

Naghti l-kunsens tiegħi.

(L.S.)

GUIDO DE MARCO
President

27 ta' Diċembru, 2001

ATT Nru. XXXI ta' l-2001

ATT biex jemenda l-Att kontra Money Laundering, Kap 373.

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

1. (1) It-titolu ta' dan l-Att hu Att li jemenda l-Att ta' l-2001 kontra *Money Laundering*, u għandu jinqara u jiftiehem haġa waħda ma' l-Att ta' l-2001 kontra *Money Laundering*, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali", u għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' b'avviż fil-Gazzetta jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

Titolu u bidu
fis-sehh.

Kap. 373.

(2) Avviż taht subartikolu (1) ta' dan l-artikolu jista' jagħmel dawk id-disposizzjonijiet transitorji li l-Ministru responsabbli għall-finanzi jista' jqis li jkunu mehtieġa jew spedjenti f'dak li għandu x'jaqsam mad-disposizzjonijiet li jkunu qeghdin hekk jingiebu fis-sehh.

2. Minnufih wara t-tifsira ta' "proprietà" fl-artikolu 2 ta' l-Att prinċipali għandha tiżdied din it-tifsira ġdida li ġejja:

Emenda ta'
artikolu 2 ta'
l-Att prinċipali.

“ “il-Korp” t’fisser il-Korp mwaqqfa bl-artikolu 15 ta’ dan l-Att;”.

Żjeda ta' intestatura ġdida ma' l-Att prinċipali.

3. Minnufih qabel l-artikolu 3 ta' l-Att prinċipali ghandha tidhol din l-intestatura ġdida li ġejja:

“TAQSIMA I

INVESTIGAZZJONI U PROSEKUZZJONI TA' REATI”.

Żjeda ta' intestatura ġdida u ta' artikoli ma' l-Att prinċipali.

4. Minnufih wara l-artikolu 13 ta' l-Att prinċipali ghandha tizzied din l-intestatura ġdida u l-artikoli ġodda li ġejjin:

“TAQSIMA II

KORP GHALL-ANALISI TA' INFORMAZZJONI FINANZJARJA

“Tifsiriet.

14. F'din it-Taqsima, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra:

“awtorità sorveljanti” ghandu jkollha l-istess tifsir bhalma hu oghti lilha b'regolamenti li jkunu fis-sehh minn żmien ghal żmien taht dan l-Att jew kif jista' jiġi preskritt taht dan l-Att;

“il-Bord” tfisser il-Bord ta' Gvernaturi msemmi fl-artikolu 18 ta' dan l-Att;

“iċ-Chairman” tfisser iċ-Chairman tal-Bord mahtur taht l-artikolu 20 ta' dan l-Att;

“id-Direttur” tfisser id-Direttur tal-Korp mahtur jew reklutat taht l-artikolu 23 ta' dan l-Att;

“persuna suġġetta” tfisser kull min ikun mehtieg iwettaq proċeduri ta' rapportar intern u li jirrapporta operazzjonijiet li jkunu suspettati li jinvolvu *money laundering* taht regolamenti li jkunu fis-sehh minn żmien ghal żmien taht dan l-Att jew skond ma jista' jiġi preskritt taht dan l-Att;

“il-Viċi Chairman” tfisser il-Viċi Chairman tal-Bord mahtur taht l-artikolu 20 ta' dan l-Att.

Twaqqif tal-Korp.

15. (1) Ikun hemm aġenzija tal-Gvern, li tissejjah Korp ghall-Analisi ta' Informazzjoni Finanzjarja.

(2) Il-Korp ikun ghaqda ġuridika li jkollu personalità legali distinta u li jkun kapaċi, bla hsara ghad-disposizzjonijiet ta' dan l-Att, li jagħmel kuntratti, li jagħmel memoranda ta' intendiment jew kull ftehim iehor ma' xi korp, awtorità jew aġenzija barranin bhalma hemm imsemmija fil-paragrafu (k) tal-paragrafu (1) ta' l-artikolu 16, li jakkwista, ikollu u jiddisponi minn kull għamla ta' proprjetà għall-finijiet tal-funzjonijiet tiegħu, li jharrek u li jiġi mharrek, u li jagħmel dak kollu u li jidhol għal dawk l-operazzjonijiet kollha li jistgħu ikunu inċidentali jew li jwasslu għat-twettiq jew il-qadi ta' dmirijietu taht dan l-Att, inkluż is-self ta' flus.

(3) Il-Korp għandu jagħmel ftehim ta' qadi li tagħmel l-aġenzija mal-Ministru, liema ftehim għandu jistbblilixxi l-finanzjament ta' l-aġenzija u, minghajr preġudizzju għall-ġeneralità tas-subartikolu (1) ta' l-artikolu 16, kull hidma speċifika li taqa' fl-iskop tal-funzjonijiet tal-Korp li għandhom ikunu indirizzati u miksuba mill-Korp.

(4) Il-membri tal-Korp u l-impjegati kollha tiegħu għandhom jimxu skond kull Kodiċi ta' etika li jkun japplika għal uffiċjali pubbliċi u għandu, bla hsara għal kull liġi kuntrarja, jkollhom l-istess obligazzjonijiet skond ma dan ikun jghid:

Izda l-Korp jista', bi ftehim mal-Ministru, ifassal valuri ta' servizz u Kodiċi ta' Etika li jkunu jissupplementaw kull Kodiċi ta' Etika li jkun japplika għall-Korp.

Funzjonijiet
tal-Korp.

16. (1) Bla hsara ghad-disposizzjonijiet l-oħra ta' dan l-Att u minghajr preġudizzju għal kull poter iehor jew funzjoni oħra mogħtija lilu b'dan l-Att jew minn xi liġi oħra, il-Korp ikun responsabbli għall-ġabra, l-kollazzjoni, l-ipproċessar, l-analisi u t-tixrid ta' informazzjoni bil-ghan li jiġi miġġieled *money laundering* u minghajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi għandu b'mod partikolari jkollu dawn il-funzjonijiet li ġejjin:

(a) li jirċievi rapporti ta' operazzjonijiet li jkunu suspettati li jinvolvu *money laundering* magħmul minn xi persuna suġġetta skond kif jingħad f'xi regolament magħmul taht l-artikolu 12 ta' dan l-Att, li jissupplementa dawk ir-rapporti b'dik l-informazzjoni addizzjonali hekk kif tista' tkun disponibbli għall-Korp jew hekk kif dan jista' jitlob, li janalizza r-rapport flimkien ma' dik l-

informazzjoni addizzjonali u li jfassal rapport analitiku fuq ir-rizultat ta' dik l-analisi;

(b) li jibghat rapport analitiku bhal dak imsemmi fil-paragrafu (a) lill-Kummissarju tal-Pulizija ghal kull investigazzjoni ulterjuri jekk wara li jkun ikkonsidra r-rapport dwar l-operazzjoni suspettata, il-Korp ikollu wkoll tassew ghaliex jissuspetta li l-operazzjoni tkun wahda suspettuza u li tista' tinvolvi *money laundering*;

(c) li jissorvelja konformità mill-persuni suggetti u li jikkopera u jikkordina ma' awtoritajiet sorveljanti sabiex jiżgura li jkun hemm konformità;

(d) li jibghat lill-Kummissarju tal-Pulizija flimkien ma' kull rapport analitiku mibghut skond il-paragrafu (b) jew f'kull waqt wara dan kull informazzjoni, dokument, analisi jew materjal iehor b'sostenn tar-rapport;

(e) li jaghti struzzjonijiet lil persuna suggetta li tiehu dawk il-mizuri li jitqiesu mehtiega sabiex tkun faċilitata investigazzjoni dwar *money laundering* b'mod generali jew l-investigazzjoni ta' rapport dwar xi operazzjoni suspettuza partikolari;

(f) li jiġbor informazzjoni dwar l-attivitajiet finanzjarji u kummerċjali fil-pajjiż ghal finijiet analitiċi bil-ghan li jikxef oqsma ta' attivitajiet li jistghu jkunu vulnerabbli ghal *money laundering*;

(g) li jikkompila statistika u records, ixxerred informazzjoni, jaghmel rakkommandazzjonijiet, johrog linji direttivi u jaghti pariri lill-Ministru dwar kull haġa u kwistjoni relevanti ghall-prevenzjoni, l-kxif, l-investigazzjoni, l-prosekuzzjoni u l-kastig li jinghata ghal reati ta' *money laundering*;

(h) li jgib 'il quddiem it-tahriġ ta' persunal, u li jipprovdi tahriġ ghalihom, li jkunu impjegati ma' xi persuna suggetta dwar kull haġa, obligazzjoni jew attività relevanti ghall-prevenzjoni ta' *money laundering*;

(i) li jikkonsulta ma' kull persuna, istituzzjoni jew organizzazzjoni li jistghu jkunu adatti ghall-fini li jwettqu l-funzjonijiet taghha;

(j) li jaghti pariri u jassisti persuni, sew fiżiċi sew legali, li jintroduċu u jiżviluppaw miżuri u programmi effettivi għall-prevenzjoni ta' *money laundering*;

(k) fuq talba li ssirli jew minn jeddu, li jiskambja informazzjoni ma' xi għaqda, awtorità jew aġenzija barranin li huwa jikkonsidra bhala li għandhom funzjonijiet ekwivalenti jew analogi għal dawk imsemmija f'dan is-subartikolu u ma' awtorità sorveljanti f'Malta jew ma' xi awtorità sorveljanti barra minn Malta li tqis bhala li jkollha funzjonijiet ekwivalenti jew analogi bhala awtorità sorveljanti f'Malta, bla hsara għal dawk il-kondizzjonijiet u restrizzjonijiet li tista' tistabbilixxi, inkluż l-għemil minn qabel, jekk ikun iqis li jkun hekk xieraq, ta' memorandum ta' fehma jew xi qbil ieħor, li jirregola kull tali skambju ta' informazzjoni, meta dik l-informazzjoni tista' tkun rilevanti għall-ipproċessar jew l-analisi ta' informazzjoni jew għal kull investigazzjoni li tirtigwarda operazzjonijiet finanzjarji li jkollhom x'jaqsmu ma' *money laundering* u l-persuni naturali jew legali li jkunu involuti;

(1) li jirrapporta lill-Kummissarju tal-Pulizija kull attività li huwa jissuspetta li tkun tinvolvi *money laundering* u li tista' ssir taf biha filwaqt li tkun qed twettaq xi wahda mill-funzjonijiet tagħha.

