

Nru. 118

6. 03. 2020

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Ligi mressaq mill-Onorevoli Edward Scicluna, M.P., Ministru għall-Finanzi u s-Servizzi Finanzjarji, u moqri għall-Ewwel darba fis-Seduta tal-4 ta' Marzu 2020.

ATT biex jemenda l-Att dwar il-Bank Ċentrali ta' Malta, Kap. 204.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Edward Scicluna, M.P., Minister for Finance and Financial Services, and read the First time at the Sitting of the 4th March 2020.

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

RAYMOND SCICLUNA
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjah

ATT biex jemenda l-Att dwar il-Bank Ċentrali ta' Malta, Kap 204.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att tal-2020 li jemenda l-Att dwar il-Bank Ċentrali ta' Malta, u għandu jinqara u jinftehem haġa waħda mal-Att dwar il-Bank Ċentrali ta' Malta, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-seħh.
Kap. 204.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-seħh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. Fl-intestatura tat-Taqsima VII tal-Att prinċipali taħt it-Taqsim tal-Att, il-kliem "Sistemi ta' Pagament u Servizzi ta' Pagament" għandhom jiġu sostitwiti bil-kliem "Xenarju tal-Pagamenti".

Sostituzzjoni tal
Intestatura tat-
Taqsima VII tal-
Att prinċipali.

3. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) minnufih qabel it-tifsira "awtorità kompetenti" għandhom jiżdiedu dawn it-tifsiriet li ġejjin:

" "aġenzija ta' referenza dwar kreditu" tfisser kull impriza li jkollha liċenza mis-Sezzjoni Liċenzi tal-Kummerċ kif hemm fir-regolament 47A tar-Regolamenti dwar il-Liċenzi tal-Kummerċ, li xogħolha prinċipali jkun li tfejji, tiġbor u tevalwa informazzjoni dwar il-kreditu u servizzi ta' maniġġar ta' kreditu u riskju relatati dwar persuni ġuridiċi u fiżiċi bil-għan li jingabru punteġġi ta'

L.S. 441.07.

C 3912

kreditu biex jiġu provduti lil terzi; iżda l-aġenzija ta' referenza dwar kreditu mhux prekluzi milli twettaq kompiti oħrajn relatati;

"applikazzjoni ta' pagament" tfisser *software* ta' kompjuter jew ekwivalenti, imdahhal fuq sistema li tippermetti transazzjonijiet ta' pagamenti u li tinbeda minn pagatur sabiex joħroġ ordni tal-ħlas;"

(b) minnufih wara t-tifsira "awtorità kompetenti" għandha tiżdied it-tifsira li ġejja:

"awtorità superviżorja" tfisser dik l-awtorità responsabbli għas-superviżjoni u l-monitoraġġ tal-aġenziji ta' referenza dwar kreditu liċenzjati taħt ir-Regolamenti dwar il-Liċenzi tal-Kummerċ;"

L.S. 441. 07.

(ċ) minnufih wara t-tifsira "direttur" għandhom jiżdiedu t-tifsiriet li ġejjin:

"Direttiva tas-Servizzi tal-Pagamenti" tfisser Direttiva (UE) 2015/2366 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2015 dwar is-servizzi ta' pagament fis-suq intern, li temenda d-Direttivi 2002/65/KE, 2009/110/KE u 2013/36/UE u r-Regolament (UE) Nru 1093/2010, u li tħassar id-Direttiva 2007/64/KE, kif tista' tiġi emendata minn żmien għal żmien u tinkludi kull miżura implimentattiva mahruġa jew li tista' tinhareġ taħtha;

"fornitur ta' servizz ta' pagament" għandha l-istess tifsir mogħti lilha bl-artikolu 4 tad-Direttiva (UE) 2015/2366 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2015 dwar is-servizzi ta' pagament fis-suq intern, li temenda d-Direttivi 2002/65/KE, 2009/110/KE u 2013/36/UE u r-Regolament (UE) Nru 1093/2010, u li tħassar id-Direttiva 2007/64/KE;"

