

I assent.

(L.S.)

Ugo Mifsud Bonnici  
President

1st November, 1994

ACT No. XXVI of 1994

*AN ACT further to amend the Central Bank of Malta Act, Cap 204*

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 and  
commencement.  
*Cap. 204*

1. (1) This Act may be cited as the Central Bank of Malta (Amendment) Act, 1994, and shall be read and construed as one with the Central Bank of Malta Act, hereinafter referred to as "the principal Act".

(2) The provisions of this Act shall come into force on such date as the Minister responsible for finance may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of the Act.

Substitution of  
Arrangement of Act.

2. The "ARRANGEMENT OF ACT" of the principal Act shall be substituted with the following:

"ARRANGEMENT OF ACT"		Sections
Part I	Preliminary	1 - 2
Part II	Establishment and Conduct of Affairs of Bank	3 - 17
Part III	Financial Provisions	18 - 24
Part IV	Relations with Government	25 - 32
Part V	Relations with Banks and Financial Institutions	33 - 38C
Part VI	Relations with the Competent Authority	38D - 38F
Part VII	Currency	39 - 49A
Part VII	General	53 - 54".

3. Section 2 of the principal Act shall be amended as follows:

Amendment of section 2  
of the principal Act.

(a) immediately after the definition of "Bank" there shall be added the following new definition:

" "bank" means any person carrying on the business of banking and includes any branch, agency or office in Malta of a bank not incorporated in Malta,";

(b) for the definition of "business of banking" there shall be substituted the following:

" "business of banking" means

(a) the business of a person who, as set out in sub-section (2) of section 2 of the Banking Act, accepts deposits of money from the public withdrawable or repayable on demand or after a fixed period or after notice or who borrows or raises money from the public (including the raising or borrowing of money by the issue of certificates of deposit, debentures or debenture stock or other instruments creating or acknowledging indebtedness), in either case for the purpose of employing such money in whole or in part by lending to others or otherwise investing for the account and at the risk of the person accepting such money; or

Cap. 215

(b) any business defined by the Minister as constituting the business of banking by an order published in the Gazette;"

(c) immediately after the definition of "business of banking" as substituted by this Act there shall be added the following new definition:

" "Competent Authority" means that Authority nominated to regulate the business of banks, financial institutions or other financial services;"

(d) the definition of "commercial bank" shall be deleted;

(e) for the definition of "financial institution" there shall be substituted the following:

" "financial institution" means an institution licensed under the Financial Institutions Act, 1994 and includes any branch in Malta of an institution not incorporated in Malta;" and

(f) in the definition of "savings deposits" the words "on presentation of a passbook or" shall be deleted.

Amendment of section 4 of the principal Act.      4. For paragraph (d) of section 4 of the principal Act there shall be substituted the following:

"(d) to promote a sound financial structure and to foster an orderly capital market in Malta;"

Deletion of section 6 of the principal Act.      5. Section 6 of the principal Act shall be deleted.

Amendment of section 8 of the principal Act.      6. Section 8 of the principal Act shall be amended as follows:

(a) for subsection (1) thereof and the proviso thereto there shall be substituted the following:

"(1) The Governor and the Deputy Governor shall be persons of recognised experience in financial matters and shall each be appointed by the President of Malta, acting on the advice of the Prime Minister. They shall be appointed for a period not exceeding 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.";

(b) for subsection (5) thereof there shall be substituted the following:

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

Provided that they may -

(a) act or serve as chairmen, governors, directors or members of any board, commission or committee, by whatever name called, established by or under any law to promote, regulate or enquire into matters affecting currency, banking or finance in Malta;

(b) become governors, directors or members of the Board, by whatever name called, of any international authority to which the Government shall have adhered or given support or approval;

(c) become chairmen or directors of any body corporate in Malta specified under paragraph (i) of subsection (1) of section 15 of this Act."

7. For paragraph (b) of subsection (1) of section 11 of the principal Act there shall be substituted the following: Amendment of section 11 of the principal Act.

"(b) is a director or salaried official of an institution regulated by the Bank or holds more than one per centum of the ordinary paid up share capital of such institution;"

8. Immediately after section 13 of the principal Act there shall be added the following new section: Addition of new section 13A to the principal Act.

*"Exclusion of liability.*

13A. 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."