(2) Il-Korp għandu għall-inqas darba fis-sena jhejji rapport dwar l-attivitajiet tiegħu b'mod ġenerali lill-Ministru u għandu jagħti lill-Ministru faċilitajiet sabiex jikseb informazzjoni dwar il-proprjetà li jkollha u l-attivitajiet tagħha b'mod ġenerali u tipprovdilu prospetti, kontijiet u kull informazzjoni oħra dwar dan.

Responsabbiltà għal danni.

17. Il-Korp, u l-Bord, l-uffiċjali u l-impjegati tiegħu m'għandhomx ikunu responsabbli għal xi haġa li ssir jew li tonqos milli ssir fit-twettiq jew fit-twettiq maħsub ta' xi funzjoni taht dan l-Att, kemm-il darba dak l-att jew dik l-ommissjoni ma jintwerewx bhala li jkunu saru jew naqsu milli jsiru, skond il-każ, b'malafidi.

Tqassim tad-dmirijiet tal-Korp.

18. (1) Il-Korp ikun magħmul minn Bord u minn Direttur.

(2) Il-Bord ikun responsabbli għall-politka li għandha tiġi adottata mill-Korp u li għandha tiġi esegwita u

mwettqa mid-Direttur u li jiżgura li d-Direttur iwettaq dik il-politka skond hekk. Il-Bord ikun ukoll responsabbli biex jaghti pariri lill-Ministru skond m'hu pprovdut fil-paragrafu (g) tas-subartikolu (1) ta' l-artikolu 16.

(3) Id-Direttur ikun responsabbli għall-esekuzzjoni tal-politka li tiġi stabbilita mill-Bord u biex jesejwixxi l-funzjonijiet kollha tal-Korp li ma jkunux attribwiti minn dan l-Att lill-Bord skond il-politka u bla hsara għal sorveljanza generali tal-Bord.

(4) Il-Bord jista' jahtar lil xi membru tal-persunal tal-Korp biex jagħmilha ta' direttur meta d-Direttur jkun assenti, inkapaċi li jaġixxi jew bi btala jew matul xi vakanza fil-kariga tad-Direttur.

Għamla tal-Bord.

19. (1) Il-Bord ikun magħmul minn:

(a) erba' membri li jinhatru mill-Ministru bil-mod ipprovdut fis-subartikolu (2) ta' dan l-artikolu;

(b) mhux iktar minn żewġ membri ohra, kif jista' jintalab mill-Bord, mahtura mill-Ministru bil-mod ipprovdut fis-subartikolu (3) ta' dan l-artikolu.

(2) Il-Ministru għandu jahtar l-erba' membri msemmija fil-paragrafu (a) tas-subartikolu (1) billi jagħżel membru wiehed minn kull waħda minn erba' listi, kull lista jkun fiha mill-inqas tliet persuni nominati rispettivament mill-Avukat Ġenerali, mill-Gvernatur tal-Bank Ċentrali, miċ-Chairman taċ-Ċentru għas-Servizzi Finanzjarji ta' Malta u mill-Kummissarju tal-Pulizija.

(3) Il-Ministru għandu jahtar lil kull membru addizzjonali hekk kif jista' jiġi mitlub mill-Bord skond ma hemm fid-disposizzjonijiet ta' paragrafu (b) tas-subartikolu (1) minn lista ta' mhux inqas minn tliet persuni nominati mill-awtorità u li jiġu indikati mill-Bord dwar kull membru addizzjonali.

(4) Il-membri tal-Bord għandhom jinhatru għal żmien tliet snin u jinghataw dik ir-rimunerazzjoni li l-Ministru jista' jistabbilixxi u jistgħu jerġgħu jinhatru mill-ġdid bil-mod imsemmi fis-subartikoli (2) jew (3), skond il-każ, meta jintemm iż-żmien tal-hatra tagħhom.

(5) Il-membri tal-Bord ghandhom iwettqu dmirijiethom skond l-arbitriju individwali taghhom u m'ghandhom ikunu sugġetti ghal ebda jewdni jew kontroll ta' xi persuna jew awtorità ohra.

(6) Hadd ma jkun kwalifikat li jinhatar bhala, jew li jkollu l-kariga ta' membru tal-Bord jekk:

(a) ikun legalment inkapaċitat; jew

(b) ikun ġie dikjarat fallut jew inkella jkun ghamel komposizzjoni jew skema ta' arrangament mal-kredituri tieghu; jew

(c) ikun insab hati ta' reat kontra dan l-Att jew ta' reat minn dawk elenkati fl-Ewwel Skeda jew fit-Tieni Skeda li tinsab ma' dan l-Att jew ta' reat ta' *money laundering* kontra d-disposizzjonijiet ta' l-Ordinanza dwar il-Mediċini Perikolużi, u ta' l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li ghandhom x'jaqsmu maghha; jew

(d) ma jkunx uffiċjal li qed jirċievi salarju bhala wiehed mill-persunal permanenti fis-servizz ta' l-uffiċjal li minnu huwa jkun se jiġi jew huwa jkun ġie rakkomandat ghall-hatra tieghu; jew

(e) ikun uffiċjal li qed jirċievi salarju minghand jew ikun xort'ohra impjegat ma' jew fis-servizz ta' persuna sugġetta jew ikun b'xi mod iehor professjonalment konness ma' xi persuna sugġetta.

(7) Membru tal-Bord jista' jinheles mill-kariga mill-Ministru, wara konsultazzjoni ma' l-uffiċjal li jkun irrakkomanda lil dak il-membru, abbażi ta' inkapaċità li jwettaq il-funzjonijiet tal-kariga tieghu, sew minhabba f'inkapaċità tal-mohh jew tal-ġisem, jew minhabba f'xi kawża ohra, jew minhabba f'imġieba hażina; u ghall-finijiet ta' dan is-subartikolu, nuqqas ta' *attendenza* kostanti u mhux ġustifikat ghal-laqgħat tal-Bord jista' jitqies bhala li jikkostitwixxi mġieba hażina.

(8) Membru tal-Bord jista' wkoll jirriżenja mill-kariga permezz ta' ittra li tiġi indirizzata lill-Ministru.

(9) Meta jirrizulta li jkun hemm xi vakanza fil-komposizzjoni tal-membri tal-Bord għal xi raġuni li ma tkunx l-iskadenza taż-żmien ta' kariga, dik il-vakanza għandha, għall-kumplament taż-żmien tal-kariga li tkun tbatlet, timtela minn xi membru ieħor li jinhatar mill-Ministru minn fost lista ta' mhux inqas minn tliet persuni li jiġu nominati mill-uffiċjal li jkun innomina l-lista li minnha l-membri li jkun battal il-kariga jkun ġie mahtur.

Chairman
u *Viċi*
Chairman
tal-Bord.

20. Għandhom jinhatru *Chairman* u *Viċi Chairman* mill-Prim Ministru wara konsultazzjoni mal-Ministru minn fost il-membri tal-Bord. *Iċ-Chairman* ikun il-Kap tal-Korp u l-*Viċi Chairman* ikollu l-poteri kollha li jwettaq il-funzjonijiet kollha ta' *Chairman* meta huwa jkun assenti jew inkapaċi li jaġixxi bhala *Chairman* jew filwaqt li huwa jkun fuq btala jew matul xi vakanza fil-kariga ta' *Chairman*.

Laqgħat
tal-Bord.

21. (1) Il-Bord għandu jiltaqa' fi żmien xahar minn meta jiġi kostitwit u mbagħad daqstant daqskemm ikun mehtieg jew spedjenti wara dakinhar, iżda f'ebda każ inqas spiss minn għaxar darbiet fis-sena. Is-seduti tal-Bord għandhom jitlaqqgħu mi' *Chairman* b'inizjattiv tiegħu jew fuq it-talba ta' xi tnejn mill-membri l-oħra jew fuq talba li ssir mid-Direttur.

(2) Il-Bord m'għandux jaġixxi kemm-il darba ma jkunx preżenti *quorum* li jkun jikkonsisti fi' *Chairman* jew *Viċi Chairman* u mhux inqas minn żewġ membri oħra.

