CHAPTER 371

BANKING ACT

To regulate the business of banking.

15th November, 1994

ACT XV of 1994 as amended by Acts XXIV, XXV of 1995, VI of 2001, XVII of 2002, IV, IX of 2003, XIII of 2004,XX of 2007 Legal Notice 425 of 2007; Acts III,XVII of 2009, II of 2010, II, X of 2011, XX of 2013, X XXI of 2015, X, XXXI of 2017, XLIV of 2018 and XXVI of 2018. and XXVI of 2019, XIII of 2020, LXXI of 2021 , LXXII of 2021 , XXXVI of 2024 , XI and XXIX of 2025 and XIX of 2026.

1. The short title of this Act is the Banking Act. Short title.

2. (1) In this Act, unless the context otherwise requires - Interpretation.
Amended by:
XXIV. 1995.362;
XXV. 1995.434;
XVII. 2002.157;
IX. 2003.76;
XIII. 2004.82;
XX. 2007.85;
XVII. 2009.11;
II. 2011.2;
X. 2011.37;
XX. 2013.54;
X. 2015.2;
XXI. 2015.19;
X. 2017.2;
XXXI. 2017.70;
XLIV.2018.9;
XXVI.2019.3;
LXXI.2021.19;
LXXII.2021.29;
XXXVI.2024.60;
XI.2025.24;
XIX.2026.23.

"account information service" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act;

"account information service provider" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act; Cap. 376.

"account servicing payment service provider" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act; Cap. 376.

"Additional Tier 1 instruments" means capital instruments that meet the conditions laid down in Article 52(1) of the CRR;

"Arbiter" means the Arbiter for Financial Services appointed under article 14 of the Arbiter for Financial Services Act; Cap. 555.

"bank" or "credit institution" shall have the same meaning as that assigned to it in point (1) of Article 4(1) of the CRR;

"Banking Rule" means a Rule issued by the competent authority under various articles of this Act;

"binding legal instrument" means any directly applicable measures, including, but not limited to, any implementing technical standards, regulatory technical standards or similar measures, issued under European Union legislation;

"body corporate" means a body of persons having a legal

personality distinct from that of its members;

"branch" shall have the same meaning as that assigned to it in point (17) of Article 4(1) of the CRR;

"the BRRD" means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

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

"Central Bank" means the Central Bank of Malta as defined by the Central Bank of Malta Act; Cap. 204.

"close links" shall have the same meaning as that assigned to it in point (38) of Article 4(1) of the CRR;

"collection body" shall have the same meaning as assigned to it in Article 2 of the ESAP Regulation;

"Common Equity Tier 1 instruments" means capital instruments that meet the conditions laid down in Article 28(1) to (4), Article 29(1) to (5) or Article 31(1) of the CRR;

"company" means a limited liability company constituted in Malta in accordance with the Commercial Partnerships Ordinance* Cap. 168. or the Companies Act, Cap. 386. or any law which may from time to time be in force, or a company registered, licensed or holding an equivalent authorisation in another country outside Malta under the laws of any country provided that such company, if not constituted in Malta, would qualify to be so registered or licensed under the laws of Malta;

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.

"Conduct of Business Rules" means Rules, other than Banking Rules, which are issued by the competent authority in terms of article 4;

"connected person" means a person whose information is provided to the bank by, or on behalf of, a customer of the bank or by, or on

*Repealed by Act XXV of 1995 (Chapter 386).

behalf of, a person who seeks to become a customer of the bank, in connection with services from the bank requested by such customer, or by such person seeking to become a customer of the bank, provided that the information is required by the bank for the purposes of fulfilling a statutory obligation;

"consolidated basis" shall have the same meaning as that assigned to it in point (48) of Article 4(1) of the CRR;

"consolidating supervisor" shall have the same meaning as that assigned to it in point (41) of Article 4(1) of the CRR;

"controller" is a person who, alone or together with others, exercises control in relation to a body corporate;

"covered deposits" means covered deposits as defined in regulation 2 of the Depositor Compensation Scheme Regulations; S.L. 371.09

"the CRD" means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"credit facility" means the lending of a sum of money by way of an advance, overdraft or loan or any other line of credit including discounting of bills of exchange and promissory notes, guarantees, indemnities, acceptances and bills of exchange endorsed *pour aval*;

"the CRR" means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"data extractable format" shall have the same meaning as assigned to it in Article 2 of the ESAP Regulation;

"deposit" means a sum of money paid-in on terms under which it will be repaid, with or without interest or a premium and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it;

"Directive 2002/87/EC" means Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Directive 2004/109/EC" means Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to

information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Directive 2009/138/EC" means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Directive (EU) 2015/849" means Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Directive (EU) 2019/2034" means Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;"director" includes an individual occupying the position of director of a company, by whatever name he may be called, empowered to carry out substantially the same functions in relation to the direction of the company as those carried out by a director and in respect of a company registered, licensed or holding an equivalent authorisation outside Malta includes a member of a local board or agent or representative of that company:

"Provided that in respect of a financial holding company or a mixed financial company established outside Malta, "director" shall also include a member of the management body of the financial holding company or mixed financial holding company;

"DORA Regulation" means Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No. 1060/2009, (EU) No. 648/2012, (EU) No. 600/2014, (EU) No. 909/2014 and (EU) 2016/1011, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"EBA" means the European Banking Authority established by Regulation (EU) No 1093/2010;

"EEA State" means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May, 1992 as amended by the Protocol signed at Brussels on

the 17th March, 1993 and as amended by any subsequent acts;

"electronic money institution" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act; Cap. 376.

"eligible deposits" means deposits that are not excluded from protection pursuant to regulation 9 of the Depositor Compensation Scheme Regulations, and includes deposits held in an account entitled to compensate pursuant to regulation 12(5) Depositor Compensation Scheme Regulations; S.L. 371.09

"ESAP" means the European single access point in accordance with the ESAP Regulation;

"ESAP Regulation" means Regulation (EU) 2023/2859 of the European Parliament and of the Council of 13 December 2023 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability, as may be amended from time to time, and includes any implementing measures that have been, or may be issued thereunder;

"ESCB central banks" shall have the same meaning as that assigned to it in point (45) of Article 4(1) of the CRR;

"ESFS" means European System of Financial Supervision;

"ESRB" means the European Systemic Risk Board established by Regulation (EU) No. 1092/2010;

"EU parent financial holding company" shall have the same meaning as that assigned to it in point (31) of Article 4(1) of the CRR;

"EU parent institution" shall have the same meaning as that assigned to it in point (29) of Article 4(1) of the CRR;

"EU parent mixed financial holding company" shall have the same meaning as that assigned to it in point (33) of Article 4(1) of the CRR;

"European Resolution Authority" means an authority which is situated in a country or territory outside Malta that is in a Member State or an EEA State and which exercises any function corresponding to the functions of the Resolution Committee under the Malta Financial Services Authority Act and the Recovery and Resolution Regulations issued thereunder; Cap. 330.

"financial holding company" shall have the same meaning as that assigned to it in point (20) of Article 4(1) of the CRR;

"financial institution" shall have the same meaning as that assigned to it in point (26) of Article 4(1) of the CRR;

"financial instrument" shall have the same meaning as that assigned to it in point (50) of Article 4(1) of the CRR;

"financial sector entity" shall have the same meaning as that assigned to it in point (27) of Article 4(1) of the CRR;

"Financial Services Tribunal" or "the Tribunal" means the Financial Services Tribunal established under the Malta Financial Services Authority Act; Cap. 330.

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"group" shall have the same meaning as that assigned to it in point (138) of Article 4(1) of the CRR;

"holding company" has the same meaning as is assigned to the term "parent company" in the Companies Act; Cap. 386.

"home Member State" shall have the same meaning as that assigned to it in point (43) of Article 4(1) of the CRR;

"host Member State" shall have the same meaning as that assigned to it in point (44) of Article 4(1) of the CRR;

"initial capital" shall have the same meaning as that assigned to it in point (51) of Article 4(1) of the CRR;

"institution" shall have the same meaning as that assigned to it in point (3) of Article 4(1) of the CRR;

"insurance undertaking" shall have the same meaning as that assigned to it in point (5) of Article 4(1) of the CRR;

"investment firm" shall have the same meaning as that assigned to it in point (2) of Article 4(1) of the CRR;

"licence", in relation to the business of banking, means a licence granted in terms of article 5, 6A or 7;

"Malta's international commitments" means commitments, responsibilities and obligations arising out of European Union law, or membership of, or affiliation to, or relationship with, any international, global or regional organisations or grouping of countries or out of any treaty, convention or other international or reciprocity agreement, however called, whether bilateral or multilateral, to which Malta or the competent authority is a party;

"management body" means the body or bodies of a financial holding company or financial holding company established outside Malta, which are appointed in accordance with the law of the jurisdiction in which such a company is established, which are empowered to set the company's strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the persons who effectively direct the business of the company;

"manager" means a person who is placed in charge of the business or part of the business of a company or otherwise who has a substantial supervisory role with the power to make policy and executive decisions on behalf of the company;

"Member State" means a Member State of the European Union and includes an EEA State;

"metadata" shall have the same meaning as assigned to it in Article 2 of the ESAP Regulation;

"MiCA Regulation" means Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No. 1093/2010 and (EU) No. 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"MiFID" means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"MiFIR" means Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Minister" means the Minister responsible for the regulation of Financial Services;

"mixed activity holding company" shall have the same meaning as that assigned to it in point (22) of Article 4(1) of the CRR;

"mixed financial holding company" shall have the same meaning as that assigned to it in point (21) of Article 4(1) of the CRR;

"money laundering" has the same meaning ascribed to it by the Prevention of Money Laundering Act; Cap. 373.

"officer", in relation to a company, includes a director, partner, manager or company secretary or any person effectively acting in such capacity whether formally appointed or not;

"outsourcing" means an arrangement of any form between a credit institution and an outsourcing service provider by means of which that outsourcing service provider performs a process, a service or an activity that would otherwise be undertaken by the credit institution;

"outsourcing service provider" means a third-party entity that is undertaking an outsourced process, service or activity, or parts thereof, under an outsourcing arrangement;

"overseas regulatory authority" means an authority which in a country or territory outside Malta exercises any function corresponding to the functions of the competent authority under this Act;

"own funds" shall have the same meaning as that assigned to it in point (118) of Article 4(1) of the CRR;

"PAD" means Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, as may be amended from time to time and including and includes any binding legal instruments,

guidelines and other measures that have been or may be issued thereunder;

"parent financial holding company" shall have the same meaning as that assigned to the term "parent financial holding company in a Member State" in point (30) of Article 4(1) of the CRR;

"parent institution" shall have the same meaning as that assigned to the term "parent institution in a Member State" in point (28) of Article 4(1) of the CRR;

"parent mixed financial holding company" shall have the same meaning as that assigned to the term "parent mixed financial holding company in a Member State" in point (32) of Article 4(1) of the CRR;

"parent undertaking" shall have the same meaning as that assigned to it in point (15) of Article 4(1) of the CRR;

"payment account" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act;

Cap. 376.

"payment initiation service" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act;

Cap. 376.

"payment initiation service provider" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act;

Cap. 376.

"payment institution" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act;

Cap. 376.

"payment service" means any business activity set out in the Second Schedule to the Financial Institutions Act;

Cap. 376.

"personal data" shall have the same meaning as assigned to it in the GDPR;

"Payment Services Directive" means Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"payment service user" shall have the same meaning as that assigned to it under article 2(1) of the Financial Institutions Act;

Cap. 376.

"qualifying holding" or "qualifying shareholding" shall have the same meaning as that assigned to it in point (36) of Article 4(1) of the CRR;

"recognised jurisdiction" means:

(*a*) a Member State and Switzerland;

(*b*) any country that is a member of the Organisation for Economic Co-operation and Development (OECD);

(*c*) a country that is a signatory of the International Organisation of Securities Commissions (IOSCO)

Multilateral Memorandum of Understanding;

(*d*) a country that is a signatory of the International Association of Insurance Supervisors (IAIS) Multilateral Memorandum of Understanding;

(*e*) any jurisdiction which is a member of the Basel Committee on Banking Supervision;

(*f*) any jurisdiction falling within the Recommendations on the equivalence of confidentiality regimes issued by the EBA from time to time; or

(*g*) any other jurisdiction with whom the competent authority has signed a Memorandum of Understanding;

"reconstruction" has the same meaning as in the Companies Act; Cap. 386.