(d) minnufih wara t-tifsira "Gvernatur" u "d-Deputati Gvernaturi" għandha tiżdied it-tifsira li ġejja:

"informazzjoni dwar il-kreditu" tfisser ġbir ta' informazzjoni pubblika u dik mhux pubblika u informazzjoni oħra relatata, inkluż data mir-Registru Ċentrali tal-Kreditu, li meta tiġi vvalutata, miġmugħa u evalwata tindika affidabbiltà kreditizja ta' persuna ġuridika jew fiżika;"

(e) minnufih wara t-tifsira "partecipant" għandhom jiżdiedu t-tifsiriet li ġejjin:

" "punteġġ ta' kreditu" tfisser miżura tal-affidabbiltà kreditizja miksuba minn informazzjoni dwar il-kreditu u li taht piena ta' nullità għandu jinkludi d-data mir-Registru Ċentrali tal-Kreditu;"

"servizz ta' pagament" tfisser kwalunkwe attività ta' negozju stabbilita fl-Anness I tad-Direttiva (UE) 2015/2366 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2015 dwar is-servizzi ta' pagament fis-suq intern, li temenda d-Direttivi 2002/65/KE, 2009/110/KE u 2013/36/UE u r-Regolament (UE) Nru 1093/2010, u li tħassar id-Direttiva 2007/64/KE;"

(f) minnufih wara t-tifsira "sistema ta' pagament" jew "sistema" għandha tiżdied it-tifsira li ġejja:

" "skema ta' kard ta' pagament" tfisser gabra unika ta' regoli, Prattiki, standards u/jew linji gwida ta' implimentazzjoni għall-eżekuzzjoni ta' transazzjonijiet ta' pagament ibbażati fuq kard;"

(g) minnufih wara t-tifsira "Statut" għandha tiżdied it-tifsira li ġejja:

" "transazzjoni ta' pagament" tfisser att, mibdi minn min iħallas jew f'ismu jew inkella minn min ikun ser jirċievi l-pagament, ta' tqegħid, trasferiment jew għid ta' fondi, irrispettivament minn kwalunkwe obbligu sottostanti bejn min iħallas u min jirċievi l-pagament;" u

(h) minnufih wara t-tifsira "Unjoni Ewropea" jew "Unjoni" għandha tiżdied it-tifsira li ġejja:

" "utent ta' servizz ta' pagament" għandha l-istess tifsir mogħti lilha bl-artikolu 4 tad-Direttiva (UE) 2015/2366 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2015 dwar is-servizzi ta' pagament fis-suq intern, li temenda d-Direttivi 2002/65/KE, 2009/110/KE u 2013/36/UE u r-Regolament (UE) Nru 1093/2010, u li tħassar id-Direttiva 2007/64/KE;"

4. L-artikolu 23 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "hekk provduta." għandhom jiġu sostitwiti bil-kliem "hekk provduta:" u minnufih

Emenda tal-artikolu 23 tal-Att prinċipali.

C 3914

wara għandu jiżded il-proviso ġdid li ġej:

"(1) Iżda l-Bank jista' jipprovdi lil kull persuna deskritta taht is-subartikolu (1), dik l-informazzjoni statistika jew informazzjoni oħra li l-Bank jidhirlu meħtieġa sabiex jaqdi l-funzjonijiet tiegħu taht dan l-Att jew kull Att ieħor."; u

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Il-Bank jista' johroġ direttivi li jipprovdu għal definizzjoni u obbligi biex isiru rapporti, biex jiġu stabbiliti standards ta' kif tintbagħat informazzjoni u l-preċiżjoni tagħha, is-salvagwardji li għandhom ikunu fis-seħħ u l-kundizzjonijiet li taħthom il-jedd għall-verifika u għall-ġbir obbligatorju ta' informazzjoni statistika u informazzjoni oħra jistgħu jitwettqu taht id-dispożizzjonijiet tas-subartikoli (1) u (4).".

Emenda tal-artikolu 24 tal-Att prinċipali.

5. L-artikolu 24 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu minnufih wara l-kliem "kreditu u istituzzjonijiet oħra" għandhom jiżdedu l-kliem ", inkluż lill-Bank Malti ta' Żvilupp sabiex jaqdi l-funzjoni tiegħu taht l-Att dwar il-Bank Malti ta' Żvilupp,";

Kap. 574.