(3) Il-laqgħat tal-Bord għandhom ikunu presjeduti mi' *Chairman*, jew meta jkun assenti, mill-*Viċi Chairman*.

(4) Id-deċiżjonijiet tal-Bord għandhom ikunu adottati permezz ta' maġġoranza sempliċi tal-voti tal-membri preżenti u li jivvotaw u fil-każ ta' voti ndaq il-membri li jippresjedi waqt il-laqgħa jkollu u jesercita vot ieħor jew deċisiv.

(5) Id-Direttur ikollu jedd jattendi s-seduti tal-Bord u jiehu parti fid-diskussjonijiet, iżda ma jkollu ebda vot. Salvi d-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, jekk id-Direttur ikun assenti minn xi seduta, dan ma jkunx jinvalida il-proċedimenti ta' dik is-seduta.

(6) Kull vakanza fost il-membri tal-Bord, u kull parteċipazzjoni fih minn xi persuna li ma jkollhiex jedd taghmel dan, ma jkunx jinvalida l-proċedimenti tal-Bord.

(7) Bla hsara ghad-disposizzjonijiet ta' dan l-Att, il-Bord jista' jirregola l-proċedura tiegħu nnifsu.

(8) Kull azzjoni li ssir minn xi hadd li jkun qed jaġixxi bonafidi bhala membru tal-Korp tkun wahda valida daqslikieku huwa kien membru minkejja li jkun hemm xi difett fil-hatra jew fil-kwalifika tiegħu li jinkixfu wara.

Deċiżjonijiet
f'każ ta'
emerġenza.

22. F'każ ta' emerġenza, id-deċiżjonijiet għandhom jittiehdu mill-inqas minn żewġ membri tal-Bord, li wiehed minnhom ikun iċ-*Chairman* jew il-*Vici Chairman*.

Il-persunal
esekuttiv
u dak ieħor
tal-Korp.

23. Id-Direttur u l-uffiċjali l-oħra u l-persunal tal-Korp għandhom jinhatru jew jiġu rekrutati mill-Bord skond dawk il-proċeduri u b'dawk il-pattijiet u l-kondizzjonijiet u f'dak l-għadd li l-Bord jista' jistabbilixxi.

Uffiċjal
kordinatur
tal-Pulizija.

24. (1) Il-Kummissarju tal-Pulizija għandu jqabbad uffiċjal tal-pulizija li ma jkunx taht il-grad ta' Spettur sabiex jagħmilha ta' uffiċjal kordinatur biex jikkordina mal-Korp.

(2) Minkejja kull haġa oħra li tkun tghid il-kuntrarju f'xi liġi oħra l-uffiċjal kordinatur tal-pulizija li jitqabbad kif hawn qabel imsemmi jkun marbut li jzomm sigrieta u konfidenzjali kull informazzjoni li huwa jista' jsir jaf biha bhala riżultat tad-dmirijiet tiegħu bhala uffiċjal kordinatur mal-Korp u m'għandu jikxef dik l-informazzjoni lil hadd hlief lil xi membru tal-Korp jew lil xi wiehed mill-persunal tiegħu filwaqt li jkun qed jesercita l-funzjonijiet tiegħu ta' uffiċjal kordinatur mal-Korp:

Izda meta l-Korp ikun għamel rapport lill-pulizija skond id-disposizzjonijiet ta' dan l-Att il-Korp jista, minghajr preġudizzju għad-disposizzjonijiet tas-subartikolu (4) ta' l-artikolu 31 ta' dan l-Att, jawtorizza lill-uffiċjal kordinatur li jiżvela lill-Pulizija, jew lil xi awtorità kompetenti oħra identifikata mill-Korp bhala li għandha interess fl-investigazzjoni tar-rapport, kull informazzjoni rilevanti għal dak ir-rapport li seta' gie jew li għad jista' jiġi magħruf mill-uffiċjal kordinatur tal-pulizija filwaqt li jkun qed iwettaq dmirijietu mal-Korp.

(3) L-uffiċjal kordinatur tal-pulizija ghandu, bla hsara li jkun konformi ma' kull hteġa ta' korp tal-pulizija, jagħmel disponibbli lill-Korp jew lil xi membru tal-persunal tieghu kull informazzjoni li tkun għad-disposizzjoni tal-pulizija jew li tkun tagħmel parti mir-records tal-pulizija daqstant li dik l-informazzjoni tkun rilevanti għall-eserċizzju tal-funzjonijiet tal-Korp.

(4) L-uffiċjal kordinatur tal-pulizija ghandu jassisti l-Korp fl-analisi u l-ipproċessar ta' rapporti ta' operazzjonijiet suspettużi u ta' informazzjoni u data ta' tagħrif miġbura mill-Korp fl-eserċizzju tal-funzjonijiet tieghu u ghandu jagħti parir lill-Korp dwar it-teknikalitajiet investigattivi u fuq kull punt ta' infurzar tal-liġi.

Rappreżen-
tanza legali
u ġudizzjarja
tal-Korp.

25. (1) Ir-rappreżentanza legali u ġuridika tal-Korp tvesti fiċ-*Chairman* u meta jkun assenti fil-*Viċi Chairman*:

Iżda l-Korp jista' jahtar lil xi membru wiehed jew iktar minn fost il-membri l-oħra jew l-uffiċjali jew l-impjegati tieghu sabiex dawn jidhru f'isem u għan-nom tal-Korp fi proċedimenti ġudizzjarji u f'kull att, kuntratt, istrument jew dokument ieħor ikun liema jkun.

(2) Dokument li jkun mahsub bhala istrument magħmul jew mahruġ mill-Korp u li jkollu jiġi ffirmat miċ-*Chairman* jew mill-*Viċi Chairman* f'isem il-Korp ikun jista' jingiebb bi prova u għandu, sakemm ma tingiebbx prova xort'oħra, jitqies bhala istrument magħmul jew mahruġ mill-Korp.

Konformità.

26. (1) Il-Korp ikun responsabbli biex jiżgura li persuni sugġetti jharsu d-disposizzjonijiet ta' dan l-Att u tar-regolamenti magħmulin tahtu fil-qies li dawn ikunu japplikaw għalihom.

(2) Jekk il-Korp ikun hekk jikkunsidra dan jista':

(a) jawtorizza lill-uffiċjali, l-impjegati jew l-aġenti, wara li juru prova ta' l-awtorità li jkollhom, jehtieġ li persuna sugġetta tippovdilu minnufih dik l-informazzjoni jew dawk id-dokumenti li jkollhom x'jaqsmu mal-proċeduri interni ta' dik il-persuna sugġetta għat-tharis mad-disposizzjonijiet ta' dan l-Att u tar-regolamenti li jsiru tahtu u li jwieġeb għal kull domanda li l-Korp jista' raġonevolment ikun jehtieġ

għat-twertieq tal-funzjonijiet tiegħu taht paragrafu (1) ta' dan l-artikolu;

(b) b'avviż bil-miktub li jiġi notifikat lil xi persuna sugġetta jehtieg lil dik il-persuna li ggib magħha, fi żmien tliet ijiem fil-hin u l-lok li jista' jiġi speċifikat f'dak l-avviż, daww id-dokumenti li jistgħu jiġu hekk speċifikati fl-avviż sakemm daww id-dokumenti jkunu raġonevolment mehtieġa mill-Korp għall-qadi tal-funzjonijiet tiegħu taht dan l-Att.

(3) Meta jingiebu d-dokumenti mehtieġa taht subartikolu (2) ta' dan l-artikolu, il-Korp jista' jagħmel noti u jiehu kopji ta' daww id-dokumenti kollha jew ta' xi parti minn daww id-dokumenti.

(4) Meta d-dokumenti mehtieġa taht subartikolu (2) ta' dan l-artikolu ma jingiebux, il-Korp jista' jitlob lill-persuna sugġetta li kienet mehtieġa tipproduċihom li tiddikjara, bil-miktub, għaliex daww id-dokumenti ma jkunux jistgħu jiġu prodotti.

(5) Bla hsara għad-disposizzjonijiet ta' l-artikolu 27 ta' dan l-Att, awtorità sorveljanti hija, għall-finijiet tal-paragrafu (a) ta' subartikolu (2) ta' dan l-artikolu, kkunsidrata bhala aġent tal-Korp.

Koperazzjoni
ma' l-awtoritajiet ta'
sorveljanza.

27. (1) Mingħajr preġudizzju għall-generalità tad-disposizzjonijiet ta' dan l-Att il-Korp għandu jikkopera ma' l-awtoritajiet ta' sorveljanza sabiex ikun jista' jassigura li s-sistemi finanzjarji u xi sistemi oħra ma jintużawx għal finijiet kriminali u hekk jissalvagwardja l-integrità tagħhom.

(2) Mingħajr preġudizzju għad-disposizzjonijiet speċjali ta' kull liġi oħra li tkun applika għalihom, l-awtoritajiet ta' sorveljanza għandhom jestendu kull assistenza u koperazzjoni lill-Korp fit-twertieq tar-responsabbiltajiet tiegħu taht dan l-Att.

