

## MALTA

### **ATT Nru. I ta' l-2007**

ATT mahruġ b'ligi mill-Parlament ta' Malta.

**ATT biex jemenda l-Att dwar il-Bank Ċentrali ta' Malta, Kap. 204, u l-Att dwar it-Transazzjonijiet Esterni, Kap. 233.**

### **ACT No. I of 2007**

AN ACT enacted by the Parliament of Malta.

**AN ACT to amend the Central Bank of Malta Act, Cap. 204, and the External Transactions Act, Cap. 233.**

I assent.

(L.S.)

EDWARD FENECH ADAMI  
President

2nd March, 2007

**ACT No. I of 2007**

*AN ACT to amend the Central Bank of Malta Act, Cap. 204 and the  
External Transactions Act, Cap. 233.*

BE IT ENACTED by the President, by and with the advice and  
consent of the House of Representatives, in this present Parliament  
assembled, and by the authority of the same, as follows:-

Short title.

**1.** The short title of this Act is the Central Bank of Malta  
(Amendment) Act, 2007.

**PART I**

**AMENDMENT OF THE CENTRAL BANK OF MALTA ACT,  
CAP. 204**

Amendment of the  
Central Bank of  
Malta Act, Cap 204.

**2.** (1) This Part amends and shall be read and construed as one  
with the Central Bank of Malta Act, hereinafter referred to as “the  
principal Act”.

(2) This Part shall come into force on such date as the  
Minister responsible for finance may by notice in the Gazette establish  
and different dates may be so established for different provisions and  
different purposes thereof.

Renaming, deletion  
and renumbering of  
Parts and articles of  
the principal Act.

**3.** (1) The headings of the Parts of the principal Act, that is  
Part I Preliminary, Part II Establishment and Conduct of Affairs of Bank,  
Part IIA Monetary Policy, Part III Financial Provisions, Part IIIA  
Collection of Information, Part IV Relations with Government, Part V  
Relations with Banks and Financial Institutions, Part VI Relations with

the Competent Authority, Part VIA Relations with International and other Organisations, Part VII Currency and Part VIII General, shall be deleted and the new Parts shall be styled as follows :

- (a) “Part I Preliminary”;
- (b) “Part II Establishment and Conduct of Affairs of Bank”;
- (c) “Part III Financial Provisions”;
- (d) “Part IV Collection of Information”;
- (e) “Part V Relations with Government”;
- (f) “Part VI Relations with Credit and Financial Institutions”;
- (g) “Part VII Payment Systems”;
- (h) “Part VIII Relations with the Competent Authority”;
- (i) “Part IX Relations with International and Other Organisations”;
- (j) “Part X Currency”;
- (k) “Part XI General”; and
- (l) “Part XII Transitional Provisions for the Maltese Lira”.

(2) Articles 6, 16, 17A, 17B, 17C, 17D, 19, 20, 21, 29, 30, 32, 35, 38D, 39, 40, 41, 50, 51, 52 and 55 of the principal Act shall be deleted.

(3) Articles 5, 13, 13A, 14, 15, 17, 18, 22, 23, 24, 24A, 24B, 31, 33, 34, 36, 36A, 37, 38, 38A, 38B, 38C, 38E, 38F, 38G, 49A, 49B, 49C, 49D, 49E, 49F, 52A, 52B, 53 and 54 of the principal Act shall be renumbered as articles 6, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 29, 30, 31, 34, 35, 32, 33, 36, 37, 40, 41, 39, 50, 51, 52, 53, 54, 55, 56, 57, 58 and 59 respectively.

(4) The new headings of the Parts in subarticle (1) hereof shall appear respectively as follows:

- (a) the heading in paragraph (a) before article 1;
- (b) the heading in paragraph (b) before article 3;

(c) the heading in paragraph (c) before article 19, as renumbered;

(d) the heading in paragraph (d) before article 23, as renumbered;

(e) the heading in paragraph (e) before article 25;

(f) the heading in paragraph (f) before article 30, as renumbered;

(g) the heading in paragraph (g) before article 34, as renumbered;

(h) the heading in paragraph (h) before article 36, as renumbered;

(i) the heading in paragraph (i) before article 39, as renumbered;

(j) the heading in paragraph (j) before article 42;

(k) the heading in paragraph (k) before article 56, as renumbered; and

(l) the heading in paragraph (l) before new article 62.