(b) is-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(4) Mingħajr preġudizzju għall-artikolu 41, il-Bank jista' jipprovdi aċċess għall-informazzjoni miżmuma fir-Registru:

(a) fuq bażi ta' arrangamenti ta' reċiproċità lill-banek ċentrali u istituzzjonijiet tal-Istati Membri tal-Unjoni Ewropea, u lill-istituzzjonijiet oħra tal-Unjoni Ewropea, li joħolqu *databases* komparabbli mar-Registru;

(b) lill-Awtorità dwar l-Elenku sabiex taqdi l-funzjoni tagħha taht it-Taqsima III tal-Att dwar is-Swieq Finanzjarji;

Kap. 345.

(ċ) lill-Borża ta' Malta sabiex taqdi l-funzjoni tagħha;

(d) u lil kwalunkwe istituzzjoni oħra li l-Bank jidhirlu meħtieġa:

Iżda l-kundizzjonijiet ta' aċċess għal din l-informazzjoni u r-rekwiżiti tal-kunfidenzjalità fl-Istat Membru inkwistjoni jilhqgu l-kriterji stabbiliti f'dan l-Att.";

(è) fis-subartikolu (6) tiegħu, minnufih wara l-kliem "sabiex jgħaddilu informazzjoni" għandhom jiżdiedu l-kliem "mhux finanzjarja"; u

(d) fis-subartikolu (7) tiegħu, minnufih wara l-kliem "jgħaddi estratti tal-informazzjoni" għandhom jiżdiedu l-kliem "mhux finanzjarja".

6. Minnufih wara l-artikolu 24 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid mal-Att prinċipali.

"Supervizjoni ta' aġenziji ta' referenza dwar kreditu.

24A. (1) Il-Bank hu l-awtorità superviżorja tal-aġenziji ta' referenza dwar kreditu għall-għanijiet biss li jissorvelja l-ħruġ ta' punteġġi ta' kreditu, li għandhom jinkludu informazzjoni granulari mir-Reġistru stabbilit taħt l-artikolu 24.

Iżda s-setgħat ta' superviżjoni mogħtija lill-Bank jinkludu spezzjonijiet kemm fuq il-post jew lil hinn mill-post li jsiru fil-fond tal-aġenzija ta' referenza dwar kreditu, u f'kull fergħa, aġent jew ufficċju li jkunu jipprovdu attivitajiet magħmula taħt il-liċenza u taħt ir-responsabbiltà tal-aġenzija ta' referenza dwar kreditu.

(2) Il-Bank jista' joħroġ, jemenda jew jirrevoka direttivi li jkun jidhirlu xierqa sabiex jingħataw effett id-dispożizzjonijiet tas-subartikolu (1).

(3) Kull aġenzija ta' referenza dwar kreditu għandha tkun soġġetta għal ħlas ta' dritt superviżorju annwali hekk kif jista' jiġi preskritt, li għandu jithallas mal-għoti tal-liċenza u, wara dan kull sena fl-anniversarju tad-data tal-għoti tal-liċenza."

7. Fl-intestatura tat-Taqsima VII tal-Att prinċipali l-kliem "Sistemi ta' Pagament u Servizzi ta' Pagament" għandhom jiġu sostitwiti bil-kliem "Xenarju tal-Pagamenti".

Sostituzzjoni tal-intestatura tat-Taqsima IV tal-Att prinċipali.

8. L-artikolu 34 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 34 tal-Att prinċipali.

(a) fil-verżjoni bl-Ingliż tas-subartikolu (1) tiegħu l-kliem "security" għandhom jiġu sostitwiti bil-kliem "securities";

C 3916

u

(b) fis-subartikolu (2) tiegħu minnufih wara l-kliem "u, bla ħsara għas-subartikolu (3)" għandhom jiżdiedu l-kliem "u artikolu 56(2) jew penali oħra li jistgħu jiġu imposti taħt l-Att."