(3) Fil-ksib tar-responsabbiltajiet tiegħu taht id-disposizzjonijiet ta' l-artikolu 26 ta' dan l-Att, il-Korp jista' jitlob lil xi awtorità sorveljanti li tagħmel kull jew xi haġa wahda minn dan li ġej u l-awtorità sorveljanti m'għandhiex raġonevolment iżzomm l-assistenza tagħha milli:

(a) tipprovdi lill-Korp b' dik l-informazzjoni li l-awtorità sorveljanti tista' ssir taf biha filwaqt li tkun qed twettaq il-funzjonijiet sorveljanti taghha u li tkun tindika li persuna suggetta li tkun taqa' taht il-kompetenza ta' l-awtorità sorveljanti tista' ma tkunx konformi mal-htigiet taht dan l-Att jew ma' regolamenti li jsiru tahtu;

(b) twettaq, f'isem il-Korp, ezamijiet fuq il-post fuq persuni suggetti li jaqghu taht il-kompetenza ta' l-awtorità sorveljanti bil-ghan li jistabbilixxu li dik il-persuna tkun qeghda tikkonforma ruhha mad-disposizzjonijiet ta' dan l-Att u mar-regolamenti li jsiru tahtu u li tirrapporta lill-Korp skond hekk.

(4) Il-Korp jista' jawtorizza lil xi wiehed mill-ufficjali jew l-impjegati tieghu li jakkumpanjaw lill-awtorità sorveljanti f'kull ezami li jsir fuq il-post li jista' jkun mehtieg mill-Korp taht paragrafu (b) tas-subartikolu (3) ta' dan l-artikolu u kull tali ufficjal jew impjegat ikollu jedd, meta jgib, jekk ikun hekk mitlub, prova ta' l-awtorità tieghu, li jidhol go kull fond tal-persuna suggetta li fuqha jkun qed isir ezami.

Dewmien ta' esekuzzjoni ta' operazzjoni suspettuza.

28. (1) Meta persuna suggetta tkun konxja jew tissuspetta li operazzjoni li ghandha tigi esegwita jista' jkollha x'taqsam ma' *money laundering* dik il-persuna suggetta ghandha tgharraf lill-Korp qabel ma jesegwixxi l-operazzjoni billi taghti kull informazzjoni li jkollha x'taqsam ma' l-operazzjoni inkluż il-perjodu li fih din tkun se tigi esegwita. Dik l-informazzjoni tista' tinghata telefonikament izda ghandha minnufih tigi kkonfermata permess ta' *facsimile* jew b'xi mezz iehor bil-miktub u l-Korp ghandu mal-ewwel jgharraf lil min ikun baghat dik l-informazzjoni li din tkun waslitlu.

(2) Meta l-kwistjoni tkun wahda gravi jew urgenti u l-Korp ikun jikkonsidra li tali azzjoni tkun mehtiega, il-Korp jista' jopponi l-esekuzzjoni ta' operazzjoni qabel l-iskadenza tal-perjodu msemmi fis-subartikolu (1) u ghandu minnufih jinghata avviz ta' dik l-oppozizzjoni permezz ta' *facsimile* jew permezz ta' kull kitba ohra.

(3) L-oppozizzjoni li ssir mill-Korp ghandha zzomm l-operazzjoni milli ssehħ ghal 24 siegha mill-waqt tan-notifika msemmija fis-subartikolu (1) kemm-il darba l-Korp ma jawtorizzax iktar kmieni, b'*facsimile* jew xort'ohra bil-miktub, l-esekuzzjoni ta' l-operazzjoni.

(4) Fejn fil-perjodu msemmi fis-subartikolu (1) ma tkun saret ebda oppożizzjoni mill-Korp kif hemm ipprovdut fis-subartikolu (2) il-persuna sugġetta involuta tista' tipproċedi għall-esekuzzjoni ta' l-operazzjoni inkwistjoni u fejn tkun saret oppożizzjoni kif hemm ipprovdut hawn aktar qabel, il-persuna sugġetta involuta tista' tghaddi għall-esekuzzjoni ta' l-operazzjoni inkwistjoni malli jiskadi l-perjodu msemmi fis-subartikolu (3) kemm-il darba fil-frattemp ma jkunx gie notifikat ordni ta' sekwestru lill-persuna sugġetta.

Azzjoni wara l-esekuzzjoni ta' operazzjoni suspettuża li ma tkunx tista' tiddewwem.

29. Meta persuna sugġetta tkun konxja jew tissuspetta operazzjoni li għandha tiġi esegwita tista' tkun marbuta ma' *money laundering* iżda ma tkunx kapaċi tinforma lill-Korp qabel ma tiġi esegwita l-operazzjoni, jew għaliex ma jkunx possibbli li tiddewwem l-operazzjoni minhabba fix-xorta tagħha, jew għaliex id-dewmien fl-esekuzzjoni ta' l-operazzjoni jista' jipprevjeni l-prosekuzzjoni ta' l-individwi li jkunu qegħdin jibbenefikaw mill-*money laundering*, il-persuna sugġetta għandha tinforma lill-Korp minnufih wara li tesegwixxi l-operazzjoni billi tagħti r-raġuni għaliex il-Korp ma jkunx gie hekk mgharraf qabel ma jkun esegwixxa l-operazzjoni.

Poter tal-Korp li jitlob informazzjoni.

30. (1) Meta l-Korp jirċeivi rapport bhalma hemm imsemmi fil-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 16 jew meta minn informazzjoni li jkollu fil-pussess tiegħu l-Korp jissuspetta li xi persuna sugġetta setgħet intużat għal xi operazzjoni suspetta li tinvolvi *money laundering* il-Korp jista' jitlob minghand il-persuna sugġetta li tkun qed tagħmel ir-rapport jew minghand il-persuna sugġetta li tkun suspetta li tkun intużat għal xi operazzjoni suspetta li tkun tinvolvi *money laundering* kif ukoll minn kull persuna sugġetta ohra, mill-pulizija, minn xi Ministeru tal-Gvern, dipartiment, aġenzija jew awtorità pubblika ohra, jew minghand xi persuna ohra, fiżika jew legali, u minghand xi awtorità sorveljanti, informazzjoni addizzjonali li jqis li jkun utli għall-fini ta' l-integrazzjoni u l-analisi tar-rapport jew informazzjoni li jkollu fil-pussess tiegħu.

(2) Minkejja kull haġa li jista' jkun hemm fl-Att dwar is-Segretezza Professjonali u kull obbligazzjoni ta' segretezza jew kunfidenzjalità taht kull liġi ohra l-persuna sugġetta jew kull persuna ohra, fiżika jew legali, u kull awtorità jew entità li minghandha tintalab xi informazzjoni mill-Korp konformement mad-disposizzjonijiet tas-

subartikolu (1) ta' dan l-artikolu ghandu jikkomunika l-informazzjoni mitluba lill-Korp u ghall-finijiet ta' l-artikolu 257 tal-Kodiċi Kriminali kull tali kxif ghandu jitqies li jkun żvelar ta' informazzjoni lil awtorità pubblika mehtieg bil-liġi:

Iżda ebda haġa f'dan is-subartikolu m'ghandu jimplika li hemm xi obligazzjoni fuq l-Avukat Ġenerali li jikkomunika lill-Korp xi informazzjoni li b'xi mod ikollha x'taqsam jew tkun konnessa ma' jew tkun waslet ghandu bhala riżultat ta' l-esercizzju li jsir minnu ta' poteri msemmija fis-subartikolu (3) ta' l-artikolu 91 tal-Kostituzzjoni jew ta' kull obligazzjoni fuq xi persuna li tikkomunika lill-Korp informazzjoni li kieku waqt proċedimenti legali jkunu protetti milli jiġu żvelati bis-subartikolu (1) ta' l-artikolu 642 tal-Kodiċi Kriminali jew bis-subartikolu (1) ta' l-artikolu 588 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Trasmissjoni ta' informazzjoni lill-pulizija għall-investigazzjoni.

31. (1) Meta wara analiżi ta' rapport ta' operazzjoni suspettuża u ta' l-informazzjoni li jkollu f'idejeh relevanti għar-rapport il-Korp ikun tal-fehma li jkun jippersisti suspett serju ta' *money laundering*, ir-rapport flimkien ma' kull informazzjoni relevanti li jkollu f'idu u r-riżultati tal-konklużjonijiet ta' kull analiżi li ssir mill-Korp għandhom jintbagħtu lill-Pulizija għal iktar investigazzjonijiet.

(2) Id-disposizzjonijiet tas-subartikolu (1) għandhom ikunu wkoll japplikaw *mutatis mutandis* għal kull suspett ta' *money laundering* li l-Korp jista' jkun ifforma abbażi ta' informazzjoni li jkollu f'idejeh mingħajr ma jkun sar ebda rapport ta' operazzjoni suspettuża lill-Korp jew independentement minn kull tali rapport.

(3) Meta l-Korp jittrasmetti informazzjoni lill-Pulizija skond ma hemm fid-disposizzjonijiet tas-subartikoli (1) u (2) u jkun hemm involuta persuna suġġetta li fuqha xi awtorità jew aġenzija jkollha funzjonijiet supervisorji jew regolatorji, il-Korp għandu jgħarraf lil dik l-awtorità jew aġenzija bl-azzjoni li tittiehed.

(4) Meta l-Korp jittrasmetti informazzjoni lill-Pulizija konformement mas-subartikoli (1) u (2), il-Korp għandu wara li jagħmel dan jgħaddi lill-Pulizija kull informazzjoni relevanti ulterjuri dwar dak is-suspett imwassal lill-Pulizija kif hawn qabel imsemmi.