Substitution of the  
Arrangement of  
Act.

**4.** For the Arrangement of Act, there shall be substituted the following:

#### “ARRANGEMENT OF ACT

		Articles
Part I.	Preliminary	1-2
Part II.	Establishment and Conduct of Affairs of Bank	3-18
Part III.	Financial Provisions	19-22
Part IV.	Collection of Information	23-24
Part V.	Relations with Government	25-29
Part VI	Relations with Credit and Financial Institutions	30-33
Part VII.	Payment Systems	34-35
Part VIII.	Relations with the Competent Authority	36-38
Part IX.	Relations with International and Other Organisations	39-41
Part X.	Currency	42-55
Part XI.	General	56-61
Part XII.	Transitional Provisions for the Maltese Lira	62-63

Schedule

5. For the long title to the principal Act, there shall be substituted the following: Substitutes long title to principal Act.

“An 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.”.

6. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) in the definition “ “bank” or “credit institution” ”, the words “means any person carrying on the business of banking” shall be substituted with the words “has the same meaning assigned to it by article 2 of the Banking Act”;

(b) in the definition “business of banking”, the word “under” shall be substituted with the words “by article 2 of”;

(c) immediately after the definition “business of banking” there shall be added the following new definition:

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

(d) the definition “Competent Authority” shall be substituted with the following:

“ “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 to this Act;”;

(e) immediately after the definition “director” there shall be added the following new definition:

“ “European Central Bank” means the bank established in accordance with Article 8 of the Treaty;”;

(f) the definition “external assets” shall be deleted;

(g) in the definition “financial institution”, the words “means an institution licensed under” shall be substituted with the words “has the same meaning assigned to it by article 2 of ”;

(h) the definition “Gazette” shall be deleted;

(i) the definition “Government” shall be deleted;

(j) in the definition “ “Governor” and “Deputy Governor””, the words “, and “Governor” includes a person for the time being acting as Governor” shall be deleted;

(k) immediately after the definition “Minister” there shall be added the following new definitions:

“ “reserve assets” shall include:

(a) foreign exchange assets comprising currency, deposits and securities in any currency other than the euro, and

(b) 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;”; and

(l) the definition “the Treaty” shall be substituted with the following:

“ “the Treaty” means the Treaty establishing the European Community done at Rome on 25 March 1957 and as subsequently amended.”.

Amendment of article 3 of the principal Act.

**7.** For subarticle (1) of article 3 of the principal Act, there shall be substituted the following:

“(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 Treaty and shall participate in carrying out the tasks and complying with the objectives conferred upon it by the Treaty and the Statute and shall assume all rights and obligations consequential to such a status.”.

Amendment of article 4 of the principal Act.

**8.** Article 4 of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words “Principal objective” there shall be substituted the words “Objectives”;

(b) subarticles (2) and (3) thereof shall be deleted; and

(c) subarticle (1) thereof shall be renumbered as the whole provision and shall be substituted with the following:

“In accordance with the Treaty 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 Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 of the Treaty and shall act in accordance with the principles set out in Article 4 of the Treaty.”.

9. Immediately after article 4 of the principal Act, there shall be added the following new article 5:

Addition of new article 5 to the principal Act.

“Tasks of the Bank.

5. (1) In accordance with the Treaty and the Statute, the tasks of the Bank shall include the following –

- (a) to implement monetary policy;
- (b) to hold and manage 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 banknotes;
- (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 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.

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

Amendment of  
article 7 of the  
principal Act.

**10.** Article 7 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words from “the Bank,” to “17D.” there shall be substituted the words “the Bank, except in relation to the functions imposed, and the exercise of powers conferred, on the Bank by or under the Treaty or the Statute.”;

(b) for subarticle (2) thereof there shall be substituted the following:

“(2) The members of the Board shall be the Governor, the Deputy Governor and the three other directors appointed under article 9.”; and

(c) subarticles (3) and (4) thereof shall be deleted.

Amendment of  
article 8 of the  
principal Act.