"Regulation (EU) No. 1092/2010" means Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Regulation (EU) No. 1093/2010" means Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/78/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Regulation (EU) No. 1094/2010" means Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/79/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Regulation (EU) No. 1095/2010" means Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/77/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"Regulation (EU) 2019/2033" means Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No. 1093/2010, (EU) No. 575/2013, (EU) No. 600/2014 and (EU) No. 806/2014, as amended from time to time and includes any binding legal instruments, guidelines and other measures

that have been or may be issued thereunder;

"reinsurance undertaking" shall have the same meaning as that assigned to it in point (6) of Article 4(1) of the CRR;

"representative office" means, in relation to a body corporate, unincorporated body or association formed in accordance with or existing under the laws of a country outside Malta, premises in Malta from which the business of banking is promoted or assisted in any way, and in relation to a body corporate, unincorporated body or association formed in accordance with and existing under the laws of Malta, premises outside Malta from which the business of banking is promoted or assisted in any way;

"resolution authority" means an authority designated by a Member State in accordance with Article 3 of the BRRD;

S.L. 330.09. "resolution entity" shall have the same meaning as that assigned to it in regulation 2(1) of the Recovery and Resolution Regulations;

S.L. 330.09. "Resolution Fund" means the resolution financing arrangement under the Recovery and Resolution Regulations;

S.L. 330.09. "resolution group" shall have the same meaning as that assigned to it in regulation 2(1) of the Recovery and Resolution Regulations;

S.L. 371.09 "Scheme" means the Depositor Compensation Scheme established under regulation 4 of the Depositor Compensation Scheme Regulations;

"senior management" means those natural persons who exercise executive function within a credit institution and who are responsible, and accountable to the board of directors, for the day-to-day management of the credit institution;

"sub-consolidated basis" shall have the same meaning as that assigned to it in point (49) of Article 4(1) of the CRR;

"subsidiary" shall have the same meaning as that assigned to it in point (16) of Article 4(1) of the CRR;

"third country" means a country that is not a Member State;

"third-country group" means a group of which the parent undertaking is established in a third country;

"Tier 2 instruments" means capital instruments or subordinated loans that meet the conditions laid down in Article 63 of the CRR;

"Third-Country Resolution Authority" means an authority which is in a country or territory that is not a Member State and is responsible for carrying out functions comparable or equivalent to

Cap. 330. those of the Resolution Committee under the Malta Financial Services Authority Act and the Recovery and Resolution Regulations issued thereunder;

"UCITS" means undertakings for collective investment in transferable securities in terms of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast), as amended from time to time,

including any implementing measures that have been or may be issued thereunder;

"working days" means days other than Saturdays, Sundays and the Public Holidays and the National Holidays referred to in the National Holidays and Other Public Holidays Act. Cap. 252.

(1A) For the purposes of applying the requirements and supervisory powers laid down in this Act and any regulations and Banking Rules made or issued thereunder transposing the CRD, in any binding legal instruments issued under the CRD, or in the CRR, on a consolidated or sub-consolidated basis in accordance with this Act and any regulations and Banking Rules made or issued thereunder transposing the CRD, any binding legal instruments issued under the CRD, and with the CRR, the terms "institution", "parent institution", "EU parent institution" and "parent undertaking" shall also include:

(a) financial holding companies and mixed financial holding companies that have been granted approval in accordance with article 11B and, or Article 21a of the CRD;

(b) designated institutions controlled by an EU parent financial holding company, an EU parent mixed financial holding company, a parent financial holding company in a Member State or a parent mixed financial holding company in a Member State where the relevant parent is exempted in accordance with article 11B(5) and, or Article 21a(4) of the CRD

(c) financial holding companies, mixed financial holding companies or institutions designated pursuant to article 29AA(1)(f) and, or Article 21a(6)(d) of the CRD.

(1B) For the purposes of applying the requirements and supervisory powers laid down in Articles 4(5), 14(2), 14(2A), 14(5), 17E, 19(1), 19(3), 20(1), 25(7), 25(10), 30A on a consolidated or sub-consolidated basis in accordance with this Act and any regulations and Banking Rules made or issued thereunder transposing the CRD, any binding legal instruments issued under the CRD, and with the CRR, the term "credit institution" shall also include:

(a) financial holding companies and mixed financial holding companies that have been granted approval in accordance with article 11B of this Act and, or Article 21a of the CRD;

(b) designated institutions controlled by an EU parent financial holding company, an EU parent mixed financial holding company, a parent financial holding company in a Member State or a parent mixed financial holding company in a Member State where the relevant parent is exempted in accordance with article 11B(5) and, or Article 21a(4) of the CRD;

(c) financial holding companies, mixed financial holding

companies or institutions designated pursuant to article 29AA(1)(f) and, or Article 21a(6)(d) of the CRD.

(1C) Reference to the "approval" of financial holding companies or mixed financial holding companies in this Act and any regulations and, or Banking Rules issued thereunder, shall mean an approval granted by the competent authority in terms of article 11B or an approval granted through the joint decision of the competent authority and an overseas regulatory authority in terms of article 11B of this Act and Article 21a of the CRD, as the case may be.

(1D) Reference to the "exemption" of financial holding companies or mixed financial holding companies in this Act and any regulations and, or Banking Rules issued thereunder, shall mean an exemption granted by the competent authority in terms of article 11B or an exemption granted through the joint decision of the competent authority and an overseas regulatory authority in terms of article 11B of this Act and Article 21a of the CRD, as the case may be.

(2) The business activities of a credit institution may, besides the business of banking, include any or all of the additional activities listed in the First Schedule as may be determined by the competent authority.

(3) The objective of this Act is, in part, to transpose and implement the relevant provisions of the BRRD, the CRD and the CRR, and shall be interpreted and applied accordingly.

(4) In this Act and in any regulations made thereunder, if there is any conflict between the English and the Maltese texts, the English text shall prevail.

Prohibition from undertaking the business of banking. *Added by: X. 2015.3. Amended by: LXXI.2021.20.*

2A. A person that is not a credit institution shall be prohibited from carrying on the business of taking deposits or other repayable funds from the public. A person shall be deemed to be accepting deposits of money as a regular feature of his business, if, whether as principal or as agent, he advertises or solicits for such deposits, without regard to the terms and conditions under which such deposits are solicited or received and without regard to whether certificates or other instruments are issued in respect of any such deposits:

Provided that this article shall not apply to the taking of deposits or other funds repayable by a Member State or by a Member State's regional or local authorities or by public international bodies of which one or more Member States are members or to cases expressly covered by national or European Union law, provided that those activities are subject to regulations and controls intended to protect depositors and investors:

Provided further that the acceptance of money against any issue of debentures or debenture stock or other instruments creating or acknowledging indebtedness offered to the public in accordance with any law in force in Malta shall not of itself be deemed to constitute acceptance of deposits of money for the purposes of this Act and any regulations made and, or Banking Rules and, or Conduct

of Business Rules issued thereunder.

Powers and duties of the Minister.
Amended by: XVII. 2002.158; XX. 2007.86; II. 2011.3; X. 2011.38; XX. 2013.55; X. 2015.4; XXI. 2015.20; XXVI.2019.4; XIII.2020.8; LXXI.2021.21; XI.2025.25.

3. (1) The Minister, acting on the advice of the competent authority, may make, amend or revoke regulations to give effect to the provisions of this Act and, without prejudice to the generality of the foregoing may, by such regulations, in particular, do any of the following:

(*a*) transpose, implement and, or give effect to the requirements of the BRRD, the CRD and the CRR;

(*b*) transpose Directive 2001/24/EC of the European Parliament and of the Council of the European Union of 4 April 2001 on re-organisation and winding-up of credit institutions with respect to credit institutions established in Malta and of branches of credit institutions established outside Malta, and different provisions may be made for different cases or classes of cases, and account shall be taken of Malta's international commitments in this regard. Such regulations may provide for the implementation of detailed re-organisation measures and procedures, including the following matters: the publication and submission of information in such language or languages and in such newspapers or other publications as may be prescribed; the submission of information to creditors, and the manner and procedure thereof; the notification to creditors and the procedure for the submission of claims or representations; measures for the protection of the rights of creditors and other third parties, including netting arrangements; consultation between the competent authority and any other regulatory, administrative or judicial authorities in Malta and outside Malta with competence over the winding-up or re-organisation of credit institutions or of branches thereof; the publication of decisions relating to such winding-up or re-organisation procedures; the establishment of Banking Rules governing the applicability of the proper or applicable law and other issues of conflict of laws;

(*c*) transpose, implement and, or give effect to the provisions and requirements of Directives, Regulations and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder and relating to licence holders and others as may be specified therein; any such regulations strictly related to transposition or implementation as aforesaid may contain provisions which are inconsistent with the provisions of this Act or of any other law, and for this purpose may provide that any provision in this Act or in any other law shall not apply to matters falling under the regulations, and in case of such inconsistency, such

provisions in any such regulations shall prevail;

(*d*) adopt, where necessary, any Communications issued by the European Commission;

(*e*) prescribe that a breach of any regulations made under this Act may amount to a criminal offence as may be specified, and such regulations may impose punishments in respect of any breach, not exceeding a fine (*multa*) of two million euro (€2,000,000) or imprisonment for a term not exceeding three years, or both such fine and imprisonment, and a higher fine (*multa*) may be imposed where deemed necessary or appropriate for any breach or failure of compliance with any EU Directive or EU Regulation or with any regulations made under this article to transpose or to give effect to any EU Directive or EU Regulation;

(*f*) transpose, implement and, or give effect to the requirements of the PAD, and in so doing may also establish or maintain measures alternative to those referred to in Article 10(2) to (6) of the PAD, provided that:

(i) it is clearly in the interest of the consumer;

(ii) there is no additional burden for the consumer; and

(iii) the switching as defined in Article 2(18) of the PAD is completed within, as a maximum, the same overall time-frame as that indicated in Article 10(2) to (6) of the PAD;

(*g*) set up a specific mechanism to ensure that consumers who do not have a payment account as defined in Article 2(3) of the PAD in their territory, and who have been denied access to such a payment account for which a fee is charged by credit institutions, will have effective access to a payment account with basic features in terms of the PAD, free of charge;

(*h*) regulate products and services offered by credit institutions;

(*i*) transpose, implement and, or give effect to options and discretions set out in the provisions of Directives, Regulations and any other legislative measures or binding legal instruments of the European Union, as may be amended from time to time, and to implement options and discretions set out in any guidelines, recommendations, decisions, opinions or any other instrument issued by the ECB;

(*j*) impose such fees and charges in respect of any request, application or other matter that may be submitted to the competent authority under this Act, including the fees and charges in respect of any permission, licence, authorisation, exemption or other benefit, as well as any fees and charges in respect of the competent authority's

regulatory, supervisory or investigative functions under this Act or any regulations made or Rules issued thereunder.

(2) (*a*) The Minister may, after consultation with the competent authority and the Central Bank, if he deems it expedient in the public interest so to do, by order published in the Gazette declare any day or days to be a bank holiday or holidays.

(*b*) On any day declared to be a bank holiday under this article, whether such day is also a public holiday or not, no bank shall do any business with the public except to the extent allowed by the order.

(*c*) The Minister may, after consultation with the competent authority and the Central Bank, if he deems it expedient in the public interest so to do, by regulations or by an order published in the Gazette, establish the opening hours of banks.

(3) The Minister may, after consultation with the competent authority and the Central Bank, if he deems it expedient in the public interest so to do, by regulations or by an order published in the Gazette, ensure that services, that are deemed to be essential for the continuation of banking business, such as the transportation of money and the guarding services, continue to be provided during a period as specified by the regulations.

Powers and duties of the competent authority. *Amended by: XVII. 2002.159; XX. 2007.85, 87; II. 2011.4; X. 2015.5; XXXI. 2017.71; XXVI.2019.5; LXXI.2021.22; XIX.2026.24.*

4. (1) It shall be the duty of the competent authority to carry out the functions and duties prescribed by this Act and any regulations made and Banking Rules and Conduct of Business Rules issued thereunder, by any binding legal instruments issued under the CRD, and by the CRR, and to ensure that credit institutions licensed under this Act or carrying out their activities in Malta and financial holding companies and mixed financial holding companies of credit institutions comply with this Act and any regulations, directives, Banking Rules and Conduct of Business Rules made or issued thereunder, with any binding legal instruments issued under the CRD, with the CRR and with the conditions of their licence or approval, as applicable. In pursuance of that duty the competent authority shall at all times afford such co-operation to the Central Bank as the Central Bank may require in the discharge of its duties:

Provided that it shall also be the duty of the competent authority to carry out the functions and duties of the collection body in accordance with the ESAP Regulation, when it is designated as such under this Act or any regulations made thereunder.

(2) The competent authority shall be the authority appointed for the purposes of Article 131(1) of the CRD and Articles 124 and 164 of the CRR and shall act jointly with the designated authority as appointed in terms of the Central Bank of Malta Act (Appointment of Designate Authority to implement Macro-Prudential Instruments) Regulations: S.L. 204.06.

Provided that for the purpose of making the disclosure in

Article 131(12) of the CRD accessible on ESAP, in accordance with Article 116a of the CRD, the competent authority shall be the collection body.

(3) The competent authority shall notify the European Commission and the EBA of its functions and duties.