Informazzjoni.

32. Il-Korp ghandu, fuq talba tal-persuna suggetta, jaghti lill-persuna suggetta li tirrapporta xi operazzjoni suspetta li tinvolvi *money laundering* dik l-informazzjoni hekk kif il-Korp ikun iqis li jkun ta' interess ghall-persuna suggetta sabiex dik il-persuna suggetta tkun tista' tirregola l-affarijiet taghha u biex tassisti l-Korp iwettaq dmirijietu taht dan l-Att jew kull regolament li jsir bis-sahha tieghu.

Hjiel ta' kxif li jsir mill-ufficjali jew l-impjegati tal-Korp.

33. Ufficjal jew impjegat tal-Korp li, f'circonstanzi li ma jkunux dawk ipprovduti fil-proviso ghas-subartikolu (2) ta' l-artikolu 24 ta' dan l-Att, jikxef lill-persuna involuta jew lil terzi li tkun qeghda ssir mill-Korp xi investigazzjoni, jew li tkun twasslet informazzjoni lill-Korp minn xi persuna suggetta, jew li l-Korp ikun ghadda informazzjoni lill-pulizija ghall-investigazzjoni, ikun hati ta' reat u jista', meta jinsab hati, jehel multa ta' mhux izjed minn hamsin elf lira (Lm50,000) jew prigunerija ghal zmien mhux izjed minn hames snin jew dik il-multa u prigunerija flimkien.

Kunfidenzjalita' u kxif permissibli ta' informazzjoni.

34. (1) Il-Korp, u l-ufficjali, l-impjegati u l-agenti tieghu, sew jekk ikunu ghadhom fis-servizz tal-Korp sew jekk le, m'ghandhom jizvelaw ebda informazzjoni li jkollha x'taqsam ma' l-affarijiet tal-Korp jew ta' xi persuna, fizika jew legali, li huma jkunu kisbu fit-twertieq ta' dmirijiethom jew fl-esercizzju tal-funzjonijiet taghhom taht dan l-Att hliet:

(a) meta jkunu awtorizzati jaghmlu dan taht xi wahda mid-disposizzjonijiet ta' dan l-Att;

(b) ghall-fini tal-qadi ta' jew l-esercizzju tal-funzjonijiet taghhom taht dan l-Att;

(c) meta speçifikament u espressament mehtiega jaghmlu hekk taht id-disposizzjoni ta' xi ligi.

(2) Il-Korp jista' jizvela kull dokument jew informazzjoni msemmija fis-subartikolu (1) lil xi organizzazzjoni barra minn Malta li fil-fehma tal-Korp ikollha funzjonijiet simili ghal dawk tal-Korp u li jkollha dmirijiet simili ta' segretezza u kunfidenzjalita' bhal dawk tal-Korp jew lil xi awtorita' sorveljanti f'Malta jew lil xi awtorita' sorveljanti barra minn Malta li fil-fehma tal-Korp ikollha dmirijiet simili ghal dawk ta' awtorita' sorveljanti f'Malta.

(3) Il-Korp jista', b'mod partikolari, jirrofta li jiżvela xi dokument jew informazzjoni jekk:

(a) fil-fehma tiegħu dak il-kxif ikun jista' jwassal li jikkaguna preġudizzju għal xi investigazzjoni kriminali li tkun għaddejja f'Malta; jew

(b) minhabba f'ċirkostanzi eċċezzjonali dak il-kxif ikun b'mod ċar għal kolloxx sproporzjonat ma' l-interessi legittimi ta' Malta jew ta' xi persuna naturali jew legali; jew

(ċ) dak il-kxif ma jkunx skond il-prinċipji fundamentali tal-liġi ta' Malta:

Iżda kull rifjut taht dan is-subartikolu għandu jiġi spjegat b'mod ċar lill-korp jew l-awtorità li tkun qed titlob l-iżvelar tad-dokument jew ta' l-informazzjoni.

(4) Il-Korp jista' wkoll jiżvela kull dokument jew informazzjoni msemmija fis-subartikolu (1) lil xi awtorità kompetenti f'Malta jew barra minn Malta li tkun qed tinvestiga xi att jew ommissjoni li jkunu saru f'Malta u li jkunu jikkostitwixxu, jew jekk isiru barra minn Malta kienu kieku f'ċirkostanzi korrispondenti jikkostitwixxu:

(a) xi wiehed mir-reati msemmija fis-subparagrafu (1) tal-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 22 ta' l-Ordinanza dwar il-Mediċini Perikolużi; jew

(b) xi wiehed mir-reati msemmija fis-subparagrafu (1) tal-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 120A ta' l-Ordinanza dwar il-Professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha; jew

(ċ) kull reat ta' *money laundering* fi hdan it-tifsira ta' dan l-Att:

Iżda dak il-kxif għandu jkun suġġett għall-kondizzjoni li l-informazzjoni jew id-dokument żvelat m'għandux, mingħajr il-kunsens espress tal-Korp,

jintuża għal xi fini oħra li ma tkunx dik ta' l-investigazzjoni jew għal xi prosekuzzjoni sussegwenti għar-reat li jkun is-suġġett ta' l-investigazzjoni jew għal xi proċeduri li jistgħu jwasslu għall-konfiska ta' xi rikavat minn dak ir-reat.

Id-dhul tal-Korp.

35. Id-dhul li jagħmel il-Korp ikun kompost minn:

(a) drittijiet li jithallsu lill-Korp għal servizzi li dan jagħti;

(b) kirjiet, imghaxijiet u profitti li jidhlu minn proprjetà, depositi u assi oħra tal-Korp;

(c) flejjes li jingħaddewlu mill-Ministru;

(d) flus oħra li jistgħu jiġu riċevuti jew li jkunu ġew riċevuti mill-Korp.

Poteri tal-Korp.

36. (1) Il-Korp jista':

(a) ikollu kontijiet f'banek;

(b) jinvesti l-assi likwidi tiegħu f'titoli ta' l-ewwel klassi għal żmien qasir u medju skond ma jiġi approvat mill-Bord;

(c) jakkwista, jixtri, jikri jew jiddisponi minn proprjetà mobbli jew immobbli kif ikun mehtieg għat-tmexxija ta' l-affarijiet tiegħu jew għal kull fini anċillari jew incidentali għall-qadi tal-funzjonijiet tiegħu taht dan l-Att.

(2) Għall-fini li jwettaq xi wahda mill-funzjonijiet tiegħu taht dan l-Att, il-Korp jista', bil-approvazzjoni bil-miktub tal-Ministru, jissellef jew jiġġenera flus b'tali mod, minn tali persuna, korp jew awtorità, u taht dawk il-pattijiet u l-kondizzjonijiet li l-Ministru jista' japprova bil-miktub.

Avvanzi li jsiru mill-Gvern.

37. Il-Ministru jista' jagħmel avvanzi lill-Korp ta' dawk l-ammonti li l-Ministru jista' jqis li jkunu mehtieġa mill-Korp sabiex iwettaq xi wahda mill-funzjonijiet tiegħu taht dan l-Att, u jista' jagħmel dawk l-avvanzi fuq dawk il-pattijiet

u l-kondizzjonijiet li l-Ministru jista' jqis li jkunu xierqa. Avvanzi bhal dawk jistghu jsiru mill-Ministru mill-Fond Konsolidat, u minghajr ebda approprjazzjoni oħra minbarra dan l-Att, b'ordni ffirmat minnu nnifsu li bih jawtorizza lill-*Accountant General* jagħmel dawk l-avvanzi.

Estimi u nfiq. 38. (1) Id-Direttur għandu, mhux iktar tard minn sitt gimghat qabel it-tmiem ta' kull sena finanzjarja, jippreżenta lill-Bord estimi tad-dhul u l-infiq tal-Korp għas-sena finanzjarja li tiġi minnufih wara:

Iżda l-estimi għall-ewwel sena finanzjarja tal-Korp għandhom jithejjew u jiġu adottati f'dak iż-żmien li l-Ministru jista' b'avviż bil-miktub mogħti lill-Korp jispeċifika.

(2) Fit-thejjija ta' dawk l-estimi l-Korp għandu jagħmel mill-aħjar biex jiżgura li d-dhul totali tal-Korp ikun għall-inqas suffiċjenti biex ikopri l-ammonti kollha assenjati kif imiss għall-Kont ta' Dhul u Hruġ tiegħu, inkluż iżda minghajr preġudizzju għall-ġeneralità ta' dik l-espressjoni, id-deprezzament.

(3) L-estimi għandhom isiru f'dik l-għamla u għandu jkun fihom dik l-informazzjoni u dawk il-paraguni mas-snin ta' qabel hekk kif il-Bord jista' jordna.

(4) Qabel it-tmiem ta' kull sena finanzjarja l-Bord għandu jikkonsidra u jadotta, bl-emendi jew mingħajrom skond il-każ, l-estimi ppreżentati lill-Bord għas-sena finanzjarja li tiġi minnufih wara.