**11.** Article 8 of the principal Act shall be amended as follows:

(a) the present subarticle (2) shall be renumbered as paragraph (b) of the subarticle, and immediately before it there shall be inserted the following new paragraph (a):

“(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 Treaty and the Statute.”;

and for the words “Without prejudice to the provisions of article 17,” there shall be substituted the words “Without prejudice to paragraph (a) of this subarticle,”; and immediately after the word “decisions” there shall be inserted the words “in this respect”;

(b) subarticle (4) thereof shall be deleted;

(c) subarticle (5) thereof shall be renumbered as subarticle (4); and

(d) immediately after subarticle (4), as renumbered, there shall be added the following new subarticles (5) and (6):

“(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.”.

**12.** Article 9 of the principal Act shall be substituted with the following:– Amendment of article 9 of the principal Act.

“9. (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 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.”.

Amendment of article 11 of the principal Act.

**13.** Subarticles (1) and (2) of article 11 of the principal Act shall be deleted and subarticles (3) and (4) thereof shall be renumbered as subarticles (1) and (2) respectively.

Amendment of article 12 of the principal Act.

**14.** For subarticle (4) of article 12 of the principal Act, there shall be substituted the following:

“(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.”.

Addition of new article 13 to the principal Act.

**15.** Immediately after article 12 of the principal Act, there shall be added the following new article 13:

“Audit Committee.

13. 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.”.

Amendment of article 17, as renumbered, of the principal Act.

**16.** Article 17, as renumbered, of the principal Act shall be amended as follows:

(a) for subarticle (1) thereof there shall be substituted the following:

“(1) In accordance with the Treaty 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 open accounts and accept and place deposits as provided in this Act, and, in special cases, with the prior approval of the Board, to open accounts for and accept deposits from other persons;

(b) to maintain accounts with central banks or other credit institutions and agents, accept from, and place deposits with, any such credit institution or agent, and act 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 subscribe to, purchase, sell, discount or re-discount 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 issue, purchase, sell, discount or re-discount 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 grant to any credit or financial institution in Malta loans and advances against adequate security;

(f) to enter into repurchase and reverse repurchase agreements; and

(g) when it deems such action necessary to safeguard financial stability or in other exceptional circumstances, to grant a loan or advance to any credit institution incorporated in Malta against such forms of security as the Board may consider appropriate.”;

(b) in subarticle (2) thereof for the words “external reserves”, wherever they appear, there shall be substituted the words “reserve assets”, and immediately after the words “the Bank may” there shall be inserted the words “, in accordance with the guidelines and instructions of the European Central Bank,”;

(c) in subarticle (3) thereof for the words “government securities or other first class securities” there shall be substituted the words “financial instruments”;

(d) subarticles (4), (5) and (6) thereof shall be renumbered as subarticles (5), (6) and (7) respectively; and

(e) immediately after subarticle (3) thereof there shall be inserted the following new subarticle (4):

“(4) 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.”.

Amendment of  
article 18, as  
renumbered, of the  
principal Act.

**17.** Article 18, as renumbered, of the principal Act shall be amended as follows:

(a) in the marginal note thereto, the words “Advisory Council” shall be deleted; and

(b) for subarticles (1) and (2) there shall be substituted the following subarticles:

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

(2) The Governor may establish a Monetary Policy Advisory Committee to advise him on matters relating to monetary policy. 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.

(3) Whenever the Governor is unable, by reason of absence, ill-health or any other cause to discharge the functions, 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.”.

**18.** Article 19, as renumbered, of the principal Act shall be amended as follows: Amendment of article 19, as renumbered, of the principal Act.

(a) in subarticle (1) thereof, for the words “five million liri” there shall be substituted the words “twenty million euro”;

(b) subarticle (2) thereof, shall be substituted with the following:

“(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.”; and

(c) subarticle (3) thereof shall be deleted.

**19.** In article 20, as renumbered, of the principal Act, immediately before the words “The accounts of”, there shall be inserted the words “In accordance with Article 27 of the Statute,”, the word “annually” shall be deleted, and for the words “with the approval of the Minister” there shall be substituted the words “as recommended by the European Central Bank and approved by the Council of the European Union”. Amendment of article 20, as renumbered, of the principal Act.

**20.** Article 21, as renumbered, of the principal Act shall be amended as follows: Amendment of article 21, as renumbered, of the principal Act.

(a) subarticles (1), (2) and (3) thereof shall be renumbered as subarticles (2), (3) and (4) respectively; and

(b) immediately before subarticle (2), as renumbered, there shall be inserted the following new subarticle (1):

“(1) The financial year of the Bank shall begin on the first day of January and end on the thirty-first day of December.”; and

(c) immediately after subarticle (4), as renumbered, there shall be inserted a new subarticle (5):

“(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.”.