(4) The competent authority shall, in the exercise of its general duties, duly consider the potential impact of its decisions on the stability of the financial system in the other Member States concerned and, in particular, in emergency situations, based on the information available at the relevant time.

(5) The competent authority shall monitor the activities of credit institutions, and where applicable, of financial holding companies and mixed financial holding companies, so as to assess compliance with the requirements of the CRR, any binding legal instruments issued under the CRD, this Act and any regulations made and Banking Rules and Conduct of Business Rules issued thereunder.

Substituted by: XXXI. 2017.71.

(6) The competent authority may make, amend or revoke Banking Rules and Conduct of Business Rules as may be required for carrying into effect any of the provisions of this Act and any regulations made thereunder, and to transpose, implement and give effect to the provisions and requirements of Directives, Regulations and any other legislative matters of the European Union requiring transposition or implementation

(7) The competent authority may issue, amend or revoke Banking Rules and, or Conduct of Business Rules for the purpose of implementing any guidelines, recommendations, decisions, opinions or any other instrument issued by the EBA, as may be required.

(8) The competent authority may issue, amend or revoke Banking Rules for the purpose of implementing any guidelines, recommendations, decisions, opinions or any other instrument issued by the ECB, as may be required.

(9) Banking Rules and Conduct of Business Rules shall be binding on licence holders "and other persons as may be specified therein.

(10) Banking Rules and Conduct of Business Rules and any amendment or revocation thereof shall be officially communicated to credit institutions and to financial holding companies and mixed financial holding companies and the competent authority shall make copies thereof available to the public.

Supervisory practices. *Added by: II. 2011.5. Amended by: XX. 2013.56. Substituted by: X. 2015.6. Amended by: LXXI.2021.23.*

4A. (1) In the exercise of its duties, the competent authority shall take into account the convergence in respect of supervisory tools and supervisory practices in the application of this Act and any regulations made and Banking Rules issued thereunder transposing the CRD, of any binding legal instruments issued under the CRD, and of the CRR. For that purpose, the competent authority shall -

(*a*) as party to the ESFS, cooperate with trust and full mutual respect, in particular when ensuring the flow of appropriate and reliable information between the

competent authority and other parties to the ESFS in accordance with the principle of sincere cooperation set out in Article 4(3) of the Treaty on European Union;

(*b*) participate in the activities of the EBA and, as appropriate, in the colleges of supervisors;

(*c*) make every effort to comply with those guidelines and recommendations issued by the EBA in accordance with Article 16 of Regulation (EU) No. 1093/2010 and to respond to the warnings and recommendations issued by the ESRB pursuant to Article 16 of Regulation (EU) No. 1092/2010;

(*d*) cooperate closely with the ESRB.

(2) The competent authority shall not be inhibited by other national legislative provisions in the performance of its duties as member of the EBA and the ESRB, or its duties under the CRD and the CRR.

Power to issue directives. *Added by: X. 2015.7. Amended by: XLIV.2018.10; LXXI.2021.24; XI.2025.26.* Cap. 330.

4B. (1) Without prejudice to any of the powers conferred on it in this Act, the competent authority may, whenever it deems necessary, give, by notice in writing, such directives as it may deem appropriate in the circumstances in order to carry out the functions and duties prescribed by the Malta Financial Services Authority Act, by this Act and by any regulations made and Banking Rules and Conduct of Business Rules issued thereunder, by the CRR and by any binding legal instruments issued under the CRD:

Provided that, without prejudice to the generality of the foregoing, the competent authority may give any such directive even:

(i) to financial holding companies and mixed financial holding companies exempted in terms of article 11B(5);

(ii) where a credit institution, financial holding company or mixed financial holding company ceases to hold a licence or approval, as the case may be, for whatever reason, or such licence or approval, as the case may be, ceases to have effect:

Provided further that any directive given in terms of this Act and any regulations made thereunder shall, unless the competent authority otherwise directs, continue to apply even when a credit institution, financial holding company or mixed financial holding company ceases to hold a licence or approval, as the case may be, for whatever reason, or such licence or approval, as the case may be, ceases to have effect.

(2) Any person to whom a notice is given in accordance with sub-article (1) shall obey, comply with and otherwise give effect to any such directive within the time and in the manner stated in the directive.

(3) The power to give directives under this Act and any

regulations made thereunder shall include the power to vary, alter, add to or withdraw any directive, as well as the power to issue new or further directives.

(4) Where the competent authority is satisfied that the circumstances so warrant, it may at any time make public any directive it has given under any of the provisions of this Act and any regulations made thereunder.

Functions, powers and duties. *Added by: XXI. 2015.21.* Cap. 330.

4C. Without prejudice to the functions, powers and duties assigned to the competent authority by this Act, the competent authority shall also have the functions, powers and duties assigned to it under the Malta Financial Services Authority Act and under any regulations made thereunder for the purposes of transposing the provisions of the BRRD.

Licences for banking activities. *Amended by: XVII. 2002.160; XX. 2007.85, 88; L.N. 425 of 2007; III. 2009.17; XVII. 2009.12; II. 2011.6; X. 2015.8; XI.2025.27.*

5. (1) No business of banking shall be transacted in or from Malta except by a company which is in possession of a licence granted under this Act by the competent authority.

(2) No credit institution licensed or holding an equivalent authorisation outside Malta may open a branch, agency or representative office or set up any subsidiary in Malta unless it is in possession of a licence granted under this Act by the competent authority:

Provided that a credit institution licensed or holding an equivalent authorisation in a Member State or EEA state shall be entitled to exercise its rights under European Union Law.

(3) In the event of reasonable doubt as to whether the business of banking or of accepting deposits is or is not being transacted in or from Malta by any person, the matter shall be conclusively determined by the competent authority.

(4) The granting of a licence shall be subject to fees as may be prescribed in accordance with article 3.

(5) The Minister may, after consulting the competent authority, establish or recognise other forms of authorisation and notification procedures, subject to such conditions, additions, adaptations, and modifications and exemptions as may be prescribed; and different provisions may be made for different cases or classes of cases, under such terms and conditions as may be prescribed, and account shall be taken of Malta's international commitments.

Application for a licence. *Amended by: XVII. 2002.161; XX. 2007.85; II. 2011.7; XX. 2013.57; X. 2015.9; LXXI.2021.25; LXXII.2021.2.*

6. (1) Any company desirous of commencing the business of banking in Malta shall, before commencing any such business, apply in writing to the competent authority for a licence under this Act:

Provided that the entities listed in the Second Schedule shall not be required to apply to the competent authority for a licence under this Act, and the provisions of this Act and of any regulations made and, or any Banking Rules and, or Conduct of Business Rules issued thereunder, and the CRR shall accordingly not apply thereto, unless otherwise specifically provided for in this Act, or in any

regulations made or Banking Rules or Conduct of Business Rules issued thereunder.

(2) All applications for a licence shall be in such form and accompanied by such information, including a programme of operations setting out the types of business envisaged and the structural organisation of the credit institution, an indication of the parent undertakings, financial holding companies and mixed financial holding companies within the group and a description of the arrangements, processes and mechanisms referred to in article 17B, and shall conform with such requirements as may be prescribed from time to time by a Banking Rule. Such requirements shall be notified to the EBA:

Provided that before a licence is granted or refused, an application may only be withdrawn by written notice to the competent authority.

(3) The competent authority shall have the power to require any person to provide such information as it shall deem necessary for the purposes of determining an application for a licence or for the purposes of determining whether to restrict or withdraw a licence.

(4) The competent authority shall not consider the economic needs of the market as a criterion when examining an application for a licence.

Specific requirements for licensing of credit institutions referred to in point (1)(b) of Article 4(1) of the CRR. *Added by: LXXII.2021.30.* Cap. 370.

6A. (1) Undertakings referred to in point (1)(b) of Article 4(1) of the CRR which have already obtained a licence pursuant to articles 3, 5 and 6 of the Investment Services Act shall submit an application for a licence in accordance with articles 5 and 6, at the latest on the day when either of the following events takes place:

(a) the average of monthly total assets, calculated over a period of twelve consecutive months, is equal to or exceeds thirty billion euro (€30,000,000,000); or

(b) the average of monthly total assets calculated over a period of twelve consecutive months is less than thirty billion euro (€30,000,000,000), and the undertaking is part of a group in which the total value of the consolidated assets of all undertakings in the group that individually have total assets of less than thirty billion euro (€30,000,000,000) and that carry out any of the activities referred to in paragraphs (3), (4), (6) and (7) of the First Schedule annexed to the Investment Services Act is equal to or exceeds thirty billion euro (€30,000,000,000), both calculated as an average over a period of twelve consecutive months. Cap. 370.

(2) The undertakings referred to in sub-article (1) may continue carrying out the activities referred to in point (1)(b) of Article 4(1) of the CRR until they obtain the licence referred to in sub-article (1).

(3) Where the competent authority, after receiving the

information in accordance with Article 95a of the MiFID, determines that an undertaking is to be authorised as a credit institution in accordance with Articles 5 and 6, it shall notify the undertaking.

(4) Pursuant to sub-article (1), the competent authority shall ensure that the process is as streamlined as possible and that any information already pertaining to the competent authority shall be taken into account.

Issuing of a licence.
Amended by: XVII. 2002.162; IV. 2003.178; XX. 2007.85, 89; L.N. 425 of 2007; XVII. 2009.13; II. 2011.8; XX. 2013.58; X. 2015.10; XXVI.2019.6; LXXI.2021.26.

7. (1) No company shall be granted a licence unless -

(*a*) its initial capital amounts to not less than five million euro (€5,000,000) or an equivalent amount in another currency as may be specified in a Banking Rule:

Provided that the competent authority may, by a provision contained in a Banking Rule or as required through a condition in a credit institution's licence, increase the amount laid down in this paragraph:

Provided further that the initial capital shall comprise only one or more of the items referred to in Article 26(1)(a) to (e) of the CRR;

(*b*) there are at least two individuals who effectively direct the business of the company;

(*c*) the competent authority is notified of the identities of the shareholders or members whether direct or indirect, that have qualifying holdings and of the amounts of those holdings or, where there are no qualifying holdings, of the twenty largest shareholders or members:

Provided that in determining whether the criteria for a qualifying holding are fulfilled, the voting rights referred to in Articles 9 and 10 of Directive 2004/109/EC and the conditions regarding aggregation thereof set out in Article 12(4) and (5) of that Directive, shall be taken into account:

Provided further that voting rights or shares which credit institutions hold as a result of providing the underwriting of financial instruments or placing of financial instruments on a firm commitment basis included under point (6) of Section A of Annex I to MiFID shall not be taken into account, provided that those rights are not exercised or otherwise used to intervene in the management of the issuer and are disposed of within one year of acquisition;

(*d*) the competent authority is satisfied that the shareholders or members mentioned in paragraph (*c*), controllers and all individuals who will effectively direct the business of the credit institution are suitable persons to ensure its sound and prudent management. The competent authority shall be satisfied with the suitability of the individuals who will effectively

direct the business if the requirements referred to in article 14(2) and (2A) are met. The competent authority shall be satisfied of the suitability of the shareholders or members mentioned in paragraph (c), in accordance with the criteria set out in article 13A(9). Article 13A(8) and (10) and article 13B shall apply;

(*e*) the competent authority is satisfied that, where there are close links between the company and another person or persons, such links do not through any law, regulation, administrative provision or in any other manner prevent it from exercising effective supervision of the company, once in possession of a licence, under the provisions of this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder:

Provided that the competent authority shall not grant a licence where the laws, regulations or administrative provisions of a third country governing one or more persons with which the credit institution has close links, or difficulties involved in the enforcement of those laws, regulations and administrative provisions, prevent the effective exercise of its supervisory functions:

Provided further that in respect of this paragraph (*e*), the credit institution shall inform the competent authority forthwith of any change in circumstances concerning the application of this said paragraph (*e*) and shall further provide the competent authority with the information necessary to monitor compliance with the conditions referred to in this paragraph (*e*) on a continuous basis;

(f) the competent authority is satisfied that the arrangements, processes and mechanisms referred to in article 17B enable sound and effective risk management by that credit institution.

(2) The competent authority shall determine each application for a licence within six months of receipt of the application or, if the application does not comply with article 6(2) or additional information is required, within six months of compliance with the said sub-article or the furnishing of the information as the case may be, whichever be the later. In any event an application shall be determined within twelve months of its receipt.

(3) The competent authority shall determine an application by doing any of the following:

(*a*) granting a licence without conditions;

(*b*) granting a licence subject to such conditions as it may deem appropriate;

(*c*) refusing to grant a licence:

and if it refuses an application it shall inform the applicant, in writing, of the reasons for the refusal within the time-frames referred to in sub-

article (2).

(4) In granting a licence the competent authority may subject it to such conditions as it may deem appropriate, and having granted a licence it may, from time to time, vary or revoke any condition so imposed or impose new conditions.

