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(d) fis-subartikolu (7) minflok it-tifsira "parteċipant" għandha tidhol it-tifsira li ġejja:

"parteċipant" tfisser istituzzjoni, kontroparti ċentrali, agent għas-*settlement*, *clearing house* jew operatur tas-sistema u jista' jinkludi parteċipant indirett approvat mill-Bank jekk jidhirlu meħtieġ fuq bażi ta' riskju sistemiku u b'kundizzjoni li dak il-parteċipant indirett huwa magħruf mis-sistema"; u

(e) fis-subartikolu (7) tiegħu, minflok it-tifsira "sistema ta' pagament" jew "sistema" għandha tidhol it-tifsira li ġejja:

"sistema ta' pagament" jew "sistema" tfisser arrangament formali bejn tliet parteċipanti jew aktar, minbarra l-operatur tas-sistema ta' dik is-sistema, agent għas-*settlement* potenzjali, kontroparti ċentrali potenzjali, *clearing house* potenzjali jew parteċipant indirett potenzjali, b'regoli komuni u arrangamenti standardizzati għall-*clearing*, kemm permezz ta' kontroparti ċentrali kif ukoll mingħajru jew l-eżekuzzjoni ta' ordnijiet ta' trasferiment bejn il-parteċipanti. Il-Bank jista' wkoll, fuq bażi ta' każ b'każ, jitratta bħala sistema ta' pagament dak l-arrangament formali bejn żewġ parteċipanti meta l-Bank hekk jidhirlu meħtieġ fuq bażi ta' riskju sistemiku. Arrangament miftiehem bejn żewġ sistemi interoperabbli m'għandux jitqies bħala sistema."

Żjieda ta' artikolu ġdid mal-Att prinċipali.

26. Minnufih wara l-artikolu 34 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Servizzi ta' pagament.

34A. (1) Bla ħsara għad-disposizzjonijiet tat-Trattati u l-Istatut u kull att legali maħruġ taħthom, il-Bank jista', sabiex jippromwovi l-iżvilupp u l-provdiment stabbli u sostenibbli ta' strumenti ta' pagament, joħrog, jemenda jew jirrevoka direttivi li jimponu kundizzjonijiet dwar il-provdiment ta' sistemi ta' pagament.

(2) Il-Bank qiegħed jiġi maħtur bħala l-awtorità kompetenti għall-finijiet tal-Artikolu 9 tar-Regolament (KE) Nru 924/2009 tas-16 ta' Settembru 2009 dwar il-ħlas transkonfini fil-Komunità u li jhassar ir-Regolament (KE) Nru 2560/2001, u għandu jkun responsabbli biex jissorvelja l-konformità ma' dan ir-Regolament b'mod effettiv u biex jieħu l-miżuri kollha meħtieġa biex tiġi żgurata din il-konformità."

27. L-artikolu 35 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 35 tal-Att prinċipali.

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "artikolu 34(5)(a);" għandhom jidhlu l-kliem "artikoli 34(5) jew 34A; jew";

(b) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) tkun parti f'xi kwistjoni dwar drittijiet u obbligi li jinqalgħu minn xi direttivi mahruġa taħt l-artikoli 34(5) jew 34A(1) jew taħt id-disposizzjonijiet tar-Regolament (KE) 924/2009 tas-16 ta' Settembru 2009 dwar il-ħlas transkonfini fil-Komunità u li jhassar ir-Regolament (KE) Nru 2560/2001; jew";

(ċ) fil-paragrafu (ċ) tiegħu, minflok il-kliem "artikolu 56(1)" għandhom jidhlu l-kliem "artikolu 56"; u

(d) minflok il-kliem "mwaqqaf taħt l-Att dwar l-Awtorità ta' Malta għal Servizzi Finanzjarji" għandhom jidhlu l-kliem "mwaqqaf taħt l-artikolu 21 tal-Att dwar l-Awtorità ta' Malta għal Servizzi Finanzjarji".

28. Fl-artikolu 39 tal-Att prinċipali, minflok il-kelma "Trattat" għandha tidhol il-kelma "Trattati".

Emenda tal-artikolu 39 tal-Att prinċipali.

29. Fl-artikolu 41 tal-Att prinċipali minflok il-kliem minnufih qabel il-kelma "Il-Bank jista', abbażi ta' xi ftehim internazzjonali jew meta jsir xi ftehim ta' reċiproċità, jew xort'ohra sabiex biex jiġu mwettqa l-obbligi internazzjonali tiegħu inklużi sitwazzjonijiet ta' instabbiltà fis-sistema finanzjarja," għandhom jidhlu l-kliem "Bla ħsara għal xi disposizzjonijiet oħra dwar l-iżvelar ta' informazzjoni taħt it-Trattat u l-Istatut jew atti legali mahruġa taħthom, il-Bank jista'".

Emenda tal-artikolu 41 tal-Att prinċipali.

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Emenda tal-artikolu 42 tal-Att prinċipali.

30. Fl-artikolu 42 tal-Att prinċipali, minflok il-kliem "Artikolu 106 tat-Trattat" għandu jidhol il-kliem "Artikolu 128 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea".

Emenda tal-artikolu 43 tal-Att prinċipali.