Emenda tal-artikolu 34A tal-Att prinċipali.

9. L-artikolu 34A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(1) Bla ħsara għad-dispożizzjonijiet tat-Trattati, l-Istatut u kull att legali maħruġ taħthom, il-Bank għandu, sabiex jipromwovi l-iżvilupp stabbli u sostenibbli tax-xenarju tal-pagamenti f'Malta jissorvelja u jirregola il-forniment ta' servizzi ta' pagament f'Malta, l-applikazzjonijiet ta' pagament, skemi ta' kard ta' pagament, u transazzjonijiet ta' pagament minn istituzzjonijiet ta' kreditu u istituzzjonijiet finanzjarji.";

(b) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (6) u (7) rispettivament; u

(ċ) minnufih wara s-subartikolu (1) kif sostitwit tiegħu għandhom jiżdiedu s-subartikoli godda li ġejjin:

"(2) Ebda istituzzjoni ta' kreditu jew istituzzjoni finanzjarja ma għandha tipprovdi servizzi taħt is-subartikolu (1) kemm-il darba ma tinnotifikax lill-Bank.

(3) Il-Bank għandu jkollu s-setgħa li jagħmel reviżjoni tar-regoli u l-proċeduri stabbiliti rigward kull servizz ta' pagament, applikazzjoni ta' pagament, skema ta' kard ta' pagament, u transazzjoni ta' pagament ġewwa Malta, u meta jagħmel dan jista' jinħtieġ l-assistenza kollha u l-kollaborazzjoni ta' kwalunkwe istituzzjoni ta' kreditu jew istituzzjoni finanzjarja skont ma jista' jkun meħtieġ sabiex jaqdi l-funzjonijiet tiegħu taħt l-Att.

(4) Mingħajr preġudizzju għall-artikolu 56(2) jew kwalunkwe penali oħra li jistgħu jiġu imposti taħt l-Att, il-Bank għandu d-dritt li:

(a) jagħmel ordni sabiex jirrestringi istituzzjoni ta' kreditu jew istituzzjoni finanzjarja milli tiegħu jew tkompli tiegħu xi azzjoni li titqies mill-Bank li tmur kontra l-iżvilupp u l-provdiment stabbli

u sostenibbli tax-xenarju tal-pagamenti f'Malta;

(b) jissospendi l-forniment ta' servizz ta' pagament, applikazzjoni ta' pagament, skema ta' kard ta' pagament, u transazzjoni ta' pagament, meta istituzzjoni ta' kreditu, jew istituzzjoni finanzjarja, tonqos li tosserva xi ordni jew rekwiżit legittimu tal-Bank, u l-Bank jista' jippubblika l-fatt li l-istituzzjoni ta' kreditu jew l-istituzzjoni finanzjarja qiegħda tonqos milli tosserva xi ordni jew hteġa legittima magħmula taħt id-dispożizzjonijiet ta' dan l-artikolu, u jista' jiżvela miżuri jew sanzjonijiet imposti fuq kull istituzzjoni:

Iżda l-informazzjoni pubblikata kif hawn f'dan is-subartikolu għandha tibqa' fuq is-sit elettroniku uffiċjali tal-Bank għal perjodu ta' mhux inqas minn tlett snin.

(5) Il-Bank jista' joħroġ, jemenda jew jirrevoka direttivi li jimponu kundizzjonijiet dwar il-forniment ta' servizzi ta' pagament, applikazzjonijiet ta' pagament, skemi ta' kard ta' pagament, u transazzjonijiet ta' pagament f'Malta."

10. Il-paragrafu (a) tal-artikolu 35 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 35 tal-Att prinċipali.

"(a) tħossha aggravata b'deciżjonijiet li jkunu ttieħdu mill-Bank skont l-artikoli 24A(1), 34(2), 34A(4) jew taħt xi direttiva maħruġa taħt l-artikoli 24A, 17A, 34(5) jew 34A(5);".

11. Fis-subartikolu (2) tal-artikolu 37 tal-Att prinċipali, minnufih wara l-kliem "mill-informazzjoni miġbura taħt l-artikolu 23" għandhom jiżdiedu l-kliem, ", u l-promozzjoni tal-iżvilupp stabbli u sostenibbli tax-xenarju tal-pagamenti f'Malta taħt l-artikolu 34A."

Emenda tal-artikolu 37 tal-Att prinċipali.

12. Fin-nota marginali tas-subartikolu (4) tal-artikolu 50 tal-Att prinċipali, il-kliem "Kap. 440." għandhom jiġu sostitwiti bil-kliem "Kap. 586."

Emenda tal-artikolu 50 tal-Att prinċipali.

13. L-artikolu 56 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 56 tal-Att prinċipali.

(a) l-artikolu għandu jiġi enumerat mill-ġdid bħala l-artikolu 56(1);

(b) fis-subartikolu (1) kif enumerat mill-ġdid, minnufih wara l-kliem "u kull att legali maħruġ taħthom" għandhom

jiżdiedu l-kliem "u taħt id-dispożizzjonijiet tal-artikolu 34(3)";

(ċ) il-paragrafu (a) tas-subartikolu (1) kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(a) meta persuna jew entità tikser jew tonqos li tħares rekwizit li jkun jinsab f'xi direttiva maħruġa taħt l-artikoli 17A, 24A, 50A jew 60A;"

(d) il-paragrafi (d) u (e) tas-subartikolu (1) kif enumerat mill-ġdid għandhom jiġu mhassra;

(e) il-paragrafi (f) u (g) tas-subartikolu (1) kif enumerat mill-ġdid għandhom jiġu enumerati mill-ġdid bhala l-paragrafi (d) u (e), rispettivament; u

(f) minnufih wara s-subartikolu (1) kif enumerat mill-ġdid għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), meta persuna tikser jew tonqos li tħares rekwizit magħmul taħt id-dispożizzjonijiet tal-artikoli 34 u 34A, u f'xi direttiva maħruġa taħthom, il-Bank jista' jimponi penali amministrattiva li tista' tiġi miġbura mill-Bank mingħajr rikors għal smiġħ mill-Qorti, sa tnejn fil-mija (2%) tal-valur totali tat-transazzjonijiet transatti mill-persuna matul is-sena kummerċjali preċedenti, u fejn dik is-somma ma tkunx tista' tiġi stabbilita sa miljun euro."

Emenda tal-
Iskeda tal-Att
prinċipali.

14. Minnufih wara l-kliem "Att dwar is-*Securitisatio* (Kap. 484)", fl-Iskeda tal-Att prinċipali, għandhom jiżdiedu l-kliem "Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta (Kap. 330).".

Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz huma sabiex jagħtu s-setgħa lill-Bank Ċentrali sabiex jaġixxi bhala awtorità superviżorja tal-aġenziji ta' referenza dwar kreditu liċenzjati skont ir-Regolamenti dwar il-Liċenzi Tal-Kummerċ (L.S. 441.07), sabiex isaħħaħ il-poteri tal-Bank Ċentrali sabiex jippromwovi l-iżvilupp u l-provdiment stabbli u sostenibbli tax-xenarju tal-pagamenti f'Malta, kif ukoll għal aġġornament ġenerali tal-Att dwar il-Bank Ċentrali ta' Malta (Kap. 204).

**A BILL
entitled**

AN ACT 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:-

1. (1) The short title of this Act is the Central Bank of Malta (Amendment) Act, 2020, and this Act shall be read and construed as one with the Central Bank of Malta Act, hereinafter referred to as "the principal Act".

Short title and commencement.
Cap. 204.

(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, establish and different dates may be so established for different provisions and different purposes thereof.

2. In the heading of Part VII of the principal Act under the Arrangement of the Act, the words "Payment Systems and Payment Services" shall be substituted by the words "Payments Landscape".

Amendment of the arrangement of Act of the principal Act.

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

Amendment of article 2 of the principal Act.

(a) immediately after the definition "the Community" there shall be added the following new definitions:

" "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;

C 3920

S.L. 441.07.

"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;"

(b) immediately after the definition "participant" there shall be added the following new definitions:

"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;"

(c) immediately after the definition "payment system" or "system" there shall be added the following new definition:

" "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;" and

(d) immediately after the definition "Statute" there shall be added the following new definition:

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

S.L. 441.07.

4. Article 23 of the principal Act shall be amended as follows:

Amendment of article 23 of the principal Act.

(a) in sub-article (1) thereof, the words "so provided." shall be substituted by the words "so provided:" and immediately thereafter there shall be added the following new proviso:

"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.".

(b) sub-article (3) thereof, shall be substituted by the following:

"(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

C 3922

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)."

Amendment of article 24 of the principal Act.

5. Article 24 of the principal Act shall be amended as follows:

Cap. 574.

(a) in sub-article (2) thereof, immediately after the words "and other institutions" there shall be added the words ", including the Malta Development Bank for the purposes of fulfilling its functions under the Malta Development Bank Act,"; and

(b) sub-article (4) thereof, shall be substituted by the following:

"(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;

(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.";

Cap. 345.

(c) in sub-article (6) thereof, immediately after the words "to pass to it" there shall be added the word "non-financial"; and

(d) in sub-article (7) thereof, immediately after the words "extracts of the information" there shall be added the word "non-financial".

6. Immediately after article 24 of the principal Act, there shall be added the following new article: Addition of new article to the principal Act.

"Supervisory authority of credit reference agencies.

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:

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."

7. In the heading of Part VII of the principal Act, the words "Payment Systems and Payment Services" shall be substituted by the words "Payments Landscape". Substitution of heading of Part VII of the principal Act.

8. Article 34 of the principal Act shall be amended as follows: Amendment of article 34 of the principal Act.

(a) in sub-article (1) thereof, the word "security" shall be substituted by the word "securities"; and

(b) in sub-article (2) thereof, immediately after the words "sub-article (3)" there shall be added the words "and article 56(2) or to any other penalty which may be imposed under this Act,".

9. Article 34A of the principal Act shall be amended as follows: Amendment of article 34A of the principal Act.

(a) sub-article (1) thereof, shall be substituted by the following:

"(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.";

(b) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (6) and (7) respectively; and

(c) immediately after sub-article (1) thereof as substituted there shall be added the following new sub-articles:

"(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 imposed on such an 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."

10. Paragraph (a) of article 35 of the principal Act shall be substituted by the following: Amendment of article 35 of the principal Act.

"(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);".

11. In sub-article (2) of article 37 of the principal Act, immediately after the words "article 23" there shall be added the words ", and the promotion of the stable and sustainable development and provision of the payments landscape in Malta under article 34A."; Amendment of article 37 of the principal Act.

12. In the marginal note of sub-article (4) of article 50 of the principal Act, the words "Cap. 440." shall be substituted by the words "Cap. 586.". Amendment of article 50 of the principal Act.

13. Article 56 of the principal Act shall be amended as follows: Amendment of article 56 of the principal Act.

(a) the article shall be renumbered as article 56(1);

(b) in sub-article (1) as renumbered, immediately after the words "issued thereunder" there shall be added the words "and to the provisions of article 34(3)".;

(c) paragraph (a) of sub-article (1) as renumbered, shall be substituted by 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;"

(d) paragraphs (d) and (e) of sub-article (1) as renumbered shall be deleted;

(e) paragraphs (f) and (g) of sub-article (1) as renumbered shall be renumbered as paragraphs (d) and (e) respectively; and

(f) immediately after sub-article (1) as renumbered, there shall be added the following new sub-article:

"(2) 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

C 3926

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 where such sum cannot be determined up to one million euro."

Amendment of
the Schedule of
the principal
Act.

14. In the Schedule to the principal Act, immediately after the words "Securitisation Act (Cap. 484)" there shall be added the words "Malta Financial Services Authority Act (Cap. 330)".

Objects and Reasons

The main objects of this Bill are to empower the Central Bank to act as a supervisory authority of credit reference agencies licensed under the Trading Licences Regulations (S.L. 441.07), to strengthen the Central Bank's powers to promote the stable and sustainable development and provision of the payments landscape in Malta, as well as to conduct a general update of the Central Bank of Malta Act (Cap. 204).