(5) Where the competent authority for any reason fails to determine an application for a licence within the time prescribed under sub-article (2), such fact shall be deemed to constitute a refusal to grant a licence and shall be subject to a right of appeal in accordance with article 10.

(6) A credit institution licensed under this Act shall provide the competent authority with particulars of any changes in the information provided under this Act as soon as such credit institution becomes aware of such change.

(7) A credit institution licensed in terms of this article shall have its head office and its registered office in Malta.

(8) The competent authority shall notify the EBA of every licence issued to a credit institution in terms of the Act and any regulations or Banking Rules made thereunder.

Right of redemption. *Added by: XVII. 2002.163. Amended by: IX. 2003.77; XX. 2007.90; L.N. 425 of 2007.*

7A. (*Deleted by Act II. 2011.9.*).

Prior consultation with overseas regulatory authorities. *Added by: X. 2015.11. Amended by: LXXI.2021.27.*

7B. (1) The competent authority shall, before issuing a licence to a credit institution, consult the overseas regulatory authorities of another Member State where the credit institution is -

(*a*) a subsidiary of a credit institution authorised in that other Member State;

(*b*) a subsidiary of the parent undertaking of a credit institution authorised in that other Member State;

(*c*) controlled by the same persons as those who control a credit institution authorised in that other Member State.

(2) The competent authority shall, before issuing a licence to a credit institution, consult the overseas authority that is responsible for the supervision of insurance undertakings or investment firms in the Member State concerned where the credit institution is -

(*a*) a subsidiary of an insurance undertaking or investment firm authorised in the European Union;

(*b*) a subsidiary of the parent undertaking of an insurance undertaking or investment firm authorised in the European Union;

(*c*) controlled by the same persons as those who control an insurance undertaking or investment firm authorised in the European Union.

(3) The competent authority shall consult with the relevant overseas authorities referred to in sub-articles (1) and (2) when assessing the suitability of the shareholders and the reputation and experience of the directors in terms of article 7(1)(*d*) involved in the management of another entity of the same group.

(4) The competent authority shall exchange any information regarding the suitability of shareholders and the reputation and experience of directors which is of relevance for the issuing of a licence and for the ongoing assessment of compliance with the relevant overseas authorities referred to in sub-articles (1) and (2).

Representative offices of non-Maltese banks. *Amended by: XVII. 2002.164; XX. 2007.85, 91; LXXI.2021.28; XI.2025.28.*

8. (1) A company licensed or holding an equivalent authorisation in another country outside Malta which carries on the business of banking shall not establish a representative office in Malta unless it has given not less than two months' notice to the competent authority that it proposes to establish such an office. Such notice shall -

(*a*) specify the name it is proposed to use in relation to the activities of the representative office and the address of such office;

(*b*) be accompanied by a certified copy of the authorisation of the company to conduct the business of banking in a country other than Malta.

(2) A company mentioned in sub-article (1) having a representative office in Malta shall likewise notify the competent authority -

(*a*) at least two months in advance of any proposed change in name of the representative office;

(*b*) of any change in its authorisation to conduct the business of banking in a country other than Malta, no more than two months after such change.

(3) The competent authority may, at any time, serve on a representative office in Malta a notice objecting to the name or the proposed name of such office.

(4) The competent authority shall not give a notice pursuant to sub-article (3) unless it considers that the name or proposed name is misleading to the public or otherwise undesirable, and upon receipt of such notice, the representative office shall not use the name to which the competent authority has objected in relation to activities conducted in Malta.

(5) The competent authority may, by notice in writing, require any company having a representative office in Malta or which has given notice pursuant to sub-article (1) to provide the competent authority with such information or documents as the competent authority may reasonably require, and the said company shall comply with such notice in the period as is reasonably specified by the notice.

(6) A representative office in Malta shall supply the competent authority with a copy of any document which it is required to

provide to the Registrar of Companies no later than the time by which such document must be provided to the said Registrar.

(7) The competent authority may by a Banking Rule provide that the provisions of articles 20 to 24 shall apply to representative offices in Malta in the same manner as they apply to credit institutions subject to such variations and conditions as may be established in the Banking Rule.

(8) The competent authority may by Banking Rule impose on companies which have established or which propose to establish representative offices in Malta such requirements as the competent authority considers appropriate in connection with those offices and the activities conducted from them.

(9) The competent authority may, within the two months referred to in sub-article (1), order a company referred to in the said sub-article (1) not to establish a representative office in Malta and at any time thereafter order the closure of any representative office so established.

Companies may be required to pay fees.
Added by: XI.2025.29.

8A. Companies which have established, or which intend to establish representative offices in Malta may be required to pay fees as may be prescribed in accordance with the provisions of article 3.

Withdrawal and restriction of a licence.
Amended by: XVII. 2002.165; XX. 2007.92; XVII. 2009.14; II. 2011.10; XX. 2013.59 X. 2015.12; XXVI.2019.7; LXXI.2021.29; LXXII.2021.31.

9. (1) A licence shall automatically cease to have any effect if the holder -

(*a*) renounces the licence; or

(*aa*) uses its licence exclusively to engage in the activities referred to in point (1)(b) of Article 4(1) of the CRR and has, for a period of five consecutive years, average total assets below the thresholds set out in that Article;

(*b*) is declared bankrupt or goes into liquidation or change in its authorisation to conduct the business or is otherwise dissolved; or

(*c*) has ceased to operate as a result of a merger with another credit institution; or

(*d*) in the case of a credit institution licensed or holding an equivalent authorisation in a third country and which has been granted a licence under this Act to open a branch in Malta, has had its authorisation withdrawn by the overseas regulatory authority in the third country within which the credit institution has been authorised.

(2) The competent authority may only restrict or withdraw the licence issued to a credit institution in any of the following cases where such a credit institution -

(*a*) does not make use of the licence within twelve months, expressly renounces the licence or has ceased to engage in business for more than six months, if no provision was made for the licence to lapse in such cases;

(*b*) has obtained the licence through false statements or any other irregular means;

(*c*) no longer fulfils the conditions under which the licence was issued;

(*d*) no longer meets the prudential requirements set out in Parts Three, Four or Six of the CRR, except for the requirements laid down in Articles 92a and 92b of the CRR, or imposed under regulations 9(1)(*a*) and 10(1) and (2) of the Banking Act (Supervisory Review) Regulations or can no longer be relied on to fulfil its obligations towards its creditors, and, in particular, no longer provides security for the assets entrusted to it by its depositors; S.L. 371.16

(*e*) commits one of the breaches referred to in regulation 7(1) of the Administrative Penalties, Measures and Investigatory Powers Regulations; S.L. 371.05

(*f*) conceals from, or fails to notify to the competent authority of any document or information or change therein which it was its duty to reveal or notify under this Act or any regulations made or any Banking Rules or Conduct of Business Rules issued thereunder;

(*g*) fails to comply with any of the provisions of this Act or any regulations made or Banking Rules issued thereunder or with the conditions under which the licence is issued;

(*h*) has insufficient assets to cover its liabilities;

(*i*) has suspended payment or is about to suspend payment.

(3) Restrictions imposed by the competent authority pursuant to sub-article (2) shall be such restrictions as the competent authority shall consider appropriate for the proper compliance by the credit institution with the provisions of this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder and the conditions, if any, of its licence and for the protection of depositors and may include (without prejudice to the generality hereof) -

(*a*) the removal of any officer of the credit institution or the replacement of any officer by such person as the competent authority may designate;

(*b*) the requirement for any person who directly or indirectly possesses a qualifying shareholding in the credit institution to divest himself of all or part of that holding;

(*c*) the requirement for the credit institution to take or refrain from any action;

(*d*) the requirement that the credit institution be prohibited from undertaking any transaction or transactions or any class of business or be permitted to undertake any transaction or transactions or any class of business

only upon such terms as the competent authority may prescribe.

(4) The competent authority shall have the power to vary or remove any restrictions imposed under this article.

(5) Where the competent authority intends to restrict or withdraw a licence or to vary any restriction, it shall serve written notice of its intention on the credit institution; such notice shall specify the grounds upon which the competent authority intends to take action and shall specify a period, being a period not less than forty-eight hours and not longer than thirty calendar days, in which the credit institution shall be entitled to make representations to the competent authority as to why such action should not be taken. Unless the competent authority decides that the matter is urgent, it shall not impose or vary any restriction or withdraw a licence before the expiry of such period.

(6) A licence granted for the establishment in Malta of a branch of a credit institution licensed or holding an equivalent authorisation in a third country may only be withdrawn after consultation with the overseas regulatory authorities of the country within which it has been authorised, unless the competent authority decides that the matter is urgent or that there are circumstances which make such prior consultation inappropriate.

(7) Upon the restriction or withdrawal of a licence of a credit institution licensed in Malta, the competent authority shall inform the overseas regulatory authorities of the countries in which the credit institution or its subsidiaries are carrying on the business of banking. The competent authority shall notify the EBA of every withdrawal of a licence together with the reasons for such a withdrawal.

(8) Where the competent authority is satisfied that the circumstances so warrant, it may at any time make public any action it has taken under this article.

Appeals.
Amended by: VI. 2001.24. Substituted by: XVII. 2002.166. Amended by: XVII. 2009.15. Substituted by: X. 2015.13; LXXI.2021.30.
Cap. 330.

10. Any person who is aggrieved by a decision and, or measure taken by the competent authority pursuant to this Act, or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder, or the CRR, or any binding legal instruments issued under the CRD, may appeal against the decision and, or measure to the Financial Services Tribunal within such period and under such conditions as established under the Malta Financial Services Authority Act.

Opening of branches.
Amended by: XVII. 2002.167; XX. 2007.93; XVII. 2009.16; II. 2011 11; X. 2015.14.

11. (1) A credit institution licensed in Malta shall inform the competent authority in writing before opening a new branch, agency or office in Malta.

(2) Unless with the written consent of the competent authority, no credit institution licensed in Malta may open a new branch, agency or representative office or set up or acquire any subsidiary in any place outside Malta:

Provided that a credit institution licensed in Malta which intends to exercise its rights under the European Passport Rights

S.L. 371.11

for Credit Institutions Regulations shall only be required to notify the competent authority in terms of the said Regulations.

(3) A credit institution licensed in Malta shall not establish a branch, subsidiary or representative office in a third country where the secrecy laws or other regulations of that country prohibit the information flows deemed necessary for adequate consolidated supervision.

(4) Where Malta is the host Member State, the competent authority shall not require authorisation or endowment capital for branches of credit institutions authorised in other Member States. The establishment and supervision of such branches shall be effected in accordance with article 17B, the European Passport Rights for Credit Institutions Regulations and regulation 13 of the Banking Act (Supervisory Review) Regulations. S.L. 371.11 S.L. 371.16

11A. (1) The competent authority shall not apply provisions which result in more favourable treatment to a branch of a credit institution having its head office in a third country, than that accorded to branches of credit institutions having their head office in the European Union, when commencing or continuing to carry out their business.

Opening of branches having their head office outside the European Union. *Added by: II. 2011.12. Amended by: XX. 2013.60. Substituted by: X. 2015.15. Amended by: LXXI.2021.31.*

(1A) Branches of credit institutions which have their head office in a third country and which are licensed in Malta to open such branches, shall report to the competent authority, at least annually, the following information:

(a) the total assets corresponding to the activities of the branch in Malta;

(b) information on the liquid assets available to the branch, in particular availability of liquid assets in Member State currencies;

(c) the own funds that are at the disposal of the branch;

(d) the deposit protection arrangements available to depositors in the branch;

(e) the risk management arrangements;

(f) the governance arrangements, including the key function holders for the activities of the branch as may be set out in a Banking Rule;

(g) the recovery plans covering the branch

(h) any other information that may be requested by the competent authority, as it may consider necessary to enable comprehensive monitoring of the activities of the branch.

(2) The competent authority shall notify the EBA of the following:

(a) all the licences granted to credit institutions, having their head office in a third country, to open a branch in Malta and any subsequent changes to such licences;

(b) total assets and liabilities of the branches in Malta of

credit institutions having their head office in a third country which are licensed to open such branches, as periodically reported;

(c) the name of the third-country group to which a branch of a credit institution having its head office in a third country which has been granted a licence to open such a branch belongs.

(3) Where:

(a) credit institutions having their head office in a third country are licensed to open branches in Malta; or

(b) credit institutions licensed in terms of this Act are part of a third-country group,

the competent authority shall cooperate closely with overseas regulatory authorities which supervise credit institutions in other Member States that are part of the same third-country group and, or with authorities in other Member States which supervise investment firms that are part of the same third-country group and, or with overseas regulatory authorities which supervise branches in other Member States of credit institutions having their head office in a third country that are part of the same third-country group, as applicable, to ensure that all activities of that third-country group in the European Union are subject to comprehensive supervision, so as to prevent the circumvention of the requirements applicable to third-country groups pursuant to this Act and, or any regulations made and, or any Banking Rules issued thereunder, and, or the CRD, and, or the CRR, and to prevent any detrimental impact on the financial stability of the European Union.