31. L-artikolu 43 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "Artikolu 106 tat-Trattat" għandu jidhol il-kliem "Artikolu 128 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea"; u

(b) minnufih wara s-subartikolu (2) tiegħu, għandhom jizdiedu s-subartikolu ġodda li ġejjin:

"(3) Skont it-Trattati jew xi atti legali maħruġa taħthom, il-Bank għandu d-dritt uniku f'Malta li johroġ muniti euro għan-numismatika b'valuta legali mhux intizi għaċ-ċirkolazzjoni, liema muniti għandhom valuta legali f'Malta biss.

(4) Skont it-Trattati jew xi atti legali maħruġa taħthom, il-Bank għandu d-dritt uniku f'Malta li johroġ muniti euro għaċ-ċirkolazzjoni u muniti euro commemorattivi għaċ-ċirkolazzjoni."

Żjieda ta' artikolu ġdid mal-Att prinċipali.

32. Minnufih wara l-artikolu 43 tal-Att prinċipali, għandu jizdied l-artikolu ġdid li ġej:

"Limitu fuq hlas b'flus kontanti.

43A. Bla hsara għat-Trattati u għall-Istatut u kull att legali maħruġ tahtu, il-Bank jista', meta ġustifikat fl-interess pubbliku, johroġ, jemenda jew jirrevoka direttivi sabiex jistabbilixxi limitu fuq hlas b'karti tal-flus jew muniti jew dwar l-abbiltà ta' karti tal-flus u muniti li jissodisfaw ċerti obligazzjonijiet."

Sostituzzjoni tal-artikolu 44 tal-Att prinċipali.

33. L-artikolu 44 tal-Att prinċipali għandu jiġi sostitwit bbl-artikolu ġdid li ġej:

"Referenza għal biljett jew munita tal-flus.

44. Għall-finijiet tad-disposizzjonijiet li ġejjin ta' din it-Taqsima, kull referenza għal "biljett tal-flus" jew "munita" hija referenza għal-karti tal-flus euro jew muniti euro u kull biljett ieħor jew munita oħra tal-flus, imsejjaħ b'isem ikun li jkun, li jkun jew tkun valuta legali fil-pajjiż barra minn Malta fejn ikun ġie maħruġ jew tkun ġiet maħruġa."

34. Fis-subartikolu (1) tal-artikolu 49 tal-Att prinċipali, minflok il-kliem minn "Kull min jiffalsifika jew iħaffef" sal-kliem "u mhux iżjed minn disa' snin:", għandhom jidhlu l-kliem:

Emenda tal-artikolu 49 tal-Att prinċipali.

"Kull min jiffalsifika jew imexxi xi muniti falsifikati jew, mingħajr awtorità jew skuża legittima jew raġonevoli (liema prova tkun fuq l-akkuzat) iħaffef il-piż jew iħażzen il-kwalità ta' xi munita jew idewwibha jew jintroduċi jew imexxi xi munita falza jew imħażżna meta jkun jaf li l-istess tkun falza jew imħażżna jeħel, meta jinsab ħati, priġunerija għal żmien ta' mhux anqas minn tleTTax il-xahar u mhux iżjed minn disa' snin:".

35. L-artikolu 50 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 50 tal-Att prinċipali.

(a) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4) rispettivament;

(b) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu (2) ġdid li ġej:

"(2) *Cash handler* kif imsemmi fl-artikolu 6 tar-Regolament tal-Kunsill (KE) Nru 1338/2001 tat-28 ta' Ġunju 2001 li jstabilixxi l-miżuri meħtieġa għall-protezzjoni tal-euro kontra l-falsifikazzjoni, kif emendat sussegwentement, għandu l-obbligu li jiżgura li l-biljetti tal-flus u muniti tal-euro li huwa jirċievi u li għandu l-ħsieb li jerga jpoġġihom fiċ-ċirkolazzjoni jiġu verifikati għall-awtenticiċità u l-flus foloz jiġu skoperti. Kull flus foloz li jiġu skoperti għandhom jiġu mġhoddija immedjatament lill-Bank."; u

(ċ) minnufih wara s-subartikolu (4) tiegħu, kif enumerat mill-ġdid, għandu jiżdied is-subartikolu (5) ġdid li ġej:

"(5) Meta *cash handler* kif imsemmi fis-subartikolu (2), jew xi persuna oħra tikkonsenja biljetti tal-flus jew muniti lill-Bank skont is-subartikolu (1), hija fuq talba għandha tipprovdi lill-Bank l-informazzjoni dwar l-identità tal-persuna li mingħandha rċeviet dawk il-biljetti tal-flus jew muniti, kif ukoll informazzjoni dwar id-data rilevanti, il-ħin u l-mod kif ġew riċevuti. Il-provdiment ta' din l-informazzjoni għandha titqies bħala miżura neċessarja skont il-paragrafi (d), (e) u (f) tal-artikolu 23(1) tal-Att dwar il-Protezzjoni u l-Privatezza tad-Data."

Kap. 440.

Żjieda ta' artikolu ġdid mal-Att prinċipali.

36. Minnufih wara l-artikolu 50 tal-Att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

"Setgħa li johroġ direttivi dwar il-verifika tal-awtentiċità u l-kundizzjoni tal-biljetti tal-flus u muniti tal-euro.

50A. Il-Bank, sabiex tiġi protetta l-integrità tal-biljetti tal-flus u muniti tal-euro, u sabiex jimplimenta d-disposizzjonijiet tad-Deċiżjoni BCE/2010/14 tas-16 ta' Settembru 2010 dwar il-verifika tal-awtentiċità u l-kundizzjoni u ċ-ċirkolazzjoni mill-ġdid tal-karti tal-flus tal-euro u tar-Regolament 1210/2010 tal-Parlament Ewropew u tal-Kunsill li jikkonċerna l-awtentikazzjoni tal-muniti tal-euro u t-trattament ta' muniti tal-euro li m'humix tajba għaċ-ċirkolazzjoni, jista' johroġ, jemenda jew jirrevoka direttivi li jistabbilixxu regoli u proċeduri dwar l-awtentikazzjoni, il-verifika tal-kundizzjoni u ċ-ċirkolazzjoni mill-ġdid tal-karti tal-flus u muniti tal-euro. Bla ħsara għall-generalità ta' dak li ntqal qabel, il-Bank jista', f'dawn id-direttivi, jistabbilixxi l-proċeduri biex jagħmel ispezzjonijiet fil-post, jawettaq eżerċizzju ta' monitoraġġ u jimponi rekwiżiti ta' rappurtar dwar l-awtentikazzjoni u l-verifika tal-kundizzjoni tal-biljetti tal-flus u muniti tal-euro u jista' wkoll jimponi miżuri amministrattivi sabiex jiżgura t-tħaris ta' dawn id-direttivi."

Sostituzzjoni tal-artikolu 55 tal-Att prinċipali.

37. L-artikolu 55 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"55. (1) Skont id-disposizzjonijiet tar-Regolament tal-Kunsill (KE) Nru 2182/2004 dwar midalji u *tokens* li jixbħu l-muniti euro, u kif sussegwentement emendat, kull min, ħlief jekk dan ikollu l-awtorità tal-Kummissjoni tal-Unjoni Ewropea,

jipproduċi, ibiegħ, jimporta jew iqassam għal skopijiet ta' bejgħ jew għal skopijiet kummerċjali oħra midalji u *tokens* li jixbhu l-muniti euro, għajr midalji jew *tokens* eżenti kif previst fir-Regolament imsemmi, ikun haati ta' reat u jeħel, meta jinstab haati, multa ta' mhux aktar minn tlieta u għoxrin elf euro, jew prigunerija għal żmien mhux iżjed minn sitt xhur, jew dik il-multa u prigunerija flimkien.

(2) Is-subartikolu (1) ma japplikax għal midalji u *tokens* li jkunu haarġu qabel is-6 ta' Diċembru 2004."

38. L-artikolu 56 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 56 tal-Att prinċipali.

"56. Bla hsara għad-disposizzjonijiet tat-Trattati u l-Istatut u kull att legali maħruġ taħthom, il-Bank jista' jimponi penalitajiet amministrattivi li jistgħu jiġu miġbura mill-Bank mingħajr rikors għal smiġħ mill-Qorti u li jistgħu jiġu imposti bhala penali ta' darba jew fuq bażi kumulattiva bil-gurnata sakemm ikun hemm it-tħaris dwar dan li ġej:

(a) meta persuna tikser jew tonqos li tħares htiġa li tkun tinsab f'xi direttiva maħruġa taħt l-artikoli 34(5), 34A(1), 43A, 50A jew 60A;

(b) meta persuna jew entità tikser jew tonqos li tħares obbligu ta' rappurtar taħt id-disposizzjonijiet tal-artikolu 23, jew ta' xi direttiva maħruġa taħtu;

(c) meta persuna tikser jew tonqos li tħares xi disposizzjonijiet dwar il-biljetti tal-flus jew muniti foloz u jew awtentikazzjoni u l-verifika tal-kundizzjoni tal-biljetti tal-flus u muniti tal-euro taħt id-disposizzjonijiet tal-artikolu 50;

(d) fuq xi korp magħqud meta r-reati msemmija fl-artikoli 45 sa 49 isiru biex dawn jiksbu benefiċċju minn persuna, li tkun qed taġixxi sew individwalment sew bhala parti minn organu tal-korp magħqud u li jkollha pożizzjoni għolja fi hdan il-korp magħqud, abbażi ta' -

(i) setgħa ta' rappreżentanza tal-korp magħqud, jew

(ii) awtorità li tiddeċiedi f'isem il-korp magħqud, jew

(iii) awtorità li teżerċità kontroll fuq il-korp

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magħqud,

jew meta dik il-persuna tgħin jew taġixxi f'kompliċità fl-għemil ta' dak ir-reat jew fit-tentattiv ta' għemil ta' kull reat bħal dak;

(e) fuq kull korp magħqud meta n-nuqqas ta' superviżjoni jew kontroll minn persuna msemmija fil-paragrafu (d) tkun għamlet possibbli l-għemil ta' reat imsemmi fl-istess paragrafu sabiex jinkiseb benefiċċju minn dak il-korp magħqud minn persuna li tkun taħt l-awtorità tiegħu; u

(f) meta persuna (fornitur ta' servizzi ta' hlas) tikser jew tonqos li thares xi disposizzjoni tar-Regolament (KE) Nru 924/2009 dwar il-hlas transkonfini fil-Komunità u li jhassar ir-Regolament (KE) Nru 2560/2001:

Izda penali amministrattiva imposta mill-Bank m'għandhiex tkun ikbar minn:

(a) hamsin elf euro fil-każ ta' penali ta' darba;

u

(b) hames mitt euro kuljum għal kull jum fil-każ ta' penali kumulattiva, u l-penali akkumulata m'għandhiex taqbez il-hamsin elf euro (€50,000)."

Emenda tal-artikolu 57 tal-Att prinċipali.

39. L-artikolu 57 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Meta bis-saħħa ta' regolamenti magħmula taħt l-artikolu 56, il-Bank jimponi penali amministrattiva, dan għandu jinnotifika lill-persuna jew, fil-każ ta' entità taħt l-artikolu 23, il-persuna nkarigata mill-affarijiet amministrattivi tal-entità, li fuqha tkun imposta l-penali bil-mezz ta' avviż bil-miktub.";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "aġent ta' rappurtar" għandhom jidhlu l-kliem "persuna jew entità, u minflok il-kliem "artikolu 56(2)(a)" għandhom jidhlu l-kliem "artikolu 56(b)"; u

(ċ) fis-subartikolu (3) tiegħu, minnufih wara l-kelma "persuna", kull fejn tidher, għandhom jidhlu l-kliem "jew

entità".

40. Minnufih wara l-artikolu 60 tal-Att prinċipali, għandu jizzied l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Att prinċipali.

"Setgħa li jorhoġ, jemenda u jirrevoka direttivi.

60A. (1) Il-Bank jista' jorhoġ, jemenda jew jirrevoka direttivi li jistgħu jkunu meħtieġa sabiex jingħata effett lil xi disposizzjoni ta' dan l-Att, it-Trattat u l-Istatut.

(2) Direttivi mahruġa mill-Bank jistgħu jsiru fil-lingwa Ingliża biss."

41. L-artikolu 61 tal-Att prinċipali għandu jiġi sostitwi bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 61 tal-Att prinċipali.

"61. (1) Riferenza f'xi liġi għar-rati ta' skont, intervent ċentrali u, jew rati ta' interessi uffiċjali tal-Bank għandha tkun riferenza għar-rata minima tal-offerti fuq l-operazzjonijiet ewlenin ta' finanzjament mill-ġdid stabbilita mill-Kunsill Governattiv tal-Bank Ċentrali Ewropew.

(2) Sakemm ma jkunx indikat mod ieħor mill-kuntest, riferenza f'xi liġi għal rati ta' kambju pubblikati mill-Bank għandha tkun riferenza għal rati ta' kambju pubblikati mill-Bank kif ukoll rati ta' kambju pubblikati mill-Bank Ċentrali Ewropew."

42. Fis-subartikolu (1) tal-artikolu 62 tal-Att prinċipali, minflok il-kelma "Trattat" għandha tidhol il-kelma "Trattati".

Emenda tal-artikolu 62 tal-Att prinċipali.

43. Fis-subartikolu (1) tal-artikolu 63 tal-Att prinċipali, minflok il-kelma "Trattat" għandha tidhol il-kelma "Trattati".

Emenda tal-artikolu 63 tal-Att prinċipali.

44. Fl-Iskeda li tinsab mal-Att prinċipali, minnufih wara l-kliem "Att dwar is-Swieq Finanzjarji (Kap. 345)" għandhom jidhlu l-kliem "Att dwar is-*Securitisation* (Kap. 484)".

Emenda tal-Iskeda li tinsab mal-Att prinċipali.

Għanijiet u Raġunijiet

L-għan ewlieni ta' dan l-Abbozz ta' Liġi huwa biex jiġu implimentati ċerti dispożizzjonijiet li huma meħtieġa taħt Regolamenti tal-UE u biex isir aġġornar ġenerali tal-Att dwar il-Bank Ċentrali ta' Malta (Kap 204).

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**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:-

Short title and commencement.

Cap. 204.

1. (1) The short title of this Act is the Central Bank of Malta (Amendment) Act, 2011, and this Act shall be read and construed as one with the Central Bank of Malta Act, hereinafter referred to as "the principal Act".

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

Amendment of the long title of the principal Act.

2. In the long title of the principal Act, for the words "determination of its functions and powers" there shall be substituted the words "determination of its tasks and powers".

Amendment of article 2 of the principal Act.

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

(a) the definition "European Central Bank" shall be substituted by the following new definition:

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

(b) immediately after the definition "European Central Bank" there shall be added the following new definition:

" "European Union" or "Union" means the European Union referred to in the Treaties;"

(c) immediately after the definition "Malta" there shall be added the following new definition:

" "Member State" means a State which is a member of the European Union;"

(d) the definition "reserve assets" shall be deleted;

(e) in the definition "Statute", for the word "Treaty" there shall be substituted the words "Treaty on the Functioning of the European Union"; and

(f) the definition of "Treaty" shall be substituted by the following new definition:

" "the Treaties" mean the Treaty on European Union and the Treaty on the Functioning of the European Union, both signed at Lisbon on 13 December 2008 and as subsequently amended.".

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

Amendment of article 3 of the principal Act.

(a) in subarticle (1) thereof, for the word "Treaty", wherever it occurs, there shall be substituted the word "Treaties"; and

(b) in subarticle (2) thereof, for the word "functions", wherever it occurs, there shall be substituted the word "tasks".

5. Article 4 of the principal Act shall be substituted by the following new article:

Substitution of article 4 of the principal Act.

"4. In accordance with the Treaties and the Statute, the primary objective of the Bank shall be to maintain price stability. Without prejudice to its primary objective, the Bank shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union and shall act in accordance with the principles set out in Article 119 of the Treaty on the Functioning of the European Union.".

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

Amendment of article 5 of the principal Act.

(a) in subarticle (1) thereof, for the word "Treaty" there shall be substituted the word "Treaties";

(b) in paragraph (b) of subarticle (1) thereof, for the words "reserve assets" there shall be substituted the words "financial

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assets";

(c) in subarticle (2) thereof, for the word "Treaty" there shall be substituted the word "Treaties" and for the word "function" there shall be substituted the word "task"; and

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

Amendment of article 7 of the principal Act.

7. In subarticle (1) of article 7 of the principal Act, for the word "functions" there shall be substituted the word "tasks" and for the word "Treaty" there shall be substituted the word "Treaties".

Amendment of article 8 of the principal Act.

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

(a) in subarticle (2) thereof, for the word "functions" there shall be substituted the word "tasks" and for the word "Treaty" there shall be substituted the word "Treaties"; and

(b) in subarticle (3) thereof, for the word "functions" there shall be substituted the word "tasks".

Amendment of article 9 of the principal Act.

9. In subarticle (4) of article 9 of the principal Act, for the word "functions" there shall be substituted the word "tasks".

Amendment of article 15 of the principal Act.

10. Article 15 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the word "function" there shall be substituted the word "task" and for the word "functions" there shall be substituted the word "tasks"; and

(b) in subarticle (2) thereof, for the word "function" there shall be substituted the word "task".

Amendment of article 17 of the principal Act.

11. Article 17 of the principal Act shall be amended as follows:

(a) for the marginal note thereof, there shall be substituted the following:

"Monetary operations and other tasks of the Bank.";

(b) in subarticle (1) thereof, for the word "Treaty" there shall be substituted the word "Treaties";

(c) paragraph (a) of subarticle (1) thereof shall be substituted by the following new paragraph:

"(a) opening of accounts for persons as provided in this Act, and, in special cases for other persons with the prior approval of the Board;"

(d) paragraph (b) of subarticle (1) thereof shall be substituted by the following new paragraph:

"(b) maintenance of accounts with central banks or other domestic or foreign credit institutions and agents and acting as correspondent, banker or agent for any central bank or other credit institution or other monetary authority and for any international financial institution established under international treaties;"

(e) in paragraph (c) of subarticle (1) thereof, for the words "to subscribe to, purchase, sell, discount or re-discount" there shall be substituted the words "subscription to, purchasing, selling, discounting or re-discounting";

(f) in paragraph (d) of subarticle (1) thereof, for the words "to issue, purchase, sell, discount or re-discount" there shall be substituted the words "issuing, purchasing, selling, discounting or re-discounting";

(g) in paragraph (e) of subarticle (1) thereof, for the words "to grant" there shall be substituted the word "granting";

(h) in paragraph (f) of subarticle (1) thereof, for the words "to enter" there shall be substituted the word "entering";

(i) in paragraph (g) of subarticle (1) thereof, for the words "to grant" there shall be substituted the word "granting";

(j) subarticles (2) to (7) thereof shall be renumbered as subarticles (3) to (8) respectively;

(k) immediately after subarticle (1) thereof, there shall be added the following new subarticle (2):

"(2) In accordance with the Treaties and the Statute, credit institutions may be required to hold minimum reserves with the Bank, and to report thereon.";

(l) in subarticle (3), as re-numbered, thereof, for the word "reserve" there shall be substituted the word "financial";

(m) in paragraph (a) of subarticle (3), as re-numbered, thereof, for the word "reserve" there shall be substituted the

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word "financial";

(n) in subarticle (4), as re-numbered, thereof, for the words "may invest its staff and pension funds" there shall be substituted the words "may invest staff and pension funds";

(o) in subarticle (5), as re-numbered, thereof, for the word "functions" there shall be substituted the word "tasks"; and

(p) in paragraph (a) of subarticle (7), as re-numbered, thereof, for the words "functions as a Central Bank" there shall be substituted the words "tasks as a central bank".

Substitution of
article 18 of the
principal Act.

12. Article 18 of the principal Act shall be substituted by the following new article:

"Transfer of
data or
information.

18. Any data or information which is transferred within the Bank and, or between the Bank and other persons or entities under the provisions of this Act or of directives issued thereunder, shall be transferable without any restriction or limitation arising under any other law, in particular but not solely related to secrecy or confidentiality, provided that such data or information shall retain its secret or confidential status for other effects and purposes."

Amendment of
article 21 of the
principal Act.

13. Article 21 of the principal Act shall be amended as follows:

(a) in paragraph (a) of subarticle (2) thereof, for the word "auditors;" there shall be substituted the words "auditors; and";

(b) paragraph (b) of subarticle (2) thereof shall be deleted;

(c) paragraph (c) of subarticle (2) thereof shall be renumbered as paragraph (b) thereof;

(d) in subarticle (2) thereof, for the words "the report referred to in paragraph (c)" there shall be substituted the words "the report referred to in paragraph (b)"; and

(e) in paragraph (a) of subarticle (3) thereof, for the words "a copy of the annual accounts, of the statement and of the report" there shall be substituted the words "a copy of the annual accounts and of the report".

14. For the words "Collection of Information" in the heading of Part IV of the principal Act, there shall be substituted the words "Collection of Statistical and other Information".

Substitution of heading of Part IV of the principal Act.

15. Article 23 of the principal Act shall be substituted by the following new article:

Substitution of article 23 of the principal Act.

"Collection of statistical and other information.

23. (1) Without prejudice to the tasks of the Bank to collect statistical information under the Treaties and the Statute and any legal acts issued thereunder, and without prejudice to the provisions of article 36(2), the Bank may require any person or entity which is licensed, authorised or registered by a competent authority, any branch of a foreign legal person, or any other person or entity, as may be determined by the Bank, to provide the Bank with such statistical and other information as the Bank may consider necessary to carry out its tasks under this Act or any other Act, and the Bank may enquire into and ask for clarifications of any information so provided.

(2) It shall be the duty of every person or entity required to provide the Bank with statistical and other information to comply with such requirement, without the possibility of invoking any professional or other secrecy restrictions.

(3) The Bank may issue directives providing for the definition and imposition of reporting requirements, establishing the standards for transmission and accuracy of statistical and other information, and specifying 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 subarticle (4).

(4) The Bank shall have the right to verify the accuracy and quality of statistical and other information submitted under this article, and to carry out its compulsory collection. The right to verify statistical and other information or to carry out its compulsory collection shall comprise the right to:

- (a) require submission of documents;
- (b) examine the books and records of the persons or entities referred to in subarticle (1);

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(c) take copies or extracts from such books and records; and

(d) obtain written or oral explanations.

Any reference to documents, books or records under this article includes a reference to the electronic form of any such documents, books or records.

(5) Except as provided for under Part VIII and Part IX, information collected under the provisions of this article shall be subject to professional secrecy.

(6) When it deems it necessary in the carrying out of its tasks under this Act and any other Act, the Bank shall prepare and publish statements, consolidating and, or aggregating statistical and other information so furnished under this article and, where necessary, under article 36(1).

Cap. 422. (7) The duty of any public authority to consult the National Statistics Office under article 39(2) of the Malta Statistics Authority Act when it undertakes activities with statistical implications shall not apply to the Bank in relation to the execution of its tasks under this Act."

Deletion of article 24 of the principal Act.

16. Article 24 of the principal Act shall be deleted.

Amendment of article 26 of the principal Act.

17. Article 26 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, the words "and accept deposits from" shall be deleted; and

(b) in subarticle (2) thereof, the words "and accept deposits from" shall be deleted.

Amendment of article 27 of the principal Act.

18. In subarticle (1) of article 27 of the principal Act, for the words "Community institutions or bodies" there shall be substituted the words "European Union institutions or bodies".

Amendment of article 28 of the principal Act.

19. In article 28 of the principal Act, for the word "functions" there shall be substituted the word "tasks".

Amendment of article 30 of the principal Act.

20. Article 30 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words "and may open accounts for and accept deposits from such credit and financial institutions" there shall be substituted the words "and may open accounts for credit institutions"; and

(b) in subarticle (2) thereof, the words "and place deposits" shall be deleted.

21. Article 31 of the principal Act shall be substituted by the following new article:

Substitution of article 31 of the principal Act.

"Other credit and financial institutions as agents.

31. (1) The Bank may appoint one or more credit or financial institutions in Malta to act as its agent for the issue, re-issue, exchange and withdrawal of currency notes and coins, or for other purposes, on such terms and conditions as may be agreed between the Bank and each of such credit or financial institutions.

(2) The Bank may also appoint one or more agents to provide services related to the storage, authentication, processing, counting and packaging of currency notes and coins."

22. For the words "Payment Systems" in the heading of Part VII of the principal Act, there shall be substituted the words "Payment Systems and Payment Services".

Substitution of heading of Part VII of the principal Act.

23. Article 32 of the principal Act shall be deleted.

Deletion of article 32 of the principal Act.

24. Article 33 of the principal Act shall be deleted.

Deletion of article 33 of the principal Act.

25. Article 34 of the principal Act shall be amended as follows:

Amendment of article 34 of the principal Act.

(a) in subarticle (1) thereof, for the word "Treaty" there shall be substituted the word "Treaties";

(b) subarticle (2) thereof shall be substituted by the following new subarticle:

"(2) No person shall organise, establish, operate or participate in a domestic payment system unless such system is licensed and authorised by the Bank and, without prejudice to subarticle (3), the Bank shall have the right to order -

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(a) the termination and closure of a domestic payment system which has been set up, or is being operated, without the necessary licence and authorisation, until an application for authorisation is filed and approved, and

(b) the suspension or revocation of a domestic payment system which has been licensed and authorised, but is or has been operated in breach of such licence and authorisation, or of any term or condition imposed by the Bank,

and the person concerned shall abide by any such orders issued by the Bank.";

(c) subarticle (5) thereof shall be substituted by the following new subarticle:

"(5) The Bank may issue, amend or revoke directives in respect of any or all of the objects mentioned in subarticle (1) including, without prejudice to the generality of the aforesaid, the regulation of licensing and authorisation of the payment systems, the regulation of clearing houses, settlement agents and participants in payment systems as well as the legal enforceability of payments made through such systems and the collateral given in connection with the operation of such a payment system:

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

(d) in subarticle (7) thereof, for the definition "participant" there shall be substituted the following:

" "participant" means an institution, a central counterparty, a settlement agent, a clearing house or a system operator and may include an indirect participant approved by the Bank if it is warranted on the grounds of systemic risk and on condition that the indirect participant is known to the system;" and

(e) in subarticle (7) thereof, for the definition " "payment system" or "system" " there shall be substituted the following:

" "payment system" or "system" means a formal arrangement between three or more participants, excluding the system operator of that system, a possible settlement agent, a possible central counterparty, a possible clearing house or a possible indirect participant, with common rules and standardised arrangements for the clearing, whether or not through a central counterparty, or execution of transfer orders between the participants. The Bank may also, on a case-by-case basis, designate as a payment system such a formal arrangement between two participants where the Bank considers that this is warranted on grounds of systemic risk. An arrangement entered into between interoperable systems shall not constitute a system;"

26. Immediately after article 34 of the principal Act, there shall be added the following new article:

Addition of new article 34A to the principal Act.

"Payment services.

34A. (1) Without prejudice to the Treaties, the Statute and any legal acts issued thereunder, the Bank may, in order to promote the stable and sustainable development and provision of payment instruments, issue, amend or revoke directives which impose conditions on the provision of payment services.

(2) The Bank is appointed as the competent authority for the purposes of Article 9 of Regulation (EC) No 924/2009 of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001, and shall be responsible to monitor compliance with this Regulation and to take all the necessary measures to ensure such compliance."

27. Article 35 of the principal Act shall be amended as follows:

Amendment of article 35 of the principal Act.

(a) in paragraph (a) thereof, for the words "article 34(5)(a);" there shall be substituted the words "articles 34(5) or 34A; or";

(b) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) is a party to any disputes in respect of rights and obligations arising under any directives issued under articles 34(5) or 34A(1) or under the provisions of Regulation (EC) No 924/2009 of 16 September 2009 on

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cross-border payments in the Community and repealing Regulation (EC) No 2560/2001; or";

(c) in paragraph (c) thereof, for the words "article 56(1)" there shall be substituted the words "article 56"; and

(d) for the words "established under the Malta Financial Services Authority Act" there shall be substituted the words "established under article 21 of the Malta Financial Services Authority Act".

Amendment of article 39 of the principal Act.

28. In article 39 of the principal Act, for the word "Treaty" there shall be substituted the word "Treaties".

Amendment of article 41 of the principal Act.

29. In article 41 of the principal Act, for the words "The Bank may on the basis of international agreements or upon reciprocity agreements, or otherwise in order to fulfil its international obligations including in situations of instability in the financial system," there shall be substituted the words "Without prejudice to any other provisions on the disclosure of information under the Treaties and the Statute or legal acts issued thereunder, the Bank may".

Amendment of article 42 of the principal Act.

30. In article 42 of the principal Act, for the words "Article 106 of the Treaty" there shall be substituted the words "Article 128 of the Treaty on the Functioning of the European Union".

Amendment of article 43 of the principal Act.

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

(a) in subarticle (2) thereof, for the words "Article 106 of the Treaty" there shall be substituted the words "Article 128 of the Treaty on the Functioning of the European Union"; and

(b) immediately after subarticle (2) thereof, there shall be added the following new subarticles:

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

(4) In accordance with the Treaties or any legal acts issued thereunder, the Bank shall have the sole right in Malta to issue euro circulation coins and commemorative euro circulation coins."

32. Immediately after article 43 of the principal Act, there shall be added the following new article: Addition of new article to the principal Act.

"Limitations on cash payments. 43A. Without prejudice to the Treaties and the Statute and any legal acts issued thereunder, the Bank may, when justified in the public interest, issue, amend or revoke directives in order to establish limitations on payments in currency notes and coins or on the ability to discharge certain obligations through the use of currency notes and coins."

33. Article 44 of the principal Act shall be substituted by the following new article: Substitution of article 44 of the principal Act.

"Reference to currency note or coin. 44. For the purposes of the following provisions of this Part, any reference to the terms "currency note" or "coin" shall be a reference to euro banknotes or euro coins or any other note or coin, by whatever name called, which is legal tender in the country outside Malta in which it is issued."

34. In subarticle (1) of article 49 of the principal Act, for the words from "Whosoever counterfeits or lightens" to the words "and not exceeding nine years:", there shall be substituted the following: Amendment of article 49 of the principal Act.

"Whosoever counterfeits or utters any counterfeit coin or, without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the accused person) lightens or impairs or melts down any coin or introduces or utters any debased coin knowing the same to be counterfeit or debased shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding nine years:"

35. Article 50 of the principal Act shall be amended as follows: Amendment of article 50 of the principal Act.

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

(b) immediately after subarticle (1) thereof, there shall be added the following new subarticle:

"(2) A cash handler as referred to in Article 6 of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, and as subsequently amended, shall have an obligation to ensure that euro currency notes

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and coins which it has received and which it intends to put back into circulation are checked for authenticity and counterfeits are detected. Any counterfeits so detected shall be delivered immediately to the Bank."; and

(c) immediately after subarticle (4), as renumbered, thereof, there shall be added the following new subarticle:

"(5) Where a cash handler as referred to in subarticle (2), or any other person delivers counterfeit currency notes or coins to the Bank in accordance with subarticle (1), that person shall upon request provide the Bank with information on his identity and the identity of the person through whom it received such currency notes or coins if available, as well as information on the relevant date, time and method of receipt. The provision of such information shall be considered a necessary measure in terms of paragraphs (d), (e) and (f) of article 23(1) of the Data Protection Act."