(5) Jekk dwar xi sena finanzjarja jirrizulta li l-ammont approvat mill-Bord ma jkunx suffiċjenti jew inkella li tkun oriġinat il-htieġa għal nefqa għal xi skop li ma jkunx hemm ipprovdut dwaru fl-estimi, id-Direttur jista' jikkaguna li jsiru estimi supplimentari u li dawn jintbagħtu minnufih lill-Bord sabiex jiġu adottati u f'kull tali każ id-disposizzjonijiet ta' dan l-Att hekk kif japplikaw għall-estimi għandhom daqstant daqskemm ikunu jistghu, japplikaw għall-estimi supplimentari.

Determinazzjoni u allokazzjoni ta' profitti.

39. Il-profitti kollha li jiġu realizzati mill-Korp għandhom jitqiegħdu għewwa fond ta' riserva li għandu jintuża għal dawk il-finijiet hekk kif il-Korp jista' jqijs li jkun mehtieġ biex ikun jista' jwettaq il-miri tal-Korp innifsu, inkluż il-hlas lura tal-passiv li jista' jkun hemm.

Sena finanzjarja.

40. Is-sena finanzjarja tal-Korp tibda fl-ewwel jum ta' Jannar u ttemm fil-wieħed u tletin jum ta' Diċembru:

Iżda l-ewwel sena finanzjarja għandha tibda fid-data tal-bidu fis-sehħ ta' dan l-artikolu u għandha ttemm fil-wieħed u tletin jum ta' Diċembru tas-sena li tiġi minnufih wara.

Verifika.

41. Il-Korp għandu jżomm kotba ta' kontijiet kif imiss b'dak il-mod hekk kif il-Ministru jista' minn żmien għal żmien jordna. Dawk il-kontijiet għandhom jiġu verifikati minn awdituri li jinhatru mill-Bord bi ftehim mal-Ministru minn fost persuni li jkunu kwalifikati biex jinhatru awdituri ta' kumpannija taht il-liġi li għal dak iż-żmien tkun fis-sehħ f'Malta, bhallikieku l-Korp kien xi kumpannija bhal dik, u iktar minn hekk dan ikun sugġett għall-verifika li ssir mill-Awditur Ġenerali.

Kontijiet annwali.

42. (1) Il-Bord għandu, kemm jista' jkun malajr imma mhux iktar tard minn tliet xhur wara li ttemm kull sena finanzjarja, jibgħat lill-Ministru -

(a) kopja tal-kontijiet annwali hekk kif iċċertifikati mill-awdituri;

(b) rapport dwar l-operazzjonijiet tal-Korp matul is-sena.

(2) Ir-rapport imsemmi fis-subartikolu (1) għandu jitqiegħed fuq il-Mejda tal-Kamra mill-Ministru mhux iktar tard minn sitt ġimgħat wara t-twassil tiegħu, jew meta l-Kamra ma tkunx f'sessjoni matul dak il-perjodu, mhux iktar tard mit-tieni ġimgħa wara li l-Kamra terġa' tibda bis-seduti tagħha.

A 2108

Eżenzjoni
minn
taxxi.

43. Il-Korp ikun eżenti minn kull responsabbiltà għall
hłas ta' taxxa fuq *l-income* u taxxa fuq id-dokumenti u
trasferimenti taht kull liġi li tkun f'dak il-waqt fis-sehh."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 674 tad-19 ta' Diċembru,
2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GUIDO DE MARCO
President

27th December, 2001

ACT No. XXXI of 2001

AN ACT to amend the Prevention of Money Laundering Act, Cap 373.

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

1. (1) The title of this Act is the Prevention of Money Laundering (Amendment) Act, 2001, and shall be read and construed as one with the Prevention of Money Laundering Act, hereinafter referred to as “the principal Act”, and 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 or different purposes of this Act.

Short title and commencement.

Cap. 373.

(2) A notice under sub-article (1) of this article may make such transitory provisions as appear to the Minister responsible for finance to be necessary or expedient in connection with the provisions thereby brought into force.

2. Immediately after the definition of “property” in article 2 of the principal Act there shall be added the following new definition:

Amendment of article 2 of the principal Act.

““the Unit” means the unit established by article 15 of this Act”.

3. Immediately before article 3 of the principal law there shall be inserted the following heading:

Addition of new heading to the principal Act.

“PART I

INVESTIGATION AND PROSECUTION OF OFFENCES”.

Addition of new heading and articles to the principal Act

4. Immediately after article 13 of the principal Act there shall be added the following new heading and articles:

“PART II

FINANCIAL INTELLIGENCE ANALYSIS UNIT

“Definitions.

14. In this Part, unless the context otherwise requires:

“subject person” means any person required to maintain internal reporting procedures and to report transactions suspected to involve money laundering under regulations in force from time to time under this Act or as may be prescribed under this Act;

“supervisory authority” shall have the same meaning assigned to it by regulations in force from time to time under this Act or as may be prescribed under this Act;

“the Board” means the Board of Governors referred to in article 18 of this Act;

“the Chairman” means the Chairman of the Board appointed under article 20 of this Act;

“the Deputy Chairman” means the Deputy Chairman of the Board appointed under article 20 of this Act;

“the Director” means the Director of the Unit appointed or recruited under article 23 of this Act.

Establishment of the Unit.

15. (1) There shall be a government agency, to be known as the Financial Intelligence Analysis Unit.

(2) The Unit shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of concluding memoranda of understanding or other agreements with any foreign body, authority or agency as is referred to in paragraph (k) of paragraph (1) of article 16, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or

conducive to the exercise or performance of its functions under this Act, including the borrowing of money.

(3) The Unit shall enter into an agency performance agreement with the Minister which agreement shall determine the funding of the agency and, without prejudice to the generality of sub-article (1) of article 16, any specific tasks within the scope of the functions of the Unit which are to be addressed and achieved by the Unit.

(4) The members of the Unit and all its employees shall abide by any Code of ethics applicable to public officers and shall, subject to any law to the contrary, have the same obligations thereunder:

Provided that the Unit may, with the concurrence of the Minister, draw up service values and a Code of Ethics to supplement any public service Code of Ethics in respect of the Unit.

Functions of
the Unit.

16. (1) Subject to the other provisions of this Act and without prejudice to any other power or function conferred on it by this Act or by any other law, the Unit shall be responsible for the collection, collation, processing, analysis and dissemination of information with a view to combating money laundering and without prejudice to the generality of the aforesaid shall in particular have the following functions:

(a) to receive reports of transactions suspected to involve money laundering made by any subject person in pursuance of any regulation made under article 12 of this Act, to supplement such reports with such additional information as may be available to it or as it may demand, to analyse the report together with such additional information and to draw up an analytical report on the result of such analysis;

(b) to send any analytical report as is referred to in paragraph (a) to the Commissioner of Police for further investigation if having considered the suspicious transaction report, the Unit also has reasonable grounds to suspect that the transaction is suspicious and could involve money laundering;

(c) to monitor compliance by subject persons and to co-operate and liaise with supervisory authorities to ensure such compliance;

(d) to send to the Commissioner of Police together with any analytical report sent in accordance with paragraph (b) or at any time thereafter any information, document, analysis or other material in support of the report;

(e) to instruct any subject person to take such steps as it may deem appropriate to facilitate any money-laundering investigation in general or the investigation of any particular suspicious transaction report;

(f) to gather information on the financial and commercial activities in the country for analytical purposes with a view to detecting areas of activity which may be vulnerable to money laundering;

(g) to compile statistics and records, disseminate information, make recommendations, issue guidelines and advise the Minister on all matters and issues relevant to the prevention, detection, investigation, prosecution and punishment of money laundering offences;

(h) to promote the training of, and to provide training for, personnel employed with any subject person in respect of any matter, obligation or activity relevant to the prevention of money laundering;

(i) to consult with any person, institution or organization as may be appropriate for the purpose of discharging any of its functions;

(j) to advise and assist persons, whether physical or legal, to put in place and develop effective measures and programmes for the prevention of money laundering;

(k) upon request or on its own motion, to exchange information with any foreign body, authority or agency which it considers to have functions equivalent or analogous to those mentioned in this sub-article and with any supervisory authority in Malta or with any supervisory authority outside Malta which it deems to

have equivalent or analogous functions as a supervisory authority in Malta, subject to such conditions and restrictions as it may determine, including the prior conclusion, if it deems so necessary, of any memorandum of understanding or other agreement, to regulate any such exchange of information, where that information may be relevant to the processing or analysis of information or to investigations regarding financial transactions related to money laundering and the natural or legal persons involved;

(1) to report to the Commissioner of Police any activity which it suspects involves money laundering and of which it may become aware in the course of the discharge of any of its functions.

(2) The Unit shall at least once a year prepare a report on its activities in general to the Minister and shall afford to the Minister facilities for obtaining information with respect to its property and its activities in general and furnish him with returns, accounts and other information with respect thereto.

Liability for damages.

17. The Unit, its Board, officers and employees shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function under this Act, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

Distribution of Duties of the Unit.

18. (1) The Unit shall consist of a Board and a Director.

(2) The Board shall be responsible for the policy to be adopted by the Unit and to be executed and pursued by the Director and to ensure that the Director carries out that policy accordingly. The Board shall also be responsible for advising the Minister as provided in paragraph (g) of sub-article (1) of article 16.

(3) The Director shall be responsible for the execution of the policy established by the Board and for carrying out all the functions of the Unit not attributed by this Act to the Board in accordance with the policy and subject to the general supervision of the Board.