Approval of financial holding companies and mixed financial holding companies. *Added by: LXXI.2021.32.*

11B. (1) Parent financial holding companies, parent mixed financial holding companies, EU parent financial holding companies and EU parent mixed financial holding companies, which are established in Malta or in another Member State and which have a credit institution as a subsidiary, shall seek the approval or exemption, as the case may be, of the competent authority, acting as the consolidating supervisor, in accordance with this article. Other financial holding companies and mixed financial holding companies established in Malta or in another Member State and which have a credit institution as a subsidiary, shall seek the approval or exemption, as the case may be, of the competent authority, acting as the consolidating supervisor, in accordance with this article where they are required to comply with the CRD, or the CRR, on a sub-consolidated basis:

Provided that in accordance with Article 21a of the CRD, where the competent authority is not the consolidating supervisor, financial holding companies and mixed financial holding companies established in Malta and which have a credit institution as a subsidiary, shall seek the approval or exemption, as the case may be, of the consolidating supervisor determined in accordance with Article 111 of the CRD.

(2) For the purposes of seeking an approval or exemption, as the case may be, in terms of sub-article (1), financial holding companies and mixed financial holding companies referred to therein shall, where:

(i) the competent authority is not the consolidating supervisor but the financial holding company or the mixed financial holding company is established in Malta; or

(ii) the financial holding company or the mixed financial holding company is established in a Member State other than Malta and the competent authority is the consolidating supervisor,

provide the competent authority with the following information:

(a) the structural organisation of the group of which the financial holding company or the mixed financial holding company, as the case may be, forms part, with a clear indication of its subsidiaries and, where applicable, parent undertakings, and the location and type of activity undertaken by each of the entities within the group;

(b) information regarding the nomination of at least two persons effectively directing the financial holding company or mixed financial holding company, as the case may be, and compliance with the requirements set out in article 14(7) on the qualification of directors;

(c) information regarding compliance with the criteria set out in article 7 concerning shareholders and members;

(d) the internal organisation and distribution of tasks within the group;

(e) any other information that may be necessary to carry out the assessments referred to in sub-articles (4) and (5) as may be requested by the competent authority.

(3) All applications for an approval or exemption, as the case may be, in terms of this article shall be in such form and accompanied by such information and shall conform with such requirements as may be prescribed, from time to time, by a Banking Rule.

(4) Approval may be granted to a financial holding company or mixed financial holding company, as the case may be, pursuant to this article only where all of the following conditions are fulfilled:

(a) the internal arrangements and distribution of tasks within the group are adequate for the purpose of complying with the requirements imposed by this Act and any regulations made and Banking Rules issued thereunder transposing the CRD, by any binding legal instruments issued under the CRD and by the CRR, on

a consolidated or sub-consolidated basis and, in particular, are effective to:

(i) coordinate all the subsidiaries of the financial holding company or mixed financial holding company, as the case may be, including, where necessary, through an adequate distribution of tasks among subsidiary institutions;

(ii) prevent or manage intra-group conflicts

(iii) enforce the group-wide policies set by the parent financial holding company or parent mixed financial holding company throughout the group;

(b) the structural organisation of the group of which the financial holding company or mixed financial holding company, as the case may be, is part does not obstruct or otherwise prevent the effective supervision of the subsidiary institutions or parent institutions in accordance with the individual, the consolidated and, where appropriate, the sub-consolidated obligations to which they are subject:

Provided that the assessment of this criterion shall take into account, in particular:

(i) the position of the financial holding company or mixed financial holding company, as the case may be, in a multi-layered group;

(ii) the shareholding structure

(iii) the role of the financial holding company or mixed financial holding company, as the case may be, within the group;

(c) the criteria set out in article 7(1)(c), (d) and (e), and the requirements laid down in article 14(7) are complied with.

(5) An exemption may be granted to a financial holding company or mixed financial holding company, as the case may be, pursuant to this article only where all of the following conditions are met:

(a) the financial holding company's principal activity is to acquire holdings in subsidiaries or, in the case of a mixed financial holding company, its principal activity with respect to institutions or financial institutions is to acquire holding in subsidiaries;

(b) the financial holding company or mixed financial

holding company, as the case may be, has not been designated as a resolution entity in any of the group's resolution groups in accordance with the resolution strategy determined by the relevant resolution authority pursuant to the BRRD;

(c) a subsidiary credit institution is designated as responsible to ensure the group's compliance with prudential requirements on a consolidated basis and is given all the necessary means and legal authority to discharge those obligations in an effective manner;

(d) the financial holding company or mixed financial holding company, as the case may be, does not engage in taking management, operational or financial decisions affecting the group or its subsidiaries that are institutions or financial institutions;

(e) there is no impediment to the effective supervision of the group on a consolidated basis:

Provided that where financial holding companies or mixed financial holding companies are exempted from approval in accordance with this sub-article, they shall not be excluded from the perimeter of consolidation as laid down in this Act and any regulations made and Banking Rules issued thereunder transposing the CRD, in any binding legal instruments issued under the CRD, and in the CRR.

(6) Where the competent authority is the consolidating supervisor, it shall monitor compliance with the conditions referred to in sub-article (4) or, where applicable, in sub-article (5), on an ongoing basis.

(7) (a) Financial holding companies and mixed financial holding companies shall provide the competent authority, where it is acting as the consolidating supervisor, with the information required to monitor on an ongoing basis the structural organisation of the group and compliance with the conditions referred to in sub-article (4);

(b) Financial holding companies and mixed financial holding companies exempted in terms of sub-article (5) shall provide the competent authority, where it is acting as the consolidating supervisor, with the information required to monitor on an ongoing basis the structural organisation of the group and compliance with the conditions referred to in sub-article (5).

(c) The competent authority shall share the information received in terms of this sub-article with the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company, as the case may be, is established.

(8) Where the competent authority is the consolidating

supervisor and has established that the conditions set out in sub-article (5) are no longer met, the financial holding company or mixed financial holding company, as the case may be, shall seek approval in accordance with this article.

(9) For the purpose of taking decisions on the approval or the exemption from approval, as the case may be, referred to in sub-articles (4), (5) and (8) and, or in sub-articles (3), (4) or (7) of Article 21a of the CRD, where:

(i) the competent authority is not the consolidating supervisor but the financial holding company or the mixed financial holding company, as the case may be, is established in Malta; or

(ii) the financial holding company or the mixed financial holding company, as the case may be, is established in a Member State other than Malta and the competent authority is the consolidating supervisor,

the competent authority shall work together with the overseas regulatory authority acting as the consolidating supervisor or with the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established, as the case may be, in full consultation.

(10) Where the competent authority is the consolidating supervisor, it shall prepare an assessment on the matters referred to in sub-articles (4), (5) and (8) as applicable, and shall forward that assessment to the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established, as the case may be.

(11) The competent authority, whether acting as the consolidating supervisor or whether it is in receipt of an assessment referred to in Article 21a(8) of the CRD from the overseas regulatory authority acting as the consolidating supervisor, shall do everything within its power to reach a joint decision on the approval or the exemption from approval, as the case may be, referred to in sub-articles (4), (5) and (8) and, or in sub-articles (3), (4) and (7) of Article 21a of the CRD, with the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established or with the overseas regulatory authority acting as the consolidating supervisor, as the case may be, within two months of receipt of that assessment:

Provided that the joint decision shall be duly documented and reasoned and where the competent authority is the consolidating supervisor, it shall communicate the joint decision to the financial holding company or the mixed financial holding company, as the case may be.

(12) In the event of a disagreement between the competent

authority and the overseas regulatory authority acting as the consolidating supervisor or the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established, as the case may be, the competent authority shall refrain from taking the joint decision referred to in sub-article (11) and shall refer the matter to the EBA in accordance with Article 19 of Regulation (EU) No. 1093/2010. In such cases, the competent authority shall adopt a joint decision with the overseas regulatory authority acting as the consolidating supervisor or with the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established, as the case may be, in conformity with the decision of the EBA:

Provided that the matter shall not be referred to the EBA after the end of the two-month period referred to in sub-article (11) or after a joint decision has been reached.

(13) In the case of mixed financial holding companies, where the coordinator appointed in terms of Article 10 of Directive 2002/87/EC is neither the competent authority, nor the overseas regulatory authority acting as the consolidating supervisor, nor the overseas regulatory authority in the Member State where the mixed financial holding company is established, the agreement of the said coordinator shall be required for the purposes of the decisions or joint decisions referred to in sub-articles (4), (5) and (8) and, or sub-articles (3), (4) and (7) of Article 21a of the CRD, as applicable. Where the agreement of the coordinator is required, the competent authority shall refer any disagreements to the relevant European Supervisory Authority, namely, to the EBA or to the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA), established by Regulation (EU) No. 1094/2010, which shall take its decision within one month of receipt of the referral. Any decision taken in accordance with this sub-article shall be without prejudice to the obligations under Directive 2002/87/EC or Directive 2009/138/EC.

(14) Where approval of a financial holding company or mixed financial holding company, as the case may be, pursuant to this article is refused and the competent authority is the consolidating supervisor, the competent authority shall notify the applicant of the decision and the reasons thereof within four months of receipt of the application, or where the application is incomplete, within four months of receipt of the complete information required for the decision. Refusal may be accompanied, where necessary, by any of the measures referred to in article 29AA:

Provided that a decision to grant or refuse approval shall, in any event, be taken within six months of receipt of the application.

Intermediate European Union parent undertaking. *Added by: LXXI.2021.32. Amended by: XI.2025.30.*

11C. (1) Without prejudice to the derogation provided for in article 38(3), a credit institution licensed in terms of this Act which is part of a third-country group having as part of the same group one or more other credit institution or one or more investment firm, licensed in Malta or authorised in another Member State, shall have a single intermediate EU parent undertaking that is established either in Malta or in another Member State.

(2) The competent authority may allow a credit institution referred to in sub-article (1) to have two intermediate EU parent undertakings where it determines that the establishment of a single intermediate EU parent undertaking:

(a) would be incompatible with a mandatory requirement for separation of activities imposed by the rules or the overseas regulatory authority of the third country where the ultimate parent undertaking of the third-country group has its head office; or

(b) would render resolvability less efficient than in the case of two intermediate EU parent undertakings according to an assessment carried out by the relevant resolution authority of the intermediate EU parent undertaking.

(3) An intermediate EU parent undertaking shall be a credit institution licensed in terms of article 7 or authorised in accordance with Article 8 of the CRD, or a financial holding company or mixed financial holding company that has been granted approval in terms of article 11B and, or Article 21a of the CRD:

Provided that, where a second intermediate EU parent undertaking must be set up in connection with investment activities to comply with a mandatory requirement as referred to in sub-article (2), the second intermediate EU parent undertaking may be an investment firm holding an investment services licence in terms of article 6 of the Investment Services Act or is authorised in accordance with Article 5(1) of the MiFID, that is subject to the BRRD.

Cap. 370.

(4) Sub-articles (1), (2) and (3) shall not apply where the total value of assets in the European Union of the third-country group is less than forty billion euro (€40,000,000,000).

(5) For the purposes of this article:

(a) the total value of assets in the European Union of the third-country group shall be the sum of the following:

(i) the total value of assets of each institution in the European Union forming part of the third-country group, as resulting from its consolidated balance sheet or as resulting from their individual balance sheet, where an

institution's balance sheet is not consolidated

(ii) the total value of assets of each branch of the third-country group authorised in the European Union in accordance with the CRD, MiFID or MiFIR;

(b) the term "institution" shall also include investment firms.

(6) The competent authority shall notify the EBA with the following information in respect of each third-country group operating in Malta:

(a) the names and the total value of assets of institutions belonging to a third-country group;

(b) the names and the total value of assets corresponding to branches authorised in Malta in accordance with the provisions of national law transposing the CRD, the MiFID or MiFIR, and the types of activities that they are licensed to carry out;

(c) the name and the type as referred to in sub-article (3) of any intermediate EU parent undertaking set up in Malta and the name of the third-country group of which it is part.

(7) A credit institution forming part of a third-country group shall meet at least one of the following conditions:

(a) it has an intermediate EU parent undertaking;

(b) it is an intermediate EU parent undertaking;

(c) it is the only institution in the European Union of the third-country group; or

(d) it is part of a third-country group with a total value of assets in the European Union of less than forty billion euro (€40,000,000,000).

Use of the word "bank". *Amended by: XVII. 2002.168; XX. 2007.94; II. 2011.13.*

12. (1) Subject to sub-articles (2) and (3), save with the written permission of the competent authority, no person other than a credit institution with a current licence may use the word "bank" or any of its derivatives or other words as may indicate or purport to indicate the carrying on of the business of banking in any language in the description or title under which such person is carrying on business, or make any such use on any letter paper, in any notice or advertisement, or in any other similar manner.

(2) A credit institution licensed or holding an equivalent authorisation in another country outside Malta may use the name used in the country where it is licensed or holds an equivalent authorisation, save that, where there is a risk that the use of such a name may be misleading, such credit institution shall add such explanatory particulars to its name as the competent authority shall direct.

(3) Every credit institution shall use as part of its description or

title the word "bank" or one or more of its derivatives.

Participation in a credit institution. *Amended by: XVII. 2002.169; XIII. 2004.83; XX. 2007.85, 95; III. 2009.18. Substituted by: XVII. 2009.17. Amended by: X. 2015.16.*

13. (1) Notwithstanding anything contained in any other law, any person or persons acting in concert (hereinafter referred to in this Act as the "proposed acquirer"), who have taken a decision either to -

(*a*) acquire, directly or indirectly, a qualifying shareholding in a credit institution;

(*b*) increase, directly or indirectly, an existing shareholding which is not a qualifying shareholding so as to cause it to become a qualifying shareholding in a credit institution; or

(*c*) further increase, directly or indirectly, such qualifying shareholding in a credit institution as a result of which the proportion of the voting rights or of the capital held would reach or exceed twenty per centum, thirty per centum or fifty per centum or so that the credit institution would become its subsidiary,

(hereinafter referred to in this Act as the "proposed acquisition"), shall notify the competent authority in writing of any such decision, indicating the size of the intended shareholding and providing any relevant information as and in the manner that the competent authority may by a Banking Rule require, including the form in which such notification shall be made and the criteria adopted by the competent authority in determining whether such person is a suitable person.

(2) Notwithstanding anything contained in any other law, any person who -

(*a*) acquires, directly or indirectly, at least five per centum but less than ten per centum of the share capital or of the voting rights in a credit institution; or

(*b*) increases, directly or indirectly, an existing shareholding so that the proportion of the voting rights or of the capital held would amount to at least five per centum but less than ten per centum,

shall inform the competent authority in writing, indicating the size of the shareholding and providing any relevant information as and in the manner that the competent authority may by a Banking Rule require. Such Banking Rule may provide, *inter alia*, general guidance as to when the shareholding would be deemed to result in significant influence.

(3) Notwithstanding anything contained in any other law, any person who has taken a decision either to -

(*a*) dispose, directly or indirectly, of a qualifying shareholding in a credit institution;

(*b*) reduce, directly or indirectly, a qualifying shareholding so as to cause it to cease to be a qualifying shareholding; or

(*c*) reduce, directly or indirectly, a qualifying

shareholding so that the proportion of the voting rights or of the capital held would fall below twenty per centum, thirty per centum or fifty per centum or so that the credit institution would cease to be its subsidiary,

shall notify the competent authority in writing of any such decision indicating the size of the intended shareholding and providing any relevant information as and in the manner that the competent authority may by a Banking Rule require.

(4) Sub-articles (1), (2) and (3) shall apply irrespective of whether or not any of the relevant shares are shares listed on any regulated market within the meaning of the Financial Markets Act or on an equivalent market in a third country. Cap. 345.

(5) Credit Institutions shall, on becoming aware of any acquisitions or disposals of holdings in their capital that cause holdings to exceed or fall below one of the thresholds referred to in this article, inform the competent authority of those acquisitions or disposals:

Provided that credit institutions admitted to trading on a regulated market shall, at least annually, notify the competent authority of the names of the shareholders and members possessing qualifying holdings and the sizes of such holdings as shown by the information received at the annual general meetings of shareholders and members or as a result of compliance with the regulations relating to companies admitted to trading on a regulated market or as requested by the competent authority.

(6) If any person takes or decides to take any action set out in sub-article (1) or (3) without notifying the competent authority or obtaining its approval in terms of article 13A, then, without prejudice to any other penalty which may be imposed under this Act, the competent authority shall have the power to make an order:

(*a*) restraining such person or credit institution from taking, or continuing with, such action;

(*b*) declaring such action to be void and of no effect;

(*c*) requiring such person or credit institution to take such steps as may be necessary to restore the position existing immediately before the action was taken;

(*d*) restraining such person or credit institution from exercising any rights which such action would, if lawful, have conferred upon them, including the right to receive any payment or to exercise any voting rights attaching to the shares acquired;

(*e*) restraining such person or credit institution from taking any similar action or any other action within the categories set out in sub-articles (1) and (3).

(7) Without prejudice to any other provision of this Act, where the influence exercised by any person acquiring or proposing to acquire a qualifying shareholding is, or is likely, to operate to the detriment of the sound and prudent management of the credit

institution, the competent authority may exercise any of its powers under this Act to put an end to such situation, including the power to issue directives as it may deem reasonable in the circumstances.

(8) The competent authority, may, by means of a Banking Rule issued under this Act indicate the circumstances when persons are to be regarded as "acting in concert".

Assessment procedure. *Added by: XVII. 2009.18. Amended by: II. 2011.14; X. 2015.17; LXXI.2021.33.*

13A. (1) The competent authority shall, promptly and in any event within two working days following receipt of the notification required under article 13(1), as well as following the possible subsequent receipt of the information referred to in sub-article (4), acknowledge receipt thereof in writing to the proposed acquirer.

(2) The competent authority shall have a maximum of sixty working days as from the date of the written acknowledgement of receipt of the notification required under article 13(1) and all documents required by the competent authority to be attached to such notification (hereinafter referred to in this Act as the "assessment period") to carry out the assessment on the basis of such information as may be determined by a Banking Rule issued for this purpose:

Provided that where the approval or exemption, as the case may be, of a financial holding company or mixed financial holding company in terms of article 11B and, or Article 21a of the CRD, takes place concurrently with the assessment referred to in this article, the assessment period referred to in this sub-article shall be suspended for a period exceeding twenty working days until the procedure set out in article 11B and, or Article 21a of the CRD, is complete.

(3) The competent authority shall inform the proposed acquirer of the date of the expiry of the assessment period at the time of acknowledging receipt.

(4) The competent authority may, during the assessment period, if necessary and no later than on the fiftieth working day of such period, request any further information that is necessary to complete the assessment. Such a request shall be made in writing and shall specify the additional information needed.

(5) During the period between the date of request for additional information by the competent authority and the receipt of a response thereto by the proposed acquirer, the assessment period shall be suspended. The suspension period shall not exceed twenty working days. Any further requests by the competent authority for completion or clarification of the information shall be at its discretion but shall not result in a suspension of such period.

(6) The competent authority may extend the suspension period referred to in sub-article (5) up to thirty working days if the proposed acquirer is -

(*a*) situated or regulated in a third country; or

(*b*) a person not subject to supervision under -

(i) the CRD;

(ii) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast), as amended from time to time;

(iii) Directive 2009/138/EC; or

(iv) MiFID or MiFIR.

(7) The competent authority shall, upon completion of the assessment referred to in sub-article (2) and not later than the date of the expiry of the assessment period, issue a notice:

(*a*) granting unconditional approval to the proposed acquisition;

(*b*) granting approval to the proposed acquisition subject to such conditions as the competent authority may deem appropriate; or

(*c*) refusing the proposed acquisition.

(8) In making the assessment referred to in sub-article (2), the competent authority shall neither impose any prior conditions in respect of the level of shareholding that must be acquired nor examine the proposed acquisition in terms of the economic needs of the market.

(9) In assessing the notification provided for in article 13(1) and the information referred to in sub-articles (4) and (5) of this article, the competent authority shall, in order to ensure the sound and prudent management of the credit institution in which an acquisition is proposed, and having regard to the likely influence of the proposed acquirer on the credit institution, assess the suitability of the proposed acquirer and the financial soundness of the proposed acquisition in accordance with the following criteria -

(*a*) the reputation of the proposed acquirer;

(*b*) the reputation, knowledge, skills and experience, as set out in article 14(2) and (2A), of any director who will direct the business of the credit institution as a result of the proposed acquisition;

(*c*) the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the credit institution in which the acquisition is proposed;

(*d*) whether the credit institution will be able to comply and continue to comply with the prudential requirements based on this Act and any regulations and Banking Rules issued thereunder, on any binding legal instruments issued under the CRD, and on the CRR, and where applicable, other European Union laws, in particular Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of

credit institutions, insurance undertakings and investment firms in a financial conglomerate and Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, as amended from time to time, including whether the group of which it will become a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authority and the overseas regulatory authorities in other Member States and determine the allocation of responsibilities among the competent authority and the overseas regulatory authorities;

(*e*) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing within the meaning of Article 1 of Directive (EU) 2015/849 is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

(10) The competent authority may oppose the proposed acquisition only if there are reasonable grounds for doing so on the basis of the criteria set out in sub-article (9) or if the information provided by the proposed acquirer is incomplete.

(11) If the competent authority, upon completion of the assessment, decides to oppose the proposed acquisition, it shall, within two working days, and not exceeding the assessment period, inform the proposed acquirer in writing specifying the reasons for such decision. The competent authority may, whether at the request of such proposed acquirer or not, issue a public statement indicating such reasons.

(12) If the competent authority does not oppose the proposed acquisition in writing within the assessment period, such proposed acquisition shall be deemed to be approved.

(13) Without prejudice to any other penalty which may be imposed under this Act, where a qualifying shareholding in a credit institution is acquired notwithstanding the refusal of the competent authority, the exercise of the corresponding voting rights shall be suspended and any of the votes cast in contravention of this sub-article shall be null and void.

(14) The competent authority may fix a maximum period for concluding the proposed acquisition and extend it where appropriate.

(15) Notwithstanding the provisions of sub-articles (1) to (6), where two or more proposals to acquire or increase qualifying shareholdings in the same credit institution have been notified to the competent authority, the latter shall treat the proposed acquirers in a non-discriminatory manner.

Co-operation with overseas regulatory authorities in the case of acquisitions. *Added by: XVII. 2009.18. Amended by: LXXI.2021.34.*

13B. (1) The competent authority shall work in full consultation with overseas regulatory authorities in other Member States when carrying out the assessment referred to in article 13A(2) if the proposed acquirer is one of the following:

(*a*) a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State or EEA State or in a sector other than that in which the acquisition is proposed;

(*b*) the parent undertaking of a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State or EEA State or in a sector other than that in which the acquisition is proposed; or

(*c*) the person controlling a credit institution, assurance undertaking, insurance undertaking, reinsurance undertaking, investment firm or UCITS management company authorised in another Member State or EEA State or in a sector other than that in which the acquisition is proposed.

(2) The competent authority shall, without undue delay, provide any information which is essential or relevant for the assessment referred to in article 13A(2) to the overseas regulatory authority requesting such information. Upon request, the competent authority shall communicate to the overseas regulatory authority all relevant information and shall communicate on its own initiative all essential information. A decision by the competent authority in terms of article 13A shall indicate any views or reservations expressed by the overseas regulatory authority responsible for the proposed acquirer.

(3) Where the assessment referred to in article 13A takes place concurrently with the approval or exemption, as the case may be, of a financial holding company or mixed financial holding company in terms of article 11B of this Act and, or Article 21a of the CRD, the competent authority shall coordinate, as appropriate, with the overseas regulatory authority acting as the consolidating supervisor and, or with the overseas regulatory authority of the Member State where the financial holding company or mixed financial holding company is established, as the case may be.

Mergers, reconstructions, divisions and changes in share capital or voting rights. *Added by: XVII. 2009.18. Amended by: X. 2015.18; LXXI.2021.35.*

13C. (1) Notwithstanding anything contained in any other law and without prejudice to articles 11B, 13(1) and 13(3) and Article 21a of the CRD, the consent of the competent authority given in writing shall be required before any credit institution may lawfully:

(*a*) sell or dispose of its business or any significant part thereof;

(*b*) merge with any other company, whether a credit institution or otherwise;

(*c*) undergo any reconstruction or division; or

(*d*) increase or reduce its nominal or issued share capital or effect any material change in the voting rights:

Provided that this will be without prejudice to the provisions of the CRR on the conditions for reducing own funds.

(2) It shall be the duty of all directors and qualifying shareholders of a credit institution to notify the competent authority forthwith in writing upon becoming aware that such credit institution intends to take any of the actions set out in sub-article(1).

(3) Within three months of receipt of such notification or receipt of such information as the competent authority may lawfully require, whichever is the later, the competent authority shall issue a notice -

(*a*) granting unconditional consent to the taking of the action;

(*b*) granting consent to the taking of the action subject to such conditions as the competent authority may deem appropriate; or

(*c*) refusing consent to the taking of the action,

and if it refuses to grant consent it shall inform the person or the credit institution concerned in writing of the reason for its refusal.

(4) If any person or any credit institution takes or decides to take any action set out in sub-article (1) without obtaining the consent of the competent authority, then, without prejudice to any other penalty which may be imposed under this Act, the competent authority shall have the power to make an order:

(*a*) restraining such person or credit institution from taking or continuing with such action;

(*b*) declaring such action to be void and of no effect;

(*c*) requiring such person or credit institution to take such steps as may be necessary to restore the position existing immediately before the action was taken;

(*d*) restraining such person or credit institution from exercising any rights which such action would, if lawful, have conferred upon them, including the right to receive any payment or to exercise any voting rights attaching to the shares acquired;

(*e*) restraining such person or credit institution from taking any similar action or any other action within the categories set out in sub-article (1).

Criteria for qualifying holdings. *Added by: X. 2015.19; Amended by: LXXI.2021.36.*

13D. In determining whether the criteria for a qualifying shareholding are fulfilled, the voting rights referred to in Articles 9, 10 and 11 of Directive 2004/109/EC and the conditions regarding aggregation thereof set out in Article 12(4) and (5) of that same Directive, shall be taken into account:

Provided that in determining whether the criteria for a

qualifying shareholding are fulfilled, the competent authority shall not take into account voting rights or shares which credit institutions may hold as a result of providing the underwriting of financial instruments on a firm commitments basis in terms of point 6 of Section A of Annex 1 to the MiFID, provided that those rights are not exercised or otherwise used to intervene in the management of the issuer and are disposed of within one year of acquisition.

Control of a credit institution.
Amended by: XVII. 2002.170; XX. 2007.96; XVII. 2009.19; X. 2015.20; LXXI.2021.37.

14. (1) Any person who is a controller or director of a credit institution shall be a suitable person to exercise such control.

(2) Credit institutions, financial holding companies and mixed financial holding companies shall ensure that directors are at all times of sufficiently good repute and possess sufficient knowledge, skills and experience to perform their duties.

(2A) Directors of credit institutions, financial holding companies and mixed financial holding companies shall, in particular, fulfil the following requirements:

(a) all directors shall commit sufficient time to perform their functions in the credit institution, financial holding company or mixed financial holding company, as the case may be;

(b) the number of directorships which may be held by a director at the same time shall take into account individual circumstances and the nature, scale and complexity of the activities of the credit institution, the financial holding company or the mixed financial holding company, as the case may be:

Provided that a director of a credit institution that is significant in terms of its size, internal organisation and the nature, the scope and the complexity of its activities shall, from 1 July 2014, not hold more than one of the following combinations of directorships at the same time -

(i) one directorship having an executive role with two directorships having a non-executive role;

(ii) four directorships having a non-executive role;

(c) for the purposes of paragraph (b), the following shall count as a single directorship -

(i) directorships having an executive or non-executive role held within the same group;

(ii) directorships having an executive or non-executive role held within –

(aa) institutions which are members of the same institutional protection scheme provided that the conditions set out in Article 113(7) of the CRR are fulfilled; or

(bb) undertakings (including non-financial entities) in which the credit institution, financial holding company or the mixed financial holding company, as the case

may be, holds a qualifying holding.

(3) The following directorships shall not be taken into consideration for the purposes of sub-article (2A)(*b*):

(a) directors who are directly or indirectly appointed to represent the interests of the Government of Malta; and

(*b*) directors appointed in organisations which do not pursue predominantly commercial objectives, including directorships in non-profit-making or charitable organisations.

(4) The competent authority may authorise directors to hold one additional directorship having a non-executive role. The competent authority shall notify the EBA of such authorisations on a regular basis.

(5) The board of directors and, where applicable, the management body, of credit institutions, financial holding companies and mixed financial holding companies, shall possess adequate collective knowledge, skills and experience to be able to understand the credit institution's activities, including the main risks. The overall composition of the board of directors and, where applicable, the management body, shall reflect an adequately broad range of experience.

(6) Each director of a credit institution, financial holding company and mixed financial holding company shall act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of the senior management where necessary and to effectively oversee and monitor management decision-making:

Provided that, where a director is also a member of an affiliated company or affiliated entity, this shall not in itself constitute an obstacle to acting with independence of mind.

(7) The directors of a financial holding company or mixed financial holding company, being a parent to a credit institution, shall be of sufficiently good repute and possess sufficient knowledge skills and experience as referred to in sub-articles (1) to (6) and any additional requirements as may be specified in a Banking Rule to perform those duties, taking into account the specific role of a financial holding company or mixed financial holding company, as the case may be.

(8) A credit institution, financial holding company and mixed financial holding company, as the case may be, shall forthwith notify to the competent authority –

(a) full particulars of all persons who are controllers or directors of the credit institution, financial holding company and mixed financial holding company, as the case may be;

(b) full particulars of any person who is proposed to become a controller or director of the credit institution, financial holding company and mixed financial holding company, as the case may be;

(c) full particulars of any person who is proposed to cease to be a controller or director of the credit institution, financial holding company and mixed financial holding company, as the case may be.

(9) A credit institution, financial holding company and mixed financial holding company shall furnish the competent authority with any further information it may require concerning any existing or proposed controller or director.

(10) If the competent authority is of the opinion that any person who is or is proposed to become a controller or director of a credit institution, financial holding company or mixed financial holding company, as the case may be, is not a suitable person to be a controller or director, or does not fulfil the requirements set out in sub-articles (1) to (6), or any additional requirements as may be specified in a Banking Rule, the competent authority may give an order requiring such a person to cease to be a controller or director or restraining such a person from becoming a controller or director:

Provided that the competent authority shall in particular verify whether the requirements set out in sub-articles (1) to (6) and any additional requirements as may be specified in a Banking Rule are still fulfilled where they have reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in connection with that credit institution, financial holding company or mixed financial holding company, as the case may be.

(11) For the purposes of this article control includes the power to determine in any manner the financial and operating policies of a body corporate, the power to appoint or remove the majority of the members of the board of directors or, where applicable, the management body, or the power to cast the majority of votes at meetings of the board of directors or equivalent governing body.

(12) The competent authority may issue, amend or revoke Banking Rules as may be required in order to better implement the provisions of this article.

Prohibited transactions. *Substituted by: XVII. 2002.171. Amended by: IV. 2003.179; XX. 2007.85, 97; L.N. 425 of 2007; XVII. 2009.20; II. 2011.15; X. 2015.21; LXXI.2021.38.*

15. (1) A credit institution shall not -

(*a*) grant any credit facility against the security of its own shares or against any other securities issued by the credit institution itself or against any shares or any other securities of another body corporate in which the credit institution has control;

(*b*) grant or permit to be outstanding credit facilities or extend other banking services, under terms and conditions more favourable than the credit institution would have otherwise applied -

(i) to any one of its directors or their spouses whether jointly or severally, as well as with third parties:

Provided that, in any case where unsecured credit facilities are granted, these shall not in the

aggregate exceed the sum of twenty-three thousand, two hundred and ninety-three euro and seventy-three cents (€23,293.73);

(ii) to any person in whom or in which the credit institution or any one or more of its directors is interested as a director, partner, manager, agent or member or to any person of whom or of which any one or more of the credit institution's directors is a guarantor;

(iii) to any body of persons in which the credit institution or any one or more of its directors jointly or severally maintains control, not being itself a credit institution or the parent undertaking of the credit institution, a subsidiary of this parent undertaking or a subsidiary of the credit institution;

and where the competent authority has reason to believe that such favourable terms and conditions have been applied, it shall have the power to require the credit institution to rectify the position and if the credit institution fails to take the necessary action to rectify the position as required, the competent authority shall take such measures as it deems appropriate until the position is rectified;

(*c*) grant to or permit to be outstanding in respect of any officer other than a director, or any employee, unsecured credit facilities which in the aggregate exceed twelve months' emolument of such officer or employee:

Provided that the competent authority may by Banking Rule extend the restrictions listed in paragraphs (*a*), (*b*) and (*c*) or any of them to other officers, employees or shareholders of credit institutions or to other categories of persons in such manner and to such extent as may be specified;

(*d*) without the consent of the competent authority acquire or hold shares in another company which is not a credit institution, which exceeds five per centum of that company's issued share capital or any other subsequent acquisition which exceeds the per centum amount approved by the competent authority;

(*e*) purchase, acquire or otherwise hold any immovable property or any right thereon except as may be reasonably necessary for the purpose of conducting its business or housing or providing amenities for its staff:

Provided that this paragraph shall not prevent a credit institution -

(i) from letting part of any building which is used for the purpose of conducting its business; or

(ii) from securing a debt on any immovable property and, in the event of default in payment of such debt, from acquiring or holding such property, for realisation within twelve months, or any longer period as may be determined by the competent authority;

(iii) in other instances from acquiring immovable property with the prior approval of the competent authority the original cost of which property shall not in the aggregate exceed five per centum of the credit institution's own funds.

(2) In sub-article (1)(*b*) and (*c*) the expression "unsecured credit facilities" shall mean credit facilities made without security or, in respect of any credit facility made with security, any part thereof which at any time exceeds the market value of the assets constituting that security, or where the competent authority is satisfied that there is no established market value, on the basis of a valuation approved by the competent authority itself.

15A. (*Deleted by Act X. 2015.22*).

Supervision on a consolidated basis.
Added by:
XVII. 2002.172.
Amended by:
XX. 2007.85.

16. (*Deleted by Act X. 2015.23*).

Large exposures.
Amended by:
XX. 2007.85.

16A. (*Deleted by Act X. 2015.24*).

Own funds.
Added by:
XVII. 2002.173.
Amended by:
XX. 2007.85, 98;
XVII. 2009.21;
XX. 2013.61.

16B. The competent authority shall issue a Banking Rule as it shall consider appropriate for the regulation of capital buffers.

Capital buffers.
Added by:
X. 2015.25.

17. (*Deleted by Act X. 2015.26*).

Capital adequacy.
Amended by:
XVII. 2002.174;
XX. 2007.85, 99;
III. 2009.19;
XVII. 2009.22;
II. 2011.16;
XX. 2013.62.

17A. The competent authority may issue a Banking Rule as it considers appropriate for the implementation of measures aimed at addressing credit risks arising from the assessment of the quality of a credit institution's asset portfolio.

Measures aimed at addressing credit risks.
Added by:
XVII. 2002.175.
Amended by:
XX. 2007.85, 100.
Substituted by:
XVII. 2009.23.
Amended by:
II. 2011.17.
Substituted by:
X. 2015.27.

Internal governance and recovery and resolution plans. *Added by: XX. 2007.101. Amended by: III. 2009.20; II. 2011.18; X. 2015.28; XXI. 2015.22; XXVI.2019.8; LXXI.2021.39; XI.2025.31.*

17B. (1) Every credit institution shall put in place robust governance arrangements which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, adequate internal control mechanisms including sound administrative and accounting procedures, network and information systems that are established and managed in accordance with the DORA Regulation, and remuneration policies and practices that are consistent with and promote sound and effective risk management:

Provided that such remuneration policies and practices shall be gender neutral.

(2) The arrangements, processes and mechanisms referred to in sub-article (1), shall be comprehensive and proportionate to the nature, scale and complexity of the risks inherent in the business model and the credit institution's activities. Credit institutions shall take into account the technical criteria laid down in a Banking Rule.

(3) Every credit institution shall also ensure that its internal control mechanisms and administrative and accounting procedures permit the checking of compliance with the rules adopted in accordance with the provisions of this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder, with any binding legal instruments issued under the CRD, and with the CRR at all times.

(4) Deleted by Act *XXVI.2019.8*.

(5) A credit institution shall cooperate closely with the Resolution Committee established under the Malta Financial Services Authority Act, and with any relevant European Resolution Authorities or Third-Country Resolution Authorities and shall provide them with all information necessary for the preparation and drafting of a viable resolution plan setting out options for the orderly resolution of the credit institution in the case of failure, in accordance with the principle of proportionality.

Credit institutions' internal capital adequacy assessment process. *Added by: XX. 2007.101. Amended by: II. 2011.19.*

17C. All credit institutions shall have in place sound, effective and complete strategies and processes to assess and maintain on an on-going basis, the amounts, types and distribution of internal capital that they consider adequate to cover the nature and level of risks to which they are or might be exposed. These strategies and processes shall be subject to regular internal review to ensure that they remain comprehensive and proportionate to the nature, scale and complexity of the activities of the credit institution concerned. The competent authority shall issue a Banking Rule providing for, *inter alia* the internal capital adequacy assessment process that has to be maintained by credit institutions in relation to their risk profile.

17D. (*Deleted by Act X. 2015.29*).

Supervisory review and evaluation process.
Added by: XX. 2007.101.
Amended by: II. 2011.20.

17DA. Credit institutions shall have in place adequate risk management processes and internal control mechanisms, in accordance with the Banking Act (Supervisory Review) Regulations and as may be prescribed from time to time in a Banking Rule, including sound reporting and accounting procedures in order to identify, measure, monitor and control transactions with their parent mixed activity holding company and its subsidiaries appropriately. Credit institutions shall report any significant transaction with those entities other than the one referred to in Article 394 of the CRR:

Transactions with parent mixed activity holding companies and their subsidiaries.
Added by: LXXI.2021.40.
S.L. 371.16.