9. Section 15 of the principal Act shall be amended as follows: Amendment of section 15 of the principal Act.

(1) in paragraph (a) of subsection (1) thereof for the words "Part VI" there shall be substituted the words "Part VII";

(2) for paragraph (c) of subsection (1) thereof there shall be substituted the following:

"(c) purchase, sell, lend or deposit gold or silver coin or gold, silver or other precious metal in bullion or in any other form;"

(3) in paragraph (d) of subsection (1) thereof for the word "Minister" there shall be substituted the word "Board";

(4) for paragraph (f) of subsection (1) thereof there shall be substituted the following:

"(f) purchase, sell, discount or rediscount -

(i) Government Treasury Bills forming part of a public issue;

(ii) commercial or financial instruments as may be approved by the Board;"

(5) immediately after paragraph (f) of subsection (1) thereof there shall be added the following new paragraph:



"(g) issue, purchase, sell, discount or rediscount financial instruments bearing the Bank's name and such instruments shall be in such form and for such terms and maturities as may be approved by the Board;"

(6) paragraph (g) of subsection (1) thereof is to read (h);

(7) in paragraph (h) as renumbered of subsection (1) thereof for the words "of the demand liabilities of the Bank;" there shall be substituted the words:

"of the aggregate of:

(i) the value of the Bank's notes and coins issued, excluding coins issued for numismatic purposes;

(ii) the deposit liabilities of the Bank; and

(iii) the nominal amount of financial instruments issued and outstanding in terms of paragraph (g) of subsection (1) of this section;"

(8) in the proviso to paragraph (h) of subsection (1) thereof substitute the words "under section 52 of this Act;" by the words "under section 18 of this Act;"

(9) paragraphs (h) and (i) of subsection (1) thereof are to read (i) and (j), and paragraphs (j) and (k) are to read (k) and (m);

(10) for paragraph (k) as renumbered of subsection (1) thereof there shall be substituted the following:

"(k) grant to any bank incorporated in Malta loans and advances on such terms and conditions as may be approved by the Board and for such periods not exceeding twelve months against promissory notes secured by the pledge or deposit with the Bank of -

(i) gold or silver coin, or gold, silver or other precious metals in bullion form;

(ii) publicly issued Government Treasury bills and securities of the Government which have been publicly offered for sale maturing within twenty years;

(iii) financial instruments issued by the Bank;

(iv) deposits held at the Bank;

(v) other marketable securities as may be approved by the Board;

(vi) such bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the Bank;

(vii) documents of title to goods in Malta, duly insured;"

(11) immediately after paragraph (k) as renumbered of subsection (1) thereof there shall be added the following new paragraph:

"(l) enter into contractual agreements with banks incorporated in Malta for the repurchase and reverse repurchase of publicly issued securities of or guaranteed by the Government and of other financial instruments as may be approved by the Board;"

(12) in paragraph (m) as renumbered of subsection (1) thereof for the words "to any commercial bank" there shall be substituted the words "to any bank incorporated in Malta";

(13) paragraphs (l), (m), (n), (o) and (p) of subsection (1) thereof are to read (n), (p), (q), (r) and (s);

(14) for paragraph (n) as renumbered of subsection (1) thereof there shall be substituted the following:

"(n) purchase and sell:

(i) convertible foreign currencies;

(ii) negotiable certificates of deposit and bankers' acceptances, maturing within ten years;

(iii) floating rate notes maturing within ten years;

(iv) other internationally accepted marketable instruments maturing within ten years:

Provided that the instruments referred to in subparagraphs (ii) and (iii) of this paragraph shall be of first class standing and denominated in convertible foreign currencies and their value shall not exceed twenty-five per centum of the total assets referred to in subsection (3) of section 19 of this Act."

(15) immediately after paragraph (n) as renumbered of subsection (1) thereof there shall be added the following new paragraph:

"(o) purchase, sell, discount and rediscount bills of exchange drawn in or on places abroad and maturing within ninety-three days exclusive of days of grace from the date of acquisition and Treasury bills issued in or on places abroad and maturing within two years;"

(16) in paragraph (p) as renumbered of subsection (1) thereof for the words "purchase and sell" there shall be substituted the words "purchase, sell, deposit or lend for consideration";

(17) paragraphs (q) and (r) of subsection (1) thereof are to read (t) and (v); and

(18) immediately after paragraph (t) as renumbered of subsection (1) thereof there shall be added the following new paragraph:

"(u) to exercise the functions assigned to it under the Banking Act, 1994;"

Amendment of section 16 of the principal Act.

10. Section 16 of the principal Act shall be amended as follows:

(1) in paragraph (b) thereof the words "in paragraph (h) and (n) of section 15" to read "in paragraph (i) and (q) of section 15";

(2) in paragraph (d) thereof the words "and in section 27 of this Act" shall be deleted, and the words "in paragraph (k) of section 15" and "in paragraph (j) of section 15" should read "in paragraph (m) of section 15" and "in paragraph (k) of section 15" respectively;

(3) in paragraph (f) thereof immediately after the words "on demand" there shall be added the words "or as provided for under paragraph (g) of subsection (1) of section 15 of this Act"; and

(4) in paragraph (i) thereof for the word "Minister" there shall be substituted the word "Board".

Substitution of section 18 of the principal Act.

11. For section 18 of the principal Act and the marginal note thereto there shall be substituted the following:

*"Capital and Reserves.*

18. (1) The Bank shall have an authorised capital of five million Maltese liri which shall be fully paid and shall be held exclusively by the Government.

(2) The Bank shall maintain a General Reserve Fund and a Special Reserve Fund.

(3) The General Reserve Fund and the Special Reserve Fund shall not be less than two million Maltese liri and five million Maltese liri respectively.

(4) The Special Reserve Fund shall be available for those investments provided for in paragraph (i) of section 15 of this Act or for any other similar purpose approved by the Minister.



(5) With the approval of the Minister, further allocations may be made to both the General Reserve Fund and the Special Reserve Fund as may become necessary from time to time."

12. For subsection (2) of section 19 of the principal Act there shall be substituted the following: Amendment of section 19 of the principal Act.

"(2) The relation of the value of the reserve of external assets to the value of the Bank's liabilities under paragraph (h) of subsection (1) of section 15 of this Act shall be determined and may be varied by the Minister on the recommendation of the Board by a directive issued under section 32 of this Act and such determination or variation shall be duly notified in the Gazette."

13. The proviso to section 21 of the principal Act shall be deleted. Amendment of section 21 of the principal Act.

14. For subsection (4) of section 24 of the principal Act there shall be substituted the following: Amendment of section 24 of the principal Act.

"(4) After such allocations as are referred to in subsection (4) of section 18 of this Act have been made, the remainder of the net profits established as aforesaid shall be paid to the Government."

15. For section 27 of the principal Act there shall be substituted the following: Substitution of section 27 of the principal Act.

"27 Any balance of a temporary advance made by the Bank to the Government and still outstanding and unpaid on the date of the coming into force of this section shall be repaid in full by the end of the calendar year when this section comes into force."

16. For section 32 of the principal Act there shall be substituted the following: Amendment of section 32 of the principal Act.

"32. The Minister may, if he thinks it necessary in the national interest, and after consultation with the Governor of the Bank or as provided for under subsection (2) of section 19 of this Act, give to the Bank such directions in writing as he may deem appropriate in terms of paragraphs (b) and (c) of section 4 of this Act, and the Bank shall comply with such directions."

17. Immediately after section 32 of the principal Act and immediately preceding section 33 thereof for the heading "PART V RELATIONS WITH BANKS" there shall be substituted "PART V RELATIONS WITH BANKS AND FINANCIAL INSTITUTIONS". Amendment of heading of Part V of the principal Act.



Amendment of section 33  
of the principal Act.

18. Section 33 of the principal Act shall be amended as follows:

- (a) in subsection (1) thereof the word "commercial" shall be deleted and immediately after the words "deposits from such banks" there shall be added the words "and financial institutions"; and
- (b) in subsection (2) thereof the word "such" shall be deleted.

Amendment of section 35  
of the principal Act.

19. For section 35 of the principal Act there shall be substituted the following:

"35. The Bank shall seek the co-operation of, and shall co-operate with, banks and financial institutions in Malta to further such policies not inconsistent with this Act as shall be in the national interest."

Amendment of section 37  
of the principal Act.

20. Section 37 of the principal Act shall be amended as follows:

- (a) in subsection (1) thereof for the words "may require commercial banks in Malta" there shall be substituted the words "may require banks carrying on the business of banking in Malta";
- (b) in subsections (2), (5) and (6) thereof the word "commercial", wherever it occurs, shall be deleted;
- (c) subsections (4), (5) and (6) thereof shall be renumbered as subsections (5), (6) and (7); and
- (d) immediately after subsection (3) thereof there shall be added the following new subsection (4):

"(4) Notwithstanding what is provided for in subsections (1), (2) and (3) of this section, the Bank may, at its discretion, allow any bank as is referred to in subsection (1) of this section to make drawings from its reserve deposits to meet temporary deficiencies in its working balances with the Bank:

Provided that such drawings shall be made and repaid in such manner and within such period as the Bank may from time to time by notice to the banks prescribe;

Provided further that in the event that a bank fails to repay such drawings in the manner and period prescribed, the Bank may charge interest at a rate not exceeding five percentage points per annum over the Bank's minimum discount rate on any unpaid amount as long as such default persists."

21. Section 38 of the principal Act shall be amended as follows:

Amendment of section 38 of the principal Act.

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

"(1) Notwithstanding anything else contained in any other law, the Bank may from time to time determine and announce:

(a) the maximum or the minimum rates of interest which banks may pay on deposits or both such maximum and minimum rates;

(b) the maximum percentage margin over the Bank's minimum discount rate which banks and financial institutions may charge on loans and advances; different margins may be set for different categories of transactions or for different economic sectors."; and

(b) in subsection (2) thereof the word "commercial" shall be deleted.

22. Immediately after section 38 of the principal Act there shall be added the following new sections:

Additions of new sections 38A, 38B and 38C to the principal Act.

*"Regulation of loans and advances by banks and financial institutions.*

38A. The Bank may in respect of loans and advances granted by banks and financial institutions:

(a) prescribe the purposes for which these may or may not be made;

(b) prescribe maximum maturities and the type of security that may be required;

(c) establish limits for any particular categories of loans and advances or for the total amount outstanding.

*Assets held by banks and financial institutions outside Malta.*

38B. The Bank may determine from time to time the amount that banks and financial institutions may hold as assets outside Malta.

*Information by banks.*

38C. (1) The Bank may require banks to submit such information as the Bank may require in the discharge of its duties under this Act.

(2) Any information submitted by banks shall be regarded as secret and confidential except as provided for under section 38F of this Act.

(3) The Bank shall prepare and publish consolidated statements aggregating the information so furnished under this section and under subsection (1) of section 38D of this Act."

Addition of new Part VI  
to the principal Act.

23. Immediately after new section 38C added to the principal Act by section 22 of this Act there shall be added the following new Part:

"PART VI

RELATIONS WITH THE COMPETENT AUTHORITY

*Information, inspection and reporting by the Competent Authority.*

38D (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.

*Information to Competent Authority.*

38E. 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 the Banking Act, 1994 or any other Act.

*Confidentiality.*

38F. Any information obtained by the Bank pursuant to section 38C of this Act may be communicated to the Competent Authority which shall receive such information subject to the duty of professional secrecy."

24. Immediately after new section 38F added to the principal Act by section 23 of this Act and immediately preceding section 39 of the principal Act for the heading "PART VI CURRENCY" there shall be substituted "PART VII CURRENCY".  
Amendment of heading of Part VI of the principal Act.
25. Section 39 of the principal Act shall be amended as follows:  
Amendment of section 39 of the principal Act.
- (a) for subsections (2) and (3) thereof there shall be substituted the following:
- "(2) The Maltese lira shall be divided into one hundred cents and each cent shall be divided into ten mils.
- (3) The Minister may make regulations regarding the treatment of the Maltese lira for accounting purposes."; and
- (b) subsections (4) and (5) thereof shall be deleted.
26. The proviso to subsection (2) of section 42 of the principal Act shall be deleted.  
Amendment of section 42 of the principal Act.
27. The proviso to subsection (2) of section 43 of the principal Act shall be deleted.  
Amendment of section 43 of the principal Act.
28. In the proviso of section 45 of the principal Act for the words "not exceeding one year" there shall be substituted the words "not exceeding three years".  
Amendment of section 45 of the principal Act.
29. In section 48 of the principal Act for the words "not exceeding ten liri" there shall be substituted the words "not exceeding fifty liri".  
Amendment of section 48 of the principal Act.
30. For subsection (1) of section 49 of the principal Act there shall be substituted the following:  
Amendment of section 49 of the principal Act.
- "(1) Whosoever counterfeits or lightens or impairs or melts down any coin or introduces or utters any counterfeit or debased coin knowing the same to be counterfeit or debased shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding nine years:



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

Addition of new section 49A to the principal Act.      31. Immediately after section 49 of the principal Act there shall be added the following new section:

*"Reproduction of notes and coins.*

49A. Notwithstanding anything contained in the foregoing sections, under duly warranted circumstances the Bank may, subject to specific conditions, authorise the reproduction of currency notes or coins."

Amendment of heading of Part VII of the principal Act.      32. Immediately after new section 49A added to the principal Act by section 31 of this Act and immediately preceding section 50 of the principal Act for the heading "PART VII GENERAL" there shall be substituted "PART VIII GENERAL".

Deletion of sections 50, 51 and 52 of the principal Act      33. Sections 50, 51 and 52 of the principal Act shall be deleted.

Substitution of section 54 of the principal Act.      34. For section 54 of the principal Act and the marginal note thereto there shall be substituted the following:

*"Exemption from income tax and duty on documents and transfers.*

"54. 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."

Deletion of section 55 and Schedule of the principal Act.      35. Section 55 of the principal Act and the Schedule to the same Act shall be deleted.

Application of Act.

36. The provisions of this Act amending the principal Act in matters concerning the office of the Deputy Governor shall apply only to persons appointed to that office after the date of the coming into force of the provisions of this Act and, in respect of a person appointed before that date, the provisions of the principal Act on the matters aforesaid shall continue to apply as they were in force prior to such amendments.

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Passed by the House of Representatives at Sitting No. 323 of the 11th of October, 1994.

LAWRENCE GONZI  
*Speaker*

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