(4) The Board may appoint any officer or any member of the staff of the Unit to act as director when the Director is absent, unable to act or on vacation or during any vacancy in the office of the Director.

Composition of
the Board

19. (1) The Board shall consist of:

(a) four members appointed by the Minister in the manner provided in sub-article (2) of this article;

(b) not more than two other members, as may be requested by the Board, appointed by the Minister in the manner provided in sub-article (3) of this article;

(2) The Minister shall appoint the four members referred to in paragraph (a) of sub-article (1) by selecting one member from each of four panels, each of at least three persons, nominated respectively by the Attorney General, the Governor of the Central Bank, the Chairman of the Malta Financial Services Centre and the Commissioner of Police.

(3) The Minister shall appoint each additional member as may be requested by the Board in pursuance of the provisions of paragraph (b) of sub-article (1) from a panel of not less than three persons nominated by the authority to be indicated by the Board with respect to each additional member.

(4) The members of the Board shall be appointed for a term of three years against such remuneration as the Minister may determine and may be re-appointed in the manner laid down in sub-articles (2) or (3), as the case may be, on the expiration of their term of office.

(5) The members of the Board shall discharge their duties in their own individual judgement and shall not be subject to the direction or control of any other person or authority.

(6) A person shall not be qualified to be appointed, or to hold office, as a member of the Board if he:

(a) is legally incapacitated; or

(b) has been declared bankrupt or has made a composition or scheme of arrangement with his creditors; or

(c) has been convicted of an offence against this Act or of an offence listed in the First Schedule or in the Second Schedule to this Act or of an offence of money laundering against the provisions of the Dangerous Drugs Ordinance or of the Medical and Kindred Professions Ordinance; or

(d) is not a salaried official on the permanent staff in the service of the official by whom he is to be or has been recommended for appointment; or

(e) is a salaried official of or is otherwise employed with or in the service of a subject person or is in any other manner professionally connected to a subject person.

(7) A member of the Board may be relieved of office by the Minister, after consultation with the official by whom the member was recommended, on the ground of inability to perform the functions of his office, whether due to infirmity of mind or of body, or to any other cause, or of misbehavior; and, for the purposes of this sub-article, repeated unjustified non-attendance of Board meetings may be deemed to amount to misbehavior.

(8) A member of the Board may also resign from office by letter addressed to the Minister.

(9) Where any vacancy occurs in the membership of the Board for any reason other than the lapse of the term of office that vacancy shall, for the remainder of the term of office which has become vacant, be filled by another member appointed by the Minister from among a panel of not less than three persons nominated by the official who nominated the panel from among whom the member who vacated office had been appointed.

Chairman
and
Deputy
Chairman of
the Board.

20. A Chairman and Deputy Chairman shall be appointed by the Prime Minister after consultation with the Minister from among the members of the Board. The Chairman shall be the Head of the Unit and the Deputy

Chairman shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as Chairman or while he is on vacation or during any vacancy in the office of chairman.

Meetings of
the Board.

21. (1) The Board shall meet within one month from its constitution and as often as may be necessary or expedient thereafter, but in no case less frequently than ten times in each year. The meetings of the Board shall be called by the Chairman on his own initiative or at the request of any two of the other members or at the request of the Director.

(2) The Board shall not act unless a *quorum* consisting of the Chairman or Deputy Chairman and not less than two other members is present.

(3) The meetings of the Board shall be chaired by the Chairman, or in his absence, by the Deputy Chairman.

(4) The decisions of the Board shall be adopted by a simple majority of the votes of the members present and voting and in the event of an equality of votes the member presiding at the meeting shall have and exercise a second or casting vote.

(5) The Director shall be entitled to attend the meetings of the Board and to take part in the discussions, but shall have no vote. Saving the provisions of sub-article (2) of this article the absence of the Director from any meeting shall not invalidate the proceedings of the meeting.

(6) Any vacancy among the members of the Board, and any participation therein by a person not entitled so to do, shall not invalidate the proceedings of the Board.

(7) Subject to the provisions of this Act, the Board may regulate its own procedure.

(8) All acts done by any person acting in good faith as a member of the Unit shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered.

Decisions in
case of
emergency.

22. In case of emergency, decisions shall be taken by at least two members of the Board one of whom shall be the Chairman or Deputy Chairman.

The
Executive
and other
staff
of the Unit.

23. The Director and the other officers and staff of the Unit shall be appointed or recruited by the Board according to such procedures and on such terms and conditions and in such numbers as the Board may determine.

The police
liaison
officer

24. (1) The Commissioner of Police shall detail a police officer not below the rank of Inspector to act as a liaison officer to liaise with the Unit.

(2) Notwithstanding anything to the contrary in any other law the police liaison officer detailed as aforesaid shall be bound to keep secret and confidential any information that may come to his knowledge as a result of his duties as a liaison officer with the Unit and shall not disclose such information to any person other than a member of the Unit or any of its staff in the course of the exercise of his functions as a liaison officer with the Unit.

Provided that where the Unit has submitted a report to the Police in accordance with the provisions of this Act the Unit may, without prejudice to the provisions of sub-article (4) of article 31 of this Act, authorise the police liaison officer to disclose to the Police, or to any other competent authority identified by the Unit as having an interest in the investigation of the report, any information relevant to the said report that may have come or may come to the knowledge of the police liaison officer in the course of his assignment with the Unit.

(3) The police liaison officer shall, subject to complying with any internal requirements of the police force, make available to the Unit or to any member of its staff any information at the disposal of the police or which is part of police records to the extent that such information is relevant to the exercise of the functions of the Unit.

(4) The police liaison officer shall assist the Unit in the analysis and processing of suspicious transaction reports and of information and intelligence data collected by the Unit in the exercise of its functions and shall advise the Unit on investigative techniques and on all law enforcement issues.

Legal and
judicial
representation
of
the Unit.

25. (1) The legal and judicial representation of the Unit shall vest in the Chairman and in his absence in the Deputy Chairman:

Provided that the Unit may appoint any one or more of its other members or of its officers or employees to appear in the name and on behalf of the Unit in any judicial proceedings and in any act, contract, instrument or other document whatsoever.

(2) Any document purporting to be an instrument made or issued by the Unit and to be signed by the Chairman or by the Deputy Chairman on behalf of the Unit shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Unit.

Compliance. 26. (1) The Unit shall be responsible to ensure that subject persons comply with the provisions of this Act and any regulations made thereunder in so far as these are applicable to them.

(2) If the Unit so considers necessary it may:

(a) authorise any of its officers, employees or agents, on producing evidence of his authority, to require any subject person to provide him forthwith with such information or documents relating to that subject person's internal procedures for compliance with the provisions of this Act and any regulation made thereunder and to answer any questions as the Unit may reasonably require for the performance of its functions under paragraph (1) of this article;

(b) by notice in writing served on a subject person require that person to produce, within the time and at the place as may be specified in that notice, any documents as may be so specified in the notice provided such documents are reasonably required by the Unit for the performance of its functions under this Act.

(3) Where the documents required under sub-article (2) of this article are produced, the Unit may make notes and take copies of the whole or any part of such documents.

(4) Where the documents required under sub-article (2) of this article are not produced, the Unit may require the subject person who was required to produce them to state, in writing, why such documents could not be produced.

(5) Subject to the provisions of article 27 of this Act, a supervisory authority is, for the purposes of paragraph (a) of sub-article (2) of this article, considered to be an agent of the Unit.

Co-operation with supervisory authorities.

27. (1) Without prejudice to the generality of the provisions of this Act, the Unit shall co-operate with the supervisory authorities to ensure that the financial and other systems are not used for criminal purposes and thus safeguard their integrity.

(2) Without prejudice to the special provisions of any other law applicable to them, the supervisory authorities shall extend all assistance and co-operation to the Unit in the fulfillment of its responsibilities under this Act.

(3) In pursuance of its responsibilities under the provisions of article 26 of this Act, the Unit may request a supervisory authority to do all or any of the following and the supervisory authority shall not unreasonably withhold its assistance:

(a) to provide the Unit with such information of which the supervisory authority may become aware of in the course of its supervisory functions and which indicates that a subject person falling under the competence of the supervisory authority may not be in compliance with any requirements under this Act or any regulations made thereunder.

(b) to carry out, on behalf of the Unit, on-site examinations on subject persons falling under the competence of the supervisory authority with the aim of establishing that person's compliance with the provisions of this Act and any regulations made thereunder and to report to the Unit accordingly.

(4) The Unit may authorise any of its officers or employees to accompany the supervisory authority in any on-site examination as may be required by the Unit under paragraph (b) of sub-article (3) of this article and any such officer or employee shall be entitled, on producing, if requested, evidence of his authority, to enter any premises of the subject person on whom an examination is being undertaken.

Delay of execution of a suspicious transaction.

28. (1) Where any subject person is aware or suspects that a transaction which is to be executed may be linked to money laundering that subject person shall inform the Unit before executing the transaction giving all the information concerning the transaction including the period within which it is to be executed. Such information may be given by telephone but shall be forthwith confirmed by fax or by any other written means and the Unit shall promptly acknowledge the receipt of the information.

(2) Where the matter is serious or urgent and it considers such action necessary, the Unit may oppose the execution of a transaction before the expiration of the period referred to in sub-article (1) and notice of such opposition shall be immediately notified by fax or by any other written means.