Amendment of article 22, as renumbered, of the principal Act.

**21.** Article 22, as renumbered, of the principal Act shall be amended as follows:

- (a) in subarticle (1) thereof, the word “current” shall be deleted;
- (b) subarticles (2) and (3) thereof shall be deleted; and
- (c) subarticle (4) thereof shall be renumbered as subarticle (2).

Amendment of article 23, as renumbered, of the principal Act.

**22.** Article 23, as renumbered, of the principal Act shall be amended as follows:

- (a) in subarticle (1) thereof, for the words “article 38A(2)” there shall be substituted the words “article 36(2)”, and immediately after the words “under this Act” there shall be inserted the words “or to implement instructions or guidelines issued in terms of the Treaty and the Statute”;
- (b) subarticle (3) thereof shall be amended as follows:
  - (i) paragraph (g) thereof shall be substituted with the following:
 

“(g) 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;”;
  - (ii) immediately after paragraph (g) there shall be inserted the following paragraph (h):
 

“(h) a recognised investment exchange under the Financial Markets Act; or”;
  - (iii) paragraph (h) thereof shall be renumbered as paragraph (i); and

(c) in subarticle (4) thereof, for the words “Part VI” there shall be substituted the words “Part VIII”.

**23.** Article 24, as renumbered, of the principal Act shall be amended as follows: Amendment of article 24, as renumbered, of the principal Act.

(a) in subarticle (1) thereof, for the words “The Bank may” there shall be substituted the words “In accordance with the Treaty and the Statute and the guidelines and instructions of the European Central Bank, the Bank may”;

(b) in subarticle (3) thereof, for the words “article 38A(1)” there shall be substituted the words “article 36(1)”; and

(c) immediately after subarticle (3) there shall be added the following new subarticle (4):

“(4) 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 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.”.

**24.** In subarticle (1) of article 26 of the principal Act, for the word “shall” there shall be substituted the word “may”. Amendment of article 26 of the principal Act.

**25.** Article 27 of the principal Act shall be amended as follows: Amendment of article 27 of the principal Act.

(a) subarticle (1) shall be substituted with the following:

“(1) The Bank shall not grant overdrafts or any other type of credit facility to Community 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.”; and

(b) in subarticle (2) for the words “The Government-controlled credit institution” there shall be substituted the words “Government-controlled credit institutions”.

**26.** Article 28 of the principal Act shall be substituted with the following: Amendment of article 28 of the principal Act.

“Bank as agent for Government. 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.”.

Amendment of article 29 of the principal Act.

27. In article 29 of the principal Act, for the words “of the Bank,” there shall be substituted the words “of the Bank:” and immediately after there shall be inserted the following proviso:

“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 confidentiality requirements resulting from the Statute are observed.”.

Amendment of article 32, as renumbered, of the principal Act.

28. Article 32, as renumbered, of the principal Act shall be amended as follows:

(a) subarticles (2), (3) and (4) thereof shall be deleted; and

(b) subarticle (1) thereof shall be renumbered as the whole provision, and shall be substituted with the following:

“Deposits of credit institutions with Bank.

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

Amendment of article 34, as renumbered, of the principal Act.

29. Article 34, as renumbered, of the principal Act shall be amended as follows:

(a) in this article, in the Maltese text, for the words “ħlas” and “ħlasijiet”, wherever they appear, there shall be substituted the words “pagament” and “pagamenti” respectively;

(b) in subarticle (1) therefore, immediately after the words “The Bank shall” there shall be inserted the words “, in accordance with the Treaty and the Statute,”;

(c) in subarticle (3) thereof, for the words “twenty thousand liri” there shall be substituted the words “forty-five thousand euro”;



(d) at the end of subarticle (5) thereof there shall be inserted the following proviso:

“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 under Article 22 of the Statute.”;

(e) in subarticle (6) thereof, immediately before the words “Any payment order” there shall be inserted the words “To the extent specified by the Bank in directives as aforesaid,”; and

(f) in subarticle (7) thereof, immediately after the word “settlement,” there shall be inserted the words “securities clearing,” and in the Maltese text, for the words “ħlas ta’ pagamenti” there shall be substituted the words “konkluzjoni ta’ pagamenti”.

**30.** Article 35, as renumbered, of the principal Act shall be amended as follows:

Amendment of article 35, as renumbered, of the principal Act.

(a) in paragraph (a) thereof, for the words “article 36(2)” there shall be substituted the words “article 34(2)”, and for the words “article 36(5)(a)” there shall be substituted the words “article 34(5)(a)”;

(b) in paragraph (b) thereof, for the words “article 36(5)(b)” there shall be substituted the words “article 34(5)(b)”;

(c) in paragraph (c) thereof, for the words “article 52A(1)” there shall be substituted the words “article 56(1)”.

**31.** In article 36, as renumbered, of the principal Act, including the marginal note thereto, in the English text, for the words “Competent Authority”, wherever they appear, there shall be substituted the words “competent authority”.

Amendment of article 36, as renumbered, of the principal Act.

**32.** Article 37, as renumbered, of the principal Act shall be amended as follows:

Amendment of article 37, as renumbered, of the principal Act.

(a) in this article, including in the marginal note thereto, in the English text only, for the words “Competent Authority”, wherever they appear, there shall be substituted the words “competent authority”;

(b) in subarticle (2) thereof, for the words “article 24A” there shall be substituted the words “article 23”.

Amendment of article 38, as renumbered, of the principal Act.

**33.** The English text of article 38 as renumbered, of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words “Information by banks” there shall be substituted the word “Confidentiality”; and

(b) in this article, for the words “Competent Authority” there shall be substituted the words “competent authority”.

Amendment of article 39, as renumbered, of the principal Act.

**34.** In article 39, as renumbered, of the principal Act, immediately before the words “The Bank may own shares” there shall be inserted the words “In accordance with the Treaty and the Statute,”.

Amendment of article 41, as renumbered, of the principal Act.

**35.** In article 41, as renumbered, of the principal Act, immediately after the words “international obligations”, wherever they appear, there shall be inserted the words “including in situations of instability in the financial system”.

Amendment of article 42 of the principal Act.

**36.** Article 42 of the principal Act shall be amended as follows:

(a) for the marginal note thereto, there shall be substituted the words “Issue of euro banknotes”;

(b) subarticles (2), (3), (4), (5), (6) and (7) thereof shall be deleted; and

(c) subarticle (1) thereof shall be renumbered as the whole provision, and shall be substituted with the following:

“The Bank shall issue euro banknotes in accordance with Article 106 of the Treaty and Article 16 of the Statute.”.

Amendment of article 43 of the principal Act.

**37.** Article 43 of the principal Act shall be amended as follows:

(a) for the marginal note thereto, there shall be substituted the words “Issue of euro coins”;

(b) subarticle (1) thereof shall be substituted with the following:

“The Bank shall issue euro coins in Malta. In doing so, the Bank shall act as agent for the Government.”;

(c) subarticle (2) thereof shall be substituted with the following:

“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 106 of the Treaty.”; and

(d) subarticles (3), (4), (5), (6), (7), (8) and (9) thereof shall be deleted.

**38.** Article 44 of the principal Act shall be substituted with the following:

Substitution of article 44 of the principal Act.

“Definition of currency note or coin.

44. For the purposes of the following provisions of this Part, “currency note” or “coin” mean euro banknotes or euro coins and any other note or coin, by whatever name called, which is legal tender in the country outside Malta in which it was issued.”.

**39.** Article 48 of the principal Act shall be amended as follows:

Amendment of article 48 of the principal Act.

(a) in the marginal note thereto, for the words “currency notes” there shall be substituted the words “euro banknotes”; and

(b) in this article, for the words “fifty liri” there shall be substituted the words “one hundred and fifteen euro”.

**40.** Article 51, as renumbered, of the principal Act shall be amended as follows:

Amendment of article 51, as renumbered, of the principal Act.

(a) in the marginal note thereto, for the words “currency notes and coins” there shall be substituted the words “euro banknotes”; and

(b) in this article, for the words “subject to specific conditions, authorise the reproduction of currency notes or coins” there shall be substituted the words “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.”.

**41.** In article 52, as renumbered, of the principal Act, the words “the Maltese lira and, or” shall be deleted.

Amendment of article 52, as renumbered, of the principal Act.

Amendment of article 53, as renumbered, of the principal Act.