Cap. 440.

Addition of new article to the principal Act.

36. Immediately after article 50 of the principal Act, there shall be added the following new article:

"Power to issue directives on the authenticity and fitness checking of currency notes and coins.

50A. The Bank, in order to protect the integrity of euro currency notes and coins, and to implement the provisions of Decision ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes and of Regulation 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation, may issue, amend or revoke directives which lay down rules and procedures on the authentication, fitness checking and recirculation of euro currency notes and coins. Without prejudice to the generality of the aforesaid, the Bank may, in any such directives, lay down procedures to carry out on-site inspections, conduct any monitoring exercise and impose reporting requirements related to the authentication and fitness checking of euro currency notes and coins and may further impose administrative measures to ensure compliance with any such directives."

37. Article 55 of the principal Act shall be substituted by the following new article:

Substitution of article 55 of the principal Act.

"55. (1) In accordance with the provisions of Council Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins, and as subsequently amended, whosoever, unless authorised by the Commission of the European Union, produces, sells, imports or distributes for sale or for other commercial purposes medals and tokens, other than exempted medals and tokens as provided in the said Regulation, similar to euro coins shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding twenty-three thousand euro, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Subarticle (1) shall not apply to medals and tokens issued before 6 December 2004."

38. Article 56 of the principal Act shall be substituted by the following new article:

Substitution of article 56 of the principal Act.

"56. Without prejudice to the Treaties and the Statute and any legal acts issued thereunder, the Bank may impose administrative penalties which may be recovered by the Bank without recourse to a court hearing and which may be imposed either as a one-time penalty or on a daily cumulative basis until compliance in respect of the following:

(a) where any person contravenes or fails to comply with a requirement contained in any directive issued under articles 34(5), 34A(1), 43A, 50A or 60A;

(b) where a person or entity contravenes or fails to comply with a reporting requirement under the provisions of article 23, or with any directive issued thereunder;

(c) where any person contravenes or fails to comply with any obligation relating to counterfeit currency notes or coins or the authentication and fitness checking of euro currency notes and coins under the provisions of article 50;

(d) upon any body corporate where the offences referred to in articles 45 to 49 are committed for their benefit by any person, acting either individually or as part of an organ of the body corporate, who has a senior

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position within the body corporate, on the basis of -

(i) a power of representation of the body corporate, or

(ii) an authority to take decisions on behalf of the body corporate, or

(iii) an authority to exercise control over the body corporate,

or where such person aids or acts as an accessory in the commission of such offences or the attempted commission of such offences;

(e) upon any body corporate where the lack of supervision or control by the person referred to in paragraph (d) has rendered possible the commission of an offence referred to in the same paragraph for the benefit of that body corporate by a person under its authority; and

(f) where any person (payment service provider) contravenes or fails to comply with the provisions of Regulation (EC) No 924/2009 of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001:

Provided that an administrative penalty imposed by the Bank may not be greater than:

(a) fifty thousand euro in case of a one-time penalty; and

(b) five hundred euro per day for every day in the case of a daily cumulative penalty, and the accumulated penalty shall not exceed fifty thousand euro (€50,000)."

Amendment of article 57 of the principal Act.

39. Article 57 of the principal Act shall be amended as follows:

(a) subarticle (1) thereof shall be substituted by the following new subarticle:

"(1) Where by virtue of the provisions of article 56, the Bank imposes an administrative penalty, it shall so notify the person or, in the case of an entity under article 23, the person in charge of the administrative affairs of that entity, on whom the penalty is being imposed by means of

a notice in writing.";

(b) in subarticle (2) thereof, for the words "reporting agent" there shall be substituted the words "person or entity", and for the words "article 56(2)(a)" there shall be substituted the words "article 56(b)"; and

(c) in subarticle (3) thereof, immediately after the words "any person", wherever they appear, there shall be added the words "or entity".

40. Immediately after article 60 of the principal Act, there shall be added the following new article:

Addition of new article to the principal Act.

"Power to issue, amend and revoke directives. 60A. (1) The Bank may issue, amend or revoke directives as may be required for carrying into effect any of the provisions of this Act, the Treaties and the Statute.

(2) Directives issued by the Bank may be in the English language only."

41. Article 61 of the principal Act shall be substituted by the following new article:

Substitution of article 61 of the principal Act.

"61. (1) Reference in any law to the Bank's discount, central intervention, and, or official interest rates shall be a reference to the minimum bid rate on main refinancing operations established by the Governing Council of the European Central Bank.

(2) Unless otherwise indicated by the context, reference in any law to exchange rates published by the Bank shall be a reference to exchange rates published by the Bank as well as exchange rates published by the European Central Bank."

42. In subarticle (1) of article 62 of the principal Act, for the word "Treaty" there shall be substituted the word "Treaties".

Amendment of article 62 of the principal Act.

43. In subarticle (1) of article 63 of the principal Act, for the word "Treaty" there shall be substituted the word "Treaties".

Amendment of article 63 of the principal Act.

44. In the Schedule to the principal Act, immediately after the words "Financial Markets Act (Cap. 345)" there shall be added the words "Securitisation Act (Cap. 484)".

Amendment of the Schedule of the principal Act.

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Objects and Reasons

The main object of this Bill is to implement certain provisions required under EU Regulations and to conduct a general update of the Central Bank of Malta Act (Cap. 204), .