

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 and powers and to provide for matters ancillary or incidental thereto.

17th April, 1968
7th June, 1968
1st January, 2000

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, XIII of 2013, XXIV of 2014, and IX and XLIX of 2016 and XXX of 2020 and XII of 2021.

ARRANGEMENT OF ACT

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Schedule

PART I

PRELIMINARY

Short title.

Interpretation.

An amended by:
XX. 1981.2;
XI. 1988. 2;
XXVI. 1994.3;
XVII. 2002.66;
III. 2004.88;
I. 2007.6;
XIII. 2013.2.

Cap. 371.

Cap. 460.

S.L. 441.07.

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

2. 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;

"the Community" means the European Community referred to in article 2 of the European Union Act;

"credit information" means a collection of public and non-public information and other related information, including Central Credit Register data, which when assessed, assembled and evaluated indicates the creditworthiness of a legal or natural person;

"credit reference agency" means any undertaking licenced by the Trade Licensing Unit in terms of regulation 47A of the Trading Licences Regulations, the main business of which is to prepare, assemble and evaluate credit information and related credit and risk management services on legal and natural persons for the purpose of issuing credit scores to be furnished to third parties, provided that a credit reference agency is not precluded from carrying out other related tasks;

"credit score" means a measure of creditworthiness derived from credit information and which must under pain of nullity include data derived from the Central Credit Register;

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

"directive" means a directive issued by the Bank under this Act;

"director", in relation to the Bank, includes the Governor and the Deputy Governors;

"European Central Bank" means the bank established in accordance with Article 13 of the Treaty on European Union;

"European Systemic Risk Board" means the Board established by Article 1 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board;

"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; Cap. 376.

"Governor" and "Deputy Governors" mean respectively the Governor and the Deputy Governors of the Bank appointed under article 8;

"Joint Financial Stability Board" means the Board established by article 17B;

"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;

"Minister" means the Minister responsible for finance;

"participant" in relation to a payment system means a person, including the Bank, who participates in a payment system and may include an indirect participant approved by the Bank if it is warranted on the grounds of systemic risk and on condition that the indirect participant is known to the system;

"payment application" means computer software or equivalent, loaded on a device enabling payment transactions to be initiated and allowing the payer to issue payment orders;

"payment card scheme" means a single set of rules, practices, standards and/or implementation guidelines for the execution of card-based payment transactions;

"payment service" means any business activity set out in Annex I of the Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC;

"Payment Services Directive" means Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC, as may be amended from time to time and includes any implementing measures that have been issued or may be issued thereunder;

"payment service provider" has the same meaning assigned to it by article 4 of the Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC;

"payment service user" has the same meaning assigned to it by article 4 of the Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC,

2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC;";

"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;

"payment transaction" means an act, initiated by the payer or on his behalf or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;

"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;

S.L. 441.07.

"supervisory authority" means the authority responsible for the supervision and monitoring of credit reference agencies licensed in accordance with the Trading Licences Regulations;

"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.

PART II

ESTABLISHMENT AND CONDUCT OF AFFAIRS OF BANK

Establishment of
Bank.

Amended by:
I. 2007.7;
XIII. 2013.3.

3. (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 the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any property for the purpose of its functions, 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 under this Act.

Objectives.
Amended by:
XXVI. 1994.4.
Substituted by:
XVII. 2002.67.
Amended by:
I. 2007.8.
Substituted by:
XIII. 2013.4.

4. 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 Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union and shall act in accordance with the principles set out in Article 119 of the Treaty on the Functioning of the

European Union.

5. (1) In accordance with the Treaties and the Statute, the functions of the Bank shall include the following:

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

Functions of the Bank.
Added by:
I. 2007.9.
Amended by:
XIII. 2013.5.

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

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

Principal office of Bank.
Amended by:
XI. 1988.3.
Substituted by:
XVII. 2002.68.

7. (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 imposed, and the exercise of powers conferred, on the Bank by or under the Treaties or the Statute.

Board of Directors.
Amended by:
XVII. 2002.69;
IX. 2005.2;
I. 2007.10;
XIII. 2013.6.