**42.** In article 53, as renumbered, of the principal Act, for the words “article 49C” there shall be substituted the words “article 52”, and the words “the Maltese lira and, or” shall be deleted.

Amendment of article 54, as renumbered, of the principal Act.

**43.** Article 54, as renumbered, of the principal Act shall be amended as follows:

(a) subarticle (2) thereof shall be deleted; and

(b) subarticle (1) thereof shall be renumbered as the whole provision, and shall be substituted with the following:

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

**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.”.

Amendment of article 55, as renumbered, of the principal Act.

**44.** Article 55, as renumbered, of the principal Act shall be amended as follows:

(a) subarticle (1) thereof shall be amended as follows:

(i) in paragraph (b) thereof, for the words “in the Schedule” there shall be substituted the words “in Annex II of Council Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins”; and

(ii) for the words “ten thousand liri” there shall be substituted the words “twenty three thousand euro”;

(b) in subarticle (3)(a) thereof, for the words “item 1 of Schedule One” there shall be substituted the words “item 2 of Annex II of Council Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins”; and in subarticle (3)(b) thereof, for the words “item 2 of Schedule One” there shall be substituted the words “item 3 of Annex II of Council Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins”; and

(c) subarticle (4) thereof shall be amended as follows:

(i) in the definition “reference range for diameter”, for the words “19,00 millimetres and 28,00 millimetres” there

shall be substituted the words “19.00 millimetres and 28.00 millimetres”; and

(ii) in the definition “reference range for edge height”, for the words “7.00% and 12.00%” there shall be substituted the words “7.00% and 12.00%”.

**45.** Article 56, as renumbered, of the principal Act, shall be amended as follows:

Amendment of article 56, as renumbered, of the principal Act.

(a) in the proviso to subarticle (1) thereof, for the words “ten thousand Maltese liri” there shall be substituted the words “twenty three thousand euro”; and immediately after the proviso there shall be inserted a second proviso:

“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.”; and

(b) subarticle (2) thereof shall be amended as follows:

(i) immediately after the words “administrative penalties” there shall be inserted the word “only”;

(ii) for paragraphs (a) to (f) thereof there shall be substituted 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;

(b) 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;

(c) 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.”; and

(c) subarticle (3) thereof shall be deleted.

Amendment of article 57, as renumbered, of the principal Act.

**46.** Article 57, as renumbered, of the principal Act, shall be amended as follows:

(a) in subarticle (1) thereof, for the words “article 52A” there shall be substituted the words “article 56”;

(b) in subarticle (2) thereof, for the words “article 52A(2)(a)” there shall be substituted the words “article 56(2)(a)”;

(c) in paragraph (a) of subarticle (3) thereof, for the words “article 36A” there shall be substituted the words “article 35”.

Addition of new articles 60 and 61 to the principal Act.

**47.** Immediately after article 59, as renumbered, of the principal Act, there shall be added the following new articles 60 and 61:

“Power to issue regulations.

**60.** The Minister may, by regulations, amend the Schedules to this Act.

Reference rates.

**61.** (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.”.

**48.** Immediately after new article 61 of the principal Act, there shall be added the following new Part XII:

Addition of new Part XII to the principal Act.

## **“PART XII**

### **TRANSITIONAL PROVISIONS FOR THE MALTESE LIRA**

Notes.

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 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.

Coins.

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 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.”.

Deletes Schedule to the principal Act.

**49.** The Schedule to the principal Act shall be deleted.

Addition of new Schedule to the principal Act.

**50.** Immediately at the end of the principal Act, there shall be inserted the following new Schedule:



## **“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)”

## **PART II**

### **AMENDMENT OF THE EXTERNAL TRANSACTIONS ACT, CAP. 233**

**51.** (1) This Part amends and shall be read and construed as one with the External Transactions Act, hereinafter referred to as “the principal Act”.

Amendment of the  
External  
Transactions Act,  
Cap 233.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may by notice in the Gazette establish.

**52.** Paragraph (a) of the definition of “resident” in article 2(1) of the principal Act shall be substituted with the following:

Amendment of  
article 2 of the  
principal Act.

“(a) any natural person regardless of nationality whose centre of economic interest is ordinarily in Malta and who has resided in or has the intention to reside in Malta for a continuous period of one year;”.

Passed by the House of Representatives at Sitting No. 501 of 28th February, 2007.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*Clerk to the House of Representatives*