(3) The opposition by the Unit shall halt the execution of the transaction for 24 hours from the time of the notification referred to in sub-article (1) unless the Unit shall authorise earlier, by fax or otherwise in writing, the execution of the transaction.

(4) Where within the period referred to in sub-article (1) no opposition has been made by the Unit as provided in sub-article (2) the subject person concerned may proceed to the execution of the transaction in question and where opposition has been made as provided aforesaid the subject person concerned may proceed to the execution of the transaction in question upon the lapse of the period referred to in sub-article (3) unless in the meantime an attachment order has been served on the subject person.

Action after execution of suspicious transaction which could not be delayed.

29. Where any subject person is aware or suspects that a transaction which is to be executed may be linked to money laundering but it is unable to inform the Unit before the transaction is executed, either because it is not possible to delay executing the transaction due to its nature, or because delay in executing the transaction could prevent the prosecution of the individuals benefiting from the suspected money laundering, the subject person shall inform the Unit immediately after executing the transaction giving the reason why the Unit was not so informed before executing the transaction.

Power of the
Unit to
demand
information.

30. (1) When the Unit receives a report as is referred to in paragraph (a) of sub-article (1) of article 16 or when from information in its possession the Unit suspects that any subject person may have been used for any transaction suspected to involve money laundering the Unit may demand from the subject person making the report or from the subject person which is suspected of having been used for any transaction suspected to involve money laundering as well as from any other subject person, the police, any Government Ministry, department, agency or other public authority, or any other person, physical or legal, and from any supervisory authority, any additional information that it deems useful for the purpose of integrating and analysing the report or information in its possession.

(2) Notwithstanding anything contained in the Professional Secrecy Act and any obligation of secrecy or confidentiality under any other law the subject person or any other person, physical or legal, and any authority or entity from whom information is demanded by the Unit in pursuance of the provisions of sub-article (1) of this article shall communicate the information requested to the Unit and for the purposes of article 257 of the Criminal Code any such disclosure shall be deemed to be a disclosure of information to a public authority compelled by law:

Provided that nothing in this sub-article shall imply any obligation on the Attorney General to communicate to the Unit any information which in any way relates to or is connected with or came into his possession as a result of the exercise by him of any powers referred to in sub-article (3) of article 91 of the Constitution or any obligation on any person to communicate to the Unit any information which would in legal proceedings be protected from disclosure by sub-article (1) of article 642 of the Criminal Code or by sub-article (1) of article 588 of the Code of Organization and Civil Procedure.

Transmission
of
information
to
police for
investigation.

31. (1) Where following an analysis of a suspicious transaction report and of the information in its possession relevant to the report the Unit is of the opinion that a reasonable suspicion of money laundering persists the report together with any relevant information in its possession and the results and conclusions of any analysis carried out by the Unit shall be transmitted to the Police for further investigation.

(2) The provisions of sub-article (1) shall also apply *mutatis mutandis* to any suspicion of money laundering which the Unit may have formed on the basis of information in its possession without any suspicious transaction report having been made to the Unit or independently of any such report.

(3) Where the Unit transmits information to the Police in pursuance of the provisions of sub-articles (1) and (2) and a subject person over which another authority or agency has supervisory or regulatory functions is involved the Unit shall inform the said authority or agency of action taken.

(4) Where the Unit transmits information to the Police in pursuance of sub-articles (1) and (2) it shall thereafter transmit to the Police any further relevant information in respect of the suspicion communicated to the Police as aforesaid.

Information. 32. The Unit shall, at the request of the subject person, give to the subject person which reports any transaction suspected to involve money laundering such information as the Unit considers to be of interest to the subject person in order to enable that subject person to regulate its affairs and to assist it to carry out its duties under this Act or any regulation made thereunder.

Tipping off by the officials or employees of the Unit. 33. Any official or employee of the Unit who, in any circumstances other than those provided for in the proviso to sub-article (2) of article 24 of this Act, discloses to the person concerned or to a third party that an investigation is being carried out by the Unit, or that information has been transmitted to the Unit by a subject person, or that the Unit has transmitted information to the police for investigation, shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding fifty thousand Maltese liri (Lm50,000) or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Confidentiality and permissible disclosure of information. 34. (1) The Unit, and its officers, employees and agents, whether still in the service of the Unit or not, shall not disclose any information relating to the affairs of the Unit or of any person, physical or legal, which they have acquired in the performance of their duties or the exercise of their functions under this Act except:

(a) when authorised to do so under any of the provisions of this Act;

(b) for the purpose of the performance of their duties or the exercise of their functions under this Act;

(c) when specifically and expressly required to do so under a provision of any law.

(2) The Unit may disclose any document or information referred to in sub-article (1) to an organization outside Malta which in the opinion of the Unit has functions similar to those of the Unit and which has similar duties of secrecy and confidentiality as those of the Unit or to a supervisory authority in Malta or to a supervisory authority outside Malta which in the opinion of the Unit has duties similar to those of a supervisory authority in Malta.

(3) The Unit may, in particular, refuse to disclose any document or information if:

(a) in its opinion such disclosure could lead to causing prejudice to a criminal investigation in course in Malta; or

(b) due to exceptional circumstances, such disclosure would be clearly disproportionate to the legitimate interests of Malta or of a natural or legal person; or

(c) such disclosure would not be in accordance with fundamental principles of Maltese law:

Provided that any refusal under this sub-article shall be clearly explained to the body or authority requesting the disclosure of the document or information.

(4) The Unit may also disclose any document or information referred to in sub-article (1) to a competent authority in Malta or outside Malta investigating any act or omission committed in Malta and which constitutes, or if committed outside Malta would in corresponding circumstances constitute:

(a) any of the offences referred to in subparagraph (1) of paragraph (a) of sub-article (2) of article 22 of the Dangerous Drugs Ordinance; or

(b) any of the offences referred to in subparagraph (1) of paragraph (a) of sub-article (2) of article 120A of the Medical and Kindred Professions Ordinance; or

(c) any offence of money laundering within the meaning of this Act:

Provided that such disclosure shall be subject to the condition that the information or document disclosed shall not, without the express consent of the Unit, be used for any other purpose other than that of the investigation or for any subsequent prosecution for the offence which is the subject of the investigation or for any proceedings which may lead to the confiscation of any proceeds from the said offence.

Revenue of
the Unit.

35. The revenue of the Unit shall consist of:

(a) fees payable to the Unit for services rendered by it;

(b) rents, interests and profits accruing from property, deposits and other assets of the Unit;

(c) any monies advanced to it by the Minister;

(d) any other money receivable or received by the Unit.

Powers of
the Unit.

36. (1) The Unit may:

(a) hold accounts with any bank;

(b) invest any of its liquid assets in short and medium term first class securities as approved by the Board;

(c) acquire, purchase, lease or dispose of any movable or immovable property required for the conduct of its business or for any purposes ancillary or incidental to the performance of its functions under this Act.

(2) For the purpose of carrying out any of its functions under this Act, the Unit may, with the approval in writing of the Minister, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister may in writing approve.

Advances by
the
Government. 37. The Minister may make advances to the Unit of such sums as the Minister may consider to be required by the Unit for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as the Minister may deem appropriate. Any such advances may be made by the Minister out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advances.

Estimates
and
expenditure. 38. (1) The Director shall, not later than six weeks before the end of each financial year, submit to the Board estimates of the income and expenditure of the Unit for the following financial year:

Provided that the estimates for the first financial year of the Unit shall be prepared and adopted within such time as the Minister may by notice in writing to the Unit specify.

(2) In the preparation of such estimates the Unit shall endeavor to ensure that the total revenues of the Unit are at least sufficient to meet all sums properly chargeable to its Income and Expenditure Account, including but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Board may direct.

(4) Before the end of each financial year the Board shall consider and adopt, with or without amendments as the case may be, the estimates submitted to it for the following financial year.

(5) If in respect of any financial year it is found that the amount approved by the Board is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Director may cause supplementary estimates to be prepared and sent forthwith to the Board for adoption and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to supplementary estimates.

Determination
and
allocation
of profits. 39. All profits realised by the Unit shall be put to a reserve fund which shall be used for such purposes as the Unit may deem to be required to meet the objects of the Unit, including the repayment of any liabilities.

Financial
year.

40. The financial year of the Unit shall begin on the first day of January and end on the thirty-first day of December:

Provided that the first financial year shall begin at the date of commencement of this article and shall end on the thirty-first day of December of the following year.

Audit.

41. The Unit shall keep proper books of account in such manner as the Minister may from time to time direct. Such accounts shall be audited by auditors appointed by the Board with the concurrence of the Minister from among persons qualified to be appointed as auditors of a company under the law for the time being in force in Malta, as if the Unit were such a company, and shall moreover be subject to audit by the Auditor General.

Annual
accounts.

42. (1) The Board shall, as soon as may be but not later than three months after the close of each financial year, transmit to the Minister:

(a) a copy of the annual accounts certified by the auditors;

(b) a report on the operations of the Unit during the year.

(2) The report referred to in sub-article (1) shall be laid on the Table of the House by the Minister not later than six weeks after its receipt, or where the House is during the period not in session not later than the second week after the House resumes its sittings.

Exemption
from
taxes.

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

Passed by the House of Representatives at Sitting No. 674 of 19th December, 2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives