issue, amend or revoke directives as may be required for carrying into effect any of the provisions of this Act, the Treaties and the Statute.

(2) Directives issued by the Bank shall be in the English language only.

61. Rates.

(1) Reference in any law to the Bank's discount, central intervention, and, or official interest rates shall be a reference to the minimum bid rate on main refinancing operations established by the Governing Council of the European Central Bank.

(2) Unless otherwise indicated by the context, reference in any law to exchange rates published by the Bank shall be a reference to exchange rates published by the Bank as well as exchange rates published by the European Central Bank.

~~(1) Reference in any law to the Bank's discount and, or official interest rates shall be a reference to the key interest rates of the European Central Bank.~~

~~(2) For the purpose of this article, "key interest rates" shall mean the interest rates which reflect the formulation of monetary policy by the European Central Bank.~~

PART XII

TRANSITIONAL PROVISIONS FOR THE MALTESE LIRA

62. Notes.

- (1) Upon due notice being given by the Minister in the Gazette, the Bank shall have the power to call in any Maltese lira notes on payment of the equivalent of the face value thereof in euro, and any such notes shall, until ten years following the expiration of the period mentioned in the notice, but subject to the provisions of sub-article (2), be redeemable by the Bank on demand for euro currency at the conversion rate of the Maltese lira for the euro established in terms of the Treaty and without charge.
- (2) No person shall be entitled to redeem from the Bank the value of any lost, stolen, mutilated or imperfect Maltese lira note. The circumstances in which, and the conditions and limitations subject to which the value of lost, stolen, mutilated or imperfect Maltese lira notes may be redeemed as of grace shall be within the absolute discretion of the Bank.
- (3) After the expiration of one year following the end of the period mentioned in the notice calling in any notes under sub-article (1), any Maltese lira notes so called in but not presented for redemption shall cease to be included in the currency liabilities of the Bank and the value of such notes, after deducting therefrom the value of any notes which are subsequently redeemed, shall be apportioned to the profits of the Bank over the remaining period until the expiration of the ten-year period specified under the provisions of sub-article (1).
- (4) Until the expiration of the ten-year period specified under sub-article (1), the provisions of articles 45 to 50 and of article 54 shall also apply to Maltese lira notes.
- (5) For the purpose of this article, "Maltese lira notes" means the currency notes which were legal tender in Malta prior to the introduction of the euro.

63. Coins.

- (1) Upon due notice being given by the Minister in the Gazette, the Bank shall have the power to call in any of the Maltese lira coins on payment of the equivalent of the face value thereof in euro and any such coins shall, until two years following the expiration of the period mentioned in the notice, but subject to the provisions of sub-article (4) and provided that the coins have not been tampered with, be redeemable by the Bank on demand for euro currency at the conversion rate of the Maltese lira for the euro established in terms of the Treaty and without charge.

- (2) No person shall be entitled to redeem from the Bank the value of any lost, stolen, mutilated or imperfect coin. The circumstances and conditions under which such value may be redeemed as of grace shall be within the absolute discretion of the Bank.
 - (3) After the expiration of six months following the end of the period mentioned in the notice calling in any coins under sub-article (1), any Maltese lira coins so called in but not presented for redemption shall cease to be included in the coin liabilities of the Bank and the value of such coins, after deducting therefrom the value of any coins which are subsequently redeemed, shall be apportioned to the profits of the Bank over the remaining period until the expiration of the two-year period specified under the provisions of sub-article (1).
 - (4) Until the expiration of the two-year period specified under sub-article (1), the provisions of articles 45 to 50 and of article 54 shall also apply to Maltese lira coins.
 - (5) For the purpose of this article, "Maltese lira coins" means the coins which were legal tender in Malta prior to the introduction of the euro.
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April 2011

SCHEDULE

(Article 2)

Banking Act (Cap. 371)

Financial Institutions Act (Cap. 376)

Investment Services Act (Cap. 370)

Insurance Business Act (Cap. 403)

Insurance Brokers and Other Intermediaries Act (Cap. 404)

Financial Markets Act (Cap. 345)

Securitisation Act (Cap. 484)