(2) The members of the Board shall be the Governor, the two Deputy Governors, and the four other directors appointed under article 9.

8. (1) The Governor and the Deputy Governors 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 Cabinet of Ministers. 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.

Governor and Deputy Governors.
Amended by:
XIX. 1974.2;
LVIII. 1974.68;
XIII. 1983.2;
XI. 1988.4;
XXVI. 1994.6;
XVII. 2002.70;
I. 2007.11;
XIII. 2013.7;
XII. 2021.5.

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

(b) Without prejudice to paragraph (a), 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) One Deputy Governor shall support the Governor by performing duties related to monetary policy and other duties as the Governor may direct. A second Deputy Governor shall support the Governor by performing duties related to financial stability and other duties as the Governor may direct. In the event of -

- (a) the absence of the Governor, the Governor shall designate a Deputy Governor to perform the duties of the Governor;
- (b) a vacancy in the office of the Governor, the Board shall designate a Deputy Governor to perform the duties of the Governor, until a new Governor is appointed as soon as possible under sub-article (1);

and the Deputy Governor so designated shall have and may exercise the powers and perform the functions of the Governor.

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

- (2) The directors of the Bank, shall -
 - (a) be appointed by the Prime Minister acting on the advice of the Cabinet of Ministers;
 - (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

Directors other
than Governor and
Deputy Governors.

*Amended by:
XIX. 1974.3;
XVII. 2002.7.1.*

*Substituted by:
I. 2007.12.*

*Amended by:
XIII. 2013.8;
XII. 2021.6.*

and conditions as may be set out in their respective letters of appointment, and shall be eligible for reappointment;

- (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 of his office, or of misbehaviour; and for the purposes of this sub-article, repeated unjustified non-attendance of Board meetings may deem to amount to misbehaviour.

10. (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.

Disclosure of
interest.
Amended by:
XVII. 2002.72.

(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. (1) A director may resign his office on giving at least three months' notice of his intention in writing to the Prime Minister.

Disqualification,
resignation and
filling of
vacancies.
Amended by:
XIX.1974.4;
XXVI.1994.7;
XVII. 2002.73;
I. 2007.13.

(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.

Board procedure
and quorum.
Amended by:
I. 2007.14;
XIII. 2013.9.

12. (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, a 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 Governors are present.

(4) Five members of the Board, one of whom shall be either the Governor or a 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.

Audit Committee.
Added by:
I. 2007.15.
Amended by:
XIII. 2013.10.

13. The Board shall establish an Audit Committee to be chaired by one of the directors who is neither the Governor nor a 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.

Staff appointments.
Amended by:
I. 2007.3.

14. 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.

Exclusion of
liability.
Added by:
XXVI. 1994.8.
Amended by:
XVII. 2002.74;
I. 2007.3.

15. (1) The Bank, directors, officers or servants thereof, and any other person appointed to perform a function 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 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 assigned to the Bank or to any director, officer, servant or other person under any other law.

16. 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.

Remuneration, etc.
Amended by:
I. 2007.3.

17. (1) In accordance with the Treaties and the Statute, in order to achieve its objectives and to carry out its functions, the operations of the Bank shall include the following:

- (a) opening of accounts for persons as provided in this Act, and, in special cases for other persons with the prior approval of the Board;
- (b) maintenance of accounts with central banks or other domestic or foreign credit institutions and agents 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) subscription to, purchasing, 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) issuing, purchasing, 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) granting to any credit or financial institution in Malta loans and advances against adequate security;
- (f) entering into repurchase and reverse repurchase agreements; and
- (g) when it deems such action necessary to safeguard financial stability or in other exceptional circumstances, granting a loan or advance to any credit institution incorporated in Malta against such forms of security as the Board may consider appropriate.

Monetary operations and other functions of the Bank.
Amended by:
XXIX. 1968.2;
XIX. 1974.5;
XX. 1981.3;
XIII. 1983.3;
XXXVIII. 1986.2;
XI. 1988.5;
XXVI. 1994.9;
IX. 1997.4.
Substituted by:
XVII. 2002.75.
Amended by:
III. 2004.89;
I. 2007.3, 16;
XIII. 2013.11.

(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 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 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.

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

(5) 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 under this Act.

(6) 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.

(7) (a) The Bank shall, in the exercise of its functions as a central bank under this Act, enjoy a special privilege over any funds held in the accounts of the Bank as well as any 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 by this sub-article 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 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.

(8) The rights of the Bank of any collateral security provided to it by a debtor or other counterparty shall not be affected by the insolvency proceedings against such debtor or counterparty, and such collateral security may be realised by the Bank in satisfaction of its rights.

Macro-prudential policy.
Added by:
XIII. 2013.12.

17A. (1) In accordance with the provisions of the Treaties and the Statute, the Bank may issue, amend or revoke directives in order to implement macro-prudential policy and tools.

(2) Without prejudice to any other provisions on the exchange 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 in relation to macro-prudential oversight, cooperate with the European Systemic Risk Board and, as may be required, with other national or international macro-prudential authorities, in the exchange of information which is required to ensure effective macro-prudential oversight.

17B. (1) There shall be a Joint Financial Stability Board which is a body established for the purpose of ensuring effective cooperation between the Bank and the competent authority in the area of financial stability and which shall have the functions set out in this Act.

Joint Financial
Stability Board.
Added by:
XIII. 2013.13.

(2) The Joint Financial Stability Board shall be composed of the Governor of the Bank, who shall be the Chairman, and in his absence the Deputy Governor of the Bank responsible for financial stability who shall preside, two other representatives of the Bank and two representatives of the competent authority.

(3) The Minister may appoint a representative to participate as a non-voting observer at meetings of the Joint Financial Stability Board. The Chairman may co-opt other non-voting observers.

(4) Without prejudice to the Treaties, the Statute and any legal acts issued thereunder, the Joint Financial Stability Board shall have the function to facilitate cooperation between the relevant authorities in matters impacting on financial stability, including macro-prudential policy and, where relevant, micro-prudential instruments. In addition, it shall have the following functions:

- (a) to formulate policy recommendations designed to safeguard the stability of the financial system and which may be communicated to the relevant public authority or public institution;
- (b) to identify and assess macro-prudential instruments and, where relevant, micro-prudential instruments required to be implemented to mitigate or control potential systemic and other risks to the financial system;
- (c) to give advice about whether and how an authority or public institution should act in respect of a credit or financial institution, where the issue appears to the Joint Financial Stability Board to be relevant to the stability of the financial system;

and any such recommendation, advice or assessment made by the Joint Financial Stability Board shall be taken into consideration by a public authority or public institution in Malta in the execution of its functions. It shall be the duty of such public authority or public institution to seek the opinion of the Joint Financial Stability Board prior to exercising any functions in matters which may impact on financial stability.

(5) The Joint Financial Stability Board shall meet as often as may be necessary or expedient but in any case not less frequently than once every three months. The meetings shall be convened by the Chairman either on his own initiative or on the written request of any three members.

(6) The Joint Financial Stability Board may act notwithstanding any vacancy amongst its members provided there is a quorum consisting of not less than three members present at the meeting including one member from the competent authority.

(7) Subject to the provisions of this article, the Joint Financial Stability Board shall regulate its own procedure.

Transfer of data or information.

Added by:
XVII. 2002.77.

Amended by:
I. 2007.3, 17.
Substituted by:

XIII. 2013.14.

18. Without prejudice to the Treaties, the Statute and any legal acts issued thereunder 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.

PART III

FINANCIAL PROVISIONS

Capital and Reserves.

Amended by:
XIII. 1983.5.

Substituted by:
XXVI. 1994.11.
Amended by:
XVII. 2002.78;
I. 2007.3, 18.

Audit.

Amended by:
XVI. 1997.7.
XVII. 2002.80;
I. 2007.3, 19.

Annual accounts.

Amended by:
XX. 1981.7;
XI. 1988.9;
XVII. 2002.81;
I. 2007.3, 20;
XIII. 2013.15.

19. (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 the 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. 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. (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 the auditors; and

(b) a report on its operations during that year,

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

(3) The Minister shall, as soon as may be and, in respect of the requirement of paragraph (a) of this sub-article, 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 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. (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.

Determination and allocation of profits.

Amended by:

X.1968.2;

XIX.1974.8.

Substituted by:

XX.1981.8.

Amended by:

XIII. 1983.5;

XXXVIII. 1986.4;

XI. 1988.10;

XXVI. 1994.14;

XVII. 2002.82;

I. 2007.3, 21.

PART IV

COLLECTION OF STATISTICAL AND OTHER INFORMATION

Substituted by:

XIII. 2013.16.

23. (1) Without prejudice to the functions 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 any person in general or any 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 under this Act or any other Act, including in relation to its macro-prudential policy function, and the Bank may enquire into and ask for clarifications of any information so provided:

Collection of statistical and other information.

Added by:

XVII. 2002.83.

Amended by:

I. 2007.3, 22.

Substituted by:

XIII. 2013.17.

Amended by:

XXX.2020.4.

Provided that the Bank may provide any person, as described in sub-article (1), with statistical and other information as the Bank may consider necessary to carry out its functions under this Act or any other Act.

(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 invoking any professional or other secrecy restrictions.

(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, the safeguards to be in place and 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 sub-articles (1)

and (4).

(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 sub-article (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 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).

Cap. 422.

(7) The duty of any public authority to consult the National Statistics Office under article 39(2) of the Malta Statistics Authority Act when it undertakes activities with statistical implications shall not apply to the Bank in relation to the execution of its functions under this Act.

Establishment of a Central Credit Register information.

*Added by:
XVII. 2002.83.*

*Amended by:
I. 2007.3, 23;
IV. 2007.17.*

*Deleted by:
XIII. 2013.14.*

*Substituted by:
IX. 2016.3.*

*Amended by:
XXX.2020.5.*

24. (1) There shall be established a Central Credit Register (hereinafter referred to as "Register") at the Bank with non-anonymised granular information on actual and contingent exposures arising from credit and other facilities granted to natural or legal persons or entities, either resident or non-resident in Malta, to be used for the following purposes:

- (a) centralisation of information on credit exposures;
- (b) analysis of the stability of the financial system;
- (c) implementation of monetary policy;
- (d) compilation of statistics; and
- (e) facilitating the assessment of credit risk.

(2) The Bank may issue, amend or revoke directives imposing requirements on credit and other institutions , including the Malta Development Bank for the purposes of fulfilling its functions under the Malta Development Bank Act, to provide information in relation to the Register and setting out the conditions for granting access to the information held on the Register. The transfer of information into or from the Register under the conditions laid down by the Bank's directives shall not be deemed to be a breach of banking secrecy and

confidence obligations under any other law; provided that institutions and other entities granted access to the information held on the Register shall ensure that the information is protected against misuse and remains secret as if it were information on their own clients.

(3) Borrowers shall have the right to have an extract of the information kept on them on the Register.

(4) Without prejudice to article 41, the Bank may provide access to the information held on the Register:

- (a) on the basis of reciprocity arrangements to central banks and other institutions of Member States of the European Union, and to other institutions of the European Union, that create databases comparable to the Register;
- (b) to the Listing Authority for the purposes of performing the functions set out in Part III of the Financial Markets Act; Cap. 345.
- (c) to the Malta Stock Exchange for the purposes of fulfilling its objects;
- (d) and to any other institution as the Bank may consider necessary;

Provided that the conditions of access to this information and the confidentiality requirements in the Member State in question meet the criteria as laid down by this Act.

(5) The Bank may impose fees for information provided or access granted to the Register to institutions, persons or other entities.

(6) Notwithstanding the provisions of the Malta Statistics Authority Act, the Bank may require the Director General of the National Statistics Office to pass to it non-financial information in possession of or accessible to the National Statistics Office which is necessary for the Bank in the discharge of its duties in relation to the Register and the National Statistics Office shall comply with such request. Cap. 422.

(7) The Bank shall forward extracts of the information non-financial as received under sub-article (6) to authorised officials of credit and other institutions who are required to use this information only for the purpose of sub-article (1) to the extent and at the level of detail necessary for the performance of their duties.

24A. (1) The Bank shall be the supervisory authority of the credit reference agencies solely for the purpose of overseeing and regulating the task of issuing credit scores, which will include granular information from the Register established under article 24:

Supervisory authority of credit reference agencies.
Added by:
XXX.2020.6.

Provided that the Bank's supervisory powers will include both off-site and on-site inspections at the premises of the credit reference agency, and any branch, agent or office providing licensable activities under the responsibility of the credit reference agency.

(2) The Bank may issue, amend or revoke directives as it shall consider appropriate for the carrying into effect the provisions of sub-article (1).

(3) Any credit reference agency shall be subject to an annual supervisory fee as may be prescribed, which is payable upon the granting of the licence, and thereafter upon every anniversary thereof.

PART V

RELATIONS WITH GOVERNMENT

Adviser to Government.
Amended by:
XVII. 2002.84.

Banker to Government.
Amended by:
XVII. 2002.85;
I. 2007.24;
XIII. 2013.19.

Prohibition of public sector financing.
Substituted by:
XXVI. 1994.15;
XVII. 2002.86.
Amended by:
I. 2007.25;
XIII. 2013.20.

Bank as agent for Government.
Substituted by:
I. 2007.26.

Information to Minister.
Amended by:
I. 2007.27.

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

26. (1) The Bank may act as banker to the Government and may open accounts for the Government.

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

27. (1) The Bank shall not grant overdrafts or any other type of credit facility to European Union institutions or bodies 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. In accordance with the provisions of this Act and in conformity with its duties and functions, the Bank may act generally as agent for the Government.

29. 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.** (1) The Bank may act as banker to credit and financial institutions in Malta and may open accounts for credit institutions and financial institutions.
 (2) The Bank may also open accounts with credit institutions.
- 31.** (1) The Bank may appoint one or more 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 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.** (*Deleted by Act XIII. 2013. 24.*)
- 33.** (*Deleted by Act XIII. 2013. 25.*.)

Banker to credit and financial institutions.
Substituted by:
XXIX. 1968.4;
Amended by:
XXVI. 1994.18;
XVII. 2002.89;
I. 2007.3;
XIII. 2013.21.

Other credit and financial institutions as agents.
Amended by:
XVII. 2002.90;
I. 2007.3.
Substituted by:
XIII. 2013.22.

Deposits of credit institutions with Bank.
Amended by:
LVIII. 1974.68;
L.N.148 of 1975;
XIII. 1983.5;
XXVI. 1994.20;
XXIV.1995.362;
IX. 1997.4.
Substituted by:
XVII. 2002.92.
Amended by:
III. 2004.91;
I. 2007.3, 28.

Interest rates of credit and financial institutions.
Amended by:
LVIII. 1974.68;
L.N. 148 of 1975;
XIII. 1983.5;
XXVI. 1994.21;
XXIV. 1995.362.
Substituted by:
XVII. 2002.92.
Amended by:
I. 2007.3.

PART VII

*Substituted by:
XIII. 2013.23;
XXX.2020.7.*

Payment systems.

*Substituted by:
XVII. 2002.92.*

*An amended by:
III. 2004.90;*

I. 2007.3, 29;

XIII. 2013.26;

XXX.2020.8.

34. (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 securities 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, including the rules of the system, are approved by the Bank and, without prejudice to sub-article (3), and article 56(2) or to any other penalty which may be imposed under this Act, the Bank shall have the right to order:

- (a) the closure of a domestic payment system which has been set up, or is being operated, without the necessary approval, and
- (b) the suspension of the operations of an approved domestic payment system or the revocation of the approval granted by the Bank in cases where the domestic payment system is or has been operated in breach of such approval, 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 subarticles (1) and (2) including, without prejudice to the generality of the aforesaid, the regulation of 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:

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

(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.

34A. (1) Without prejudice to the Treaties, the Statute and any legal acts issued thereunder, the Bank shall, in order to promote the stable and sustainable development and provision of the payments landscape in Malta, oversee and regulate the provision of payment services, payment applications, payment card schemes and payment transactions by credit institutions and financial institutions.

Payment services.

Added by:

XIII. 2013.27.

Amended by:

XXX.2020.9.

(2) No credit institution or financial institution shall provide any services under sub-article (1) unless it notifies the Bank.

(3) The Bank shall have the power to review the rules and procedures of any payment service, payment application, payment card scheme and payment transaction in Malta, and in so doing may require the full assistance and collaboration of any credit institution or financial institution as may be necessary to enable it to fulfil its functions under this Act.

(4) Without prejudice to article 56(2) or to any other penalty which may be imposed under this Act, the Bank shall have the right to:

- (a) make an order restraining a credit institution or a financial institution from taking or continuing to take an action which is deemed by the Bank to go against the stable and sustainable development and provision of the payments landscape in Malta;
- (b) suspend the provision of any payment service, payment application, payment card scheme and payment transaction, where a credit institution or a financial institution fails to comply with any lawful order or requirement of the Bank, and the Bank may make public the fact that a credit institution or a financial institution is failing to comply with an order or requirement made under the provisions of this article, and may disclose measures or sanctions imposed on any institution:

Provided that the information published in terms of this sub-article shall remain on the official website of the Bank for a period of not less than three years.

(5) The Bank may issue, amend or revoke directives which impose conditions on the provision of payment services, payment

applications, payment card schemes and payment transactions in Malta.

(6) 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.

(7) The Bank is also appointed as competent authority for the purposes of Article 10 of Regulation (EU) No 260/2012 of 14 March 2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009, and shall be responsible to monitor compliance with this Regulation and take all necessary measures to ensure such compliance.

Appeals.

Added by:

XVII. 2002.92.

Amended by:

I. 2007.3, 30.

Substituted by:

XIII. 2013.28.

Amended by:

XLIX. 2016.3;

XXX.2020.10.

35. Any person who:

- (a) is aggrieved by decisions taken by the Bank under articles 24A(1), 34(2), 34A(4) or under any directives issued under articles 24A, 17A, 34(5) or 34A(5);
- (b) is a party to any dispute 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
- (c) is a party to any dispute arising in respect of rights and obligations under the provisions of Regulation (EU) No 260/2012 of 14 March 2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009; or
- (d) has had an administrative penalty imposed upon him pursuant to article 56,

Cap. 330.

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

Information, inspection and reporting by the competent authority.

Added by:

XXVI.1994.22.

Substituted by:

XVII. 2002.92.

Amended by:

I. 2007.3, 31.

36. (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. (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, and the promotion of the stable and sustainable development and provision of the payments landscape in Malta under article 34A.

38. 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. 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. 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. 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.

Information to
competent
authority.
Added by:

XXVI. 1994.22.

Substituted by:

XVII. 2002.92.

Amended by:

I. 2007.3, 32;

XXX.2020.37.

Confidentiality.

Added by:

XXVI. 1994.22.

Substituted by:

XVII. 2002.92.

Amended by:

I. 2007.3, 33.

Participation in
international and
other
organisations.

Added by:

IX. 2005.3.

Amended by:

I. 2007.3, 34.;

XIII. 2013.29.

Banking services.

Added by:

III. 2004.92.

Amended by:

I. 2007.3.

Disclosure of
information.

Added by:

III. 2004.92.

Amended by:

I. 2007.3, 35;

XIII. 2013.30.

PART X

CURRENCY

Issue of euro banknotes.

Amended by:
XIX.1974.12;
XI.1988.12;
XXVI. 1994.26;
XVII. 2002.95;
III. 2004.93;
I. 2007.36;
XIII. 2013.31.

Issue of euro coins.

Amended by:
XX.1971.3;
XI.1988.13;
XXVI. 1994.27;
XVII. 2002.96;
III. 2004.94;
I. 2007.37;
XIII. 2013.32.

Reference to currency note or coin.

Substituted by:
XVII. 2002.97.
Amended by:
III. 2004.95.

Substituted by:
I. 2007.38;
XIII. 2013.33.

Forgery and uttering of currency.

Amended by:
XXVI.1994.28;
III. 2004.96.

Possession of forged notes.

Making or having in possession paper or implements for forgery.

Amended by:
XVII. 2002.98;
III. 2004.97.

Mutilation and defacement of euro banknotes.

Amended by:
XII. 1983.5;
XXVI.1994.29;
I. 2007.39.

42. The Bank shall issue euro banknotes in accordance with Article 128 of the Treaty on the Functioning of the European Union and article 16 of the Statute.

43. (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 128 of the Treaty on the Functioning of the European Union.

(3) In accordance with the Treaties or any legal acts issued thereunder, the Bank shall have the sole right in Malta of issuing legal tender euro collector coins not intended for circulation which are legal tender only in Malta.

(4) Without prejudice to sub-article (1) and in accordance with the Treaties or any legal acts issued thereunder, the Bank shall have the sole right in Malta to issue euro circulation coins and commemorative euro circulation coins.

44. For the purposes of the following provisions of this Part, any reference to the terms "currency note" or "coin" shall be a reference to 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. (*Deleted by Act XLIX. 2016.4.*).

46. (*Deleted by Act XLIX. 2016.4.*).

47. (*Deleted by Act XLIX. 2016.4.*).

48. (*Deleted by Act XLIX. 2016.4.*).

49. (*Deleted by Act XLIX. 2016. 4.*.)

Coinage offences.
 Amended by:
XXVI. 1994.30;
III. 2004.98;
XIII. 2013.34.

50. (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 notes or coins which that person knows or has sufficient reason to believe to be counterfeit, and shall immediately deliver it over to the Bank.

(2) A cash handler as referred to in Article 6 of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, and as subsequently amended, 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) Where a cash handler as referred to in sub-article (2), or any other person delivers counterfeit currency notes or coins to the Bank in accordance with sub-article (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.

Obligation to deliver counterfeit currency notes and coins to the Bank.
 Added by:
XVII. 2002.99.
 Substituted by:
III. 2004.99.
 Amended by:
I. 2007.3;
XIII. 2013.35;
XLIX. 2016.5;
XXX. 2020.50.

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50A. 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.

Power to issue directives on the authenticity and fitness checking of currency notes and coins.
 Added by:
XIII. 2013.36.

Reproduction of euro banknotes.
Added by:
XXVI. 1994.31.
Amended by:
XVII. 2002.99;
III. 2004.100;
I. 2007.3, 40.

Jurisdiction over offenders outside Malta.
Added by:
III. 2004.101.
Amended by:
I. 2007.3, 41;
XXIV. 2014.93.

Previous convictions outside Malta.
Added by:
III. 2004.101.
Amended by:
I. 2007.3, 42;
XXIV. 2014.94.

Compilation of information on counterfeit euro banknotes and euro coins.
Added by:
III. 2004.101.
Amended by:
I. 2007.3, 43.

Sanctions for medals and tokens similar to euro coins.
Added by:
IX. 2005.4.
Amended by:
I. 2007.3, 44.
Substituted by:
XIII. 2013.37.

Administrative penalties.
Added by:
XVII. 2002.100.
Amended by:
III. 2004.102;
I. 2007.3, 45.
Substituted by:
XIII. 2013.38.
Amended by:
IX. 2016.4;
XLIX. 2016.6;
XXX. 2020.13.

51. 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. (*Deleted by Act XLIX. 2016.4.*)

53. (*Deleted by Act XLIX. 2016.4.*)

54. 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 duties consequential thereto.

55. (*Deleted by Act XLIX. 2016.4.*)

PART XI

GENERAL

56. (1) Without prejudice to the Treaties and the Statute and any legal acts issued thereunder, and to the provisions of article 34(3) the Bank may impose administrative penalties which may be 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 or entity contravenes or fails to comply with a requirement contained in any directive issued under articles 17A, 24A, 50A or 60A;
- (b) where a person or entity contravenes or fails to comply with a reporting requirement under the provisions of articles 23 or 24, 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) 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; and
- (e) where any person, other than any natural person who is not acting for purposes of trade, business or profession in payment service contracts, contravenes or fails to comply with the provision of Regulation (EC) No 260/2012 of 14 March 2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009:

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.

(2) Without prejudice to the right of appeal granted under the provisions of article 35 and notwithstanding the provisions of sub-article (1), where a person contravenes or fails to comply with an order or a requirement under the provisions of articles 34 and 34A, or with any directive issued thereunder, the Bank may impose an administrative penalty recoverable by the Bank without recourse to a court hearing of up to two per cent (2%) of the total value of transactions transacted by such person in the preceding business year, and in any case not more than one million euro (€1,000,000).

57. (1) Where by virtue of 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 person or entity in respect of a breach of the provisions referred to in article 56(b), 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

Recovery of
administrative
penalties.

Added by:

XVII. 2002.100.

Amended by:

I. 2007.3, 46;

XIII. 2013.39.

- (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 sub-article (4) shall apply.

(4) A notice as is referred to in sub-article (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. The Board may make bye-laws not inconsistent with this Act, for the good order and management of the Bank.

59. 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. (1) The Minister may, by regulations, amend the Schedules to this Act.

(2) Without prejudice to the Treaties, the Statute and any legal acts issued thereunder and without prejudice to the ability of the Bank to carry out its functions under this Act, the Treaty and the Statute, the Minister may, after consultation with the Bank, by regulations appoint the Bank to act as competent authority for the purposes of any regulation or other legal act issued under the Treaties or the Statute or when otherwise required as a result of Malta's membership of the European Union or in order to carry out a function which is important for the stability or orderly functioning of the financial system. The Minister may further provide in such regulations for anything that is necessary for the carrying into effect of any of the provisions of any such regulation or other legal act, including to empower the Bank to issue and enforce sanctions and to grant competence to any court or tribunal in Malta to settle disputes arising under such regulations or other legal acts.

60A. (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 may be in the English language only.

61. (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.

Cap. 12.

Bye-laws.

*Substituted by:
XVII. 2002.100.*

*Amended by:
I. 2007.3.*

Exemption from
income tax and
duty on documents
and transfers.

*Substituted by:
XXVI. 1994.34.*

*Amended by:
I. 2007.3.*

Power to issue
regulations.

*Added by:
I. 2007.47.*

*Amended by:
XIII. 2013.40.*

Power to issue,
amend and revoke
directives.

*Added by:
XIII. 2013.41.*

Reference rates.

*Added by:
I. 2007.47.*

*Substituted by:
XIII. 2013.42.*

(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.

PART XII

TRANSITIONAL PROVISIONS FOR THE MALTESE LIRA

62. (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 Treaties and without charge.

Notes.
Added by:
I. 2007.48.
Amended by:
XIII. 2013.43.

(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. (1) Upon due notice being given by the Minister in the Gazette, the Bank shall have the power to call in any 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 Treaties and without charge.

Coins.
Added by:
I. 2007.48.
Amended by:
XIII. 2013.44.

(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.

Added by:
I. 2007.50.
Amended by:
XIII. 2013.45;
XXX.2020.14.

SCHEDULE
(Article 2)

- [Banking Act](#) (Cap. 371);
 - [Financial Institutions Act](#) (Cap. 376);
 - [Investment Services Act](#) (Cap. 370);
 - [Insurance Business Act](#) (Cap. 403);
 - [Insurance Distribution Act](#) (Cap. 487);
 - [Financial Markets Act](#) (Cap. 345);
 - [Securitisation Act](#) (Cap. 484);
 - [Malta Financial Services Authority Act](#) (Cap. 330).
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