Provided that those procedures and significant transactions shall be subject to overview by the competent authority.

17E. (1) The competent authority shall require a credit institution to take the necessary measures at an early stage to address relevant problems in circumstances where -

Supervisory measures.
Added by: X. 2015.30.
Amended by: LXXI.2021.41.

(*a*) the credit institution does not meet the requirements of this Act or any regulations made or Banking Rules issued thereunder, of any binding legal instruments issued under the CRD or of the CRR;

(*b*) the competent authority has evidence that the credit institution is likely to breach this Act or any regulations made or Banking Rules issued thereunder, any binding legal instruments issued under the CRD or the provisions of the CRR, within the following twelve months.

(2) For the purposes of sub-article (1), the powers of the competent authority shall include the supervisory powers referred to in regulation 9 of the Banking Act (Supervisory Review) Regulations.

S.L. 371.16

(3) The competent authority shall apply supervisory measures in accordance with the level of application of the requirements of Part One, Title II of the CRR.

18. The competent authority may issue a Banking Rule specifying what shall constitute the specified liquid assets and the deposit liabilities of a credit institution and laying down the minimum holding of specified assets as a proportion of deposit liabilities which a credit institution must hold.

Liquidity.
Amended by: XVII. 2002.176; XX. 2007.85, 102.

Information to be submitted to the competent authority and the Central Bank.
Amended by: XVII. 2002.177; XX. 2007.85, 103; XVII. 2009.24; II. 2011.21; X. 2015.31; LXXI.2021.42.

19. (1) A credit institution shall submit to the competent authority -

(*a*) periodic statements showing its assets and liabilities and profit and loss position on an individual and, where appropriate, on a consolidated basis including analysis thereof;

(*b*) such information as is required by the competent authority for prudential supervision, conduct supervision and, or statistical purposes;

(*c*) all the information necessary for the assessment of its compliance with this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder, with any binding legal instruments issued under the CRD, and with the CRR, as the competent authority may require;

(*d*) such separate statements relating to its offices and branches outside Malta in such form and at such times as the competent authority may require in the discharge of its duties.

(1A) A financial holding company and a mixed financial holding company shall submit to the competent authority all the information necessary for the assessment of its compliance with this Act and any regulations made or Banking Rules issued thereunder, with any binding legal instruments issued under the CRD, and with the CRR, as the competent authority may require.

(2) A credit institution shall submit to the Central Bank such information as the Central Bank may require in the discharge of its duties and the Central Bank may enquire into and ask for clarification of any information so submitted.

(3) A credit institution shall register all its transactions and document systems and processes, which are subject to this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder, to any binding legal instruments issued under the CRD, and to the CRR, in such a manner that the competent authority may be able to verify compliance with the requirements of the CRR, of any binding legal instruments issued under the CRD, of this Act and of any regulations made or Banking Rules and, or Conduct of Business Rules issued thereunder at all times.

(4) Without prejudice to article 11A, the provisions of this article shall also apply to all branches, agencies or representative offices in Malta of a credit institution which is not licensed in Malta.

(5) All statements required under sub-article (1) shall be submitted in such form and at such periods as the competent authority may from time to time prescribe by a Banking Rule and, or as may be prescribed in any applicable binding legal instrument.

(6) All statements and other information furnished by any credit institution, financial holding company and mixed financial holding company, as the case may be, under sub-articles (1), (1A) and (2) shall, unless otherwise provided in this Act or in any other law, be regarded as secret and confidential except as between that credit

institution, financial holding company or mixed financial holding company, as the case may be, and the competent authority or the Central Bank as the case may be save that the competent authority shall furnish such information under this article as may be required by the Minister or the Central Bank and shall inform the Minister and the Central Bank if at any time in its opinion there is concern regarding the state of affairs of that credit institution.

Outsourcing service providers. *Added by: XX. 2007.104. Amended by: II. 2011.22; XXVI.2019.9; LXXI.2021.43.*

19A. (1) Where a credit institution intends to outsource its material services or activities, it shall first inform the competent authority accordingly.

(2) The competent authority may issue a Banking Rule laying down what constitutes material services or activities, the requirements for the information to be submitted regarding the outsourcing service provider and the provision of such outsourced services.

Access to accounts maintained with a credit institution. *Added by: XXVI.2019.9.*

19B. (1) Credit institutions shall grant payment institutions, electronic money institutions and account information service providers access to a credit institution's payment account services on an objective, non-discriminatory and proportionate basis.

(2) The access referred to in sub-article (1) shall be sufficiently extensive as to allow payment institutions, electronic money institutions and account information service providers to provide payment services in an unhindered and efficient manner.

(3) In the event that a credit institution does not allow a payment institution, an electronic money institution, or an account information service provider, to have access to the credit institution's payment account services, such institution shall provide the competent authority with duly motivated reasons for any such rejection.

(4) The competent authority shall, in case of an event as referred to in sub-article (3), notify the Central Bank of said event together with the reasons provided by the credit institution, without undue delay.

Management of operational and security risks. *Added by: XXVI.2019.9. Amended by: XI.2025.32.*

19C. (1) Without prejudice to the application of Chapter II of the DORA Regulation, credit institutions shall establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks, relating to the payment services they provide. As part of that framework, credit institutions shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.

(2) Credit institutions shall provide to the Central Bank on an annual basis or at shorter intervals, as may be determined by the competent authority in co-operation with the Central Bank, an updated and comprehensive assessment of the operational and security risks relating to the payment services they provide and on the adequacy of

the mitigation measures and control mechanisms implemented in response to those risks.

(3) The competent authority shall co-operate with the Central Bank in the assessment and processing of documents referred to in sub-article (2).

(4) The competent authority may issue, amend or revoke Banking Rules as may be required in order to better implement the provisions of this article.

Incident reporting. *Added by: XXVI.2019.9. Amended by: XI.2025.33.*

19D. (1) *Deleted by Act XI.2025.33.*

(2) *Deleted by Act XI.2025.33.*

(3) *Deleted by Act XI.2025.33.*

(4) *Deleted by Act XI.2025.33.*

(5) *Deleted by Act XI.2025.33.*

(6) Credit institutions shall, at least on an annual basis, provide to the Central Bank statistical data on fraud relating to different means of payment.

(7) The competent authority may issue, amend or revoke any Banking Rules as may be required to better implement the provisions of this article.

(8) *Deleted by Act XI.2025.33.*

Supervision of credit institutions. *Amended by: XVII. 2002.178; XX. 2007.105; XVII. 2009.25; II. 2011.23; X. 2015.32; LXXI.2021.44.*

20. (1) Every credit institution licensed in terms of this Act, and where applicable, a financial holding company or a mixed financial holding company, shall submit to the competent authority any information which it may reasonably require in the exercise of its duties under this Act or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder, the CRR or any binding legal instruments issued under the CRD, and the competent authority may enquire into and ask for clarification of any information so submitted.

(2) Any request for information or for clarification thereof under this article shall be made by notice in writing and shall require the recipient to provide the information at such time or times or at such intervals or in respect of such period or periods as may be specified by the notice.

(3) Further, the competent authority may -

(*a*) by notice in writing served on a credit institution, a financial holding company or a mixed financial holding company, require the credit institution, financial holding company or mixed financial holding company, as the case may be, to provide a report by an accountant or other person with relevant professional skill on, or on any

aspect of, any matter about which the competent authority has required or could require the credit institution, financial holding company or mixed financial holding company, as the case may be, to provide information under sub-article (1);

(*b*) by notice in writing served on a credit institution, a financial holding company or a mixed financial holding company, require the credit institution, financial holding company or mixed financial holding company, as the case may be, to produce within such time and at such place as may be specified in that notice, such document or documents of such description as may be so specified in the notice;

(*c*) authorise an officer, servant or agent of the competent authority, on producing evidence of his authority, to require any credit institution, financial holding company or mixed financial holding company, to provide him forthwith with such information, or to produce to him forthwith such documents, as he may specify, being such information or documents as the competent authority may reasonably require for the performance of its functions under this Act or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder.

(4) The accountant or other person appointed by a credit institution, a financial holding company or a mixed financial holding company to make any report required under sub-article (3)(*a*) shall be a person nominated or approved by the competent authority; and the competent authority may require the report to be in such form as is specified in the notice.

(5) Where, by virtue of sub-article (3), any person has power to require the production of any documents from a credit institution, a financial holding company or a mixed financial holding company, that person shall have the same power to require the production of those documents from any person who appears to be in possession of them.

(6) The power under this article to require a credit institution, a financial holding company or a mixed financial holding company, or any other person to produce any documents includes the power -

(*a*) if the documents are produced, to take copies of them or extracts from them and to require the credit institution, financial holding company, mixed financial holding company, or person concerned, or any other person who is a present or past officer of, or is or was at any time employed by or acting as an employee of, the credit institution, financial holding company and mixed financial holding company in question, to provide an explanation of any of them; and

(*b*) if the documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(7) If it appears to the competent authority to be desirable in the interests of the depositors or potential depositors of a credit institution to do so, or if otherwise required to fulfil its supervisory responsibilities, it may also exercise the powers conferred by sub-articles (1) and (3) in relation to any person who is or has at any relevant time been -

(*a*) a holding company, subsidiary or a company which is a connected person of that credit institution;

(*b*) a subsidiary or a person which is a company connected to a holding company of that credit institution;

(*c*) a holding company of a subsidiary of that credit institution; or

(*d*) a controller of that credit institution; or

(*e*) an outsourcing service provider of that credit institution.

(8) The competent authority may by notice in writing served on any person who is or is to be an officer of a credit institution, financial holding company or mixed financial holding company, as the case may be, require him to furnish, within such time as may be specified in the notice, such information or documents as the competent authority may reasonably require for determining whether he is a suitable person to hold the particular position which he holds or is to hold.

(9) The competent authority may exercise the powers conferred by sub-articles (1) and (3) in relation to any person who has a qualifying shareholding in a credit institution, financial holding company or mixed financial holding company, if it considers that the exercise of those powers is desirable in the interests of the depositors or potential depositors of that credit institution.

(10) A statement made by a person in compliance with a requirement imposed by virtue of this article may be used in evidence against him.

(11) The competent authority shall have the power to recover from a credit institution, financial holding company or mixed financial holding company reported on under sub-article (3) the costs and expenses incurred in relation to such report.

Right of entry to obtain information and documents. *Amended by: X. 2015.33.*

21. (1) Any officer, employee, agent or inspector of the competent authority may, on producing, if required, evidence of his authority -

(*a*) enter any premises occupied by a person on whom a notice has been served under article 20 above or article 22 below for the purpose of obtaining there the information or documents required by that notice;

(*b*) enter any premises occupied by any person on whom a notice could be served under article 20 above or article 22 below for the purpose of obtaining there such information or documents as are specified in the authority, being information or documents that could

have been required by such a notice; but the competent authority shall not authorise any person to act under this paragraph unless it has reasonable cause to believe that if such a notice were served it would not be complied with or that any documents to which it would relate would be removed, tampered with or destroyed:

Provided that where an entry as is mentioned in this sub-article involves premises that are occupied for the purposes of habitation, such entry shall be carried out in the presence of an officer of the Police of a rank not below that of inspector and shall moreover not take place between nine in the evening and five in the morning.

(2) No person shall intentionally obstruct a person exercising rights conferred by this article.

Investigations. *Amended by: XVII. 2002.179; XX. 2007.106; XVII. 2009.26; II. 2011.24; X. 2015.34; LXXI.2021.45.*

22. (1) If it appears to the competent authority desirable to do so in the interests of the depositors or potential depositors of a credit institution, or if otherwise required to fulfil its supervisory responsibilities, it may appoint one or more competent persons, as inspectors, to investigate and report on -

(*a*) the nature, conduct or state of the credit institution's business or any particular aspect of it, or

(*b*) the ownership or control of the credit institution,

and the competent authority shall give written notice of any such appointment to the credit institution concerned.

(2) If a person appointed under sub-article (1) thinks it necessary for the purposes of his investigation, he may also investigate the business of any person who is or has at any relevant time been -

(*a*) a holding company, subsidiary or a company which is a connected person of the credit institution under investigation;

(*b*) a subsidiary or a company which is a connected person of a holding company of that credit institution;

(*c*) a holding company of a subsidiary of that credit institution; or

(*d*) a controller of that credit institution; or

(*e*) an outsourcing service provider of that credit institution.

(3) The competent authority may exercise the powers conferred by sub-article (1) in relation to any person who has a qualifying shareholding in a credit institution if it considers that the exercise of those powers is desirable in the interests of the depositors or potential depositors of that credit institution.

(4) Where a person appointed under sub-article (1) decides to investigate the business of any person by virtue of sub-article (2) or sub-article (3) he shall inform that person by notice in writing.

(5) It shall be the duty of every person who is or was an officer,

employee, agent, banker or auditor of a body which is under investigation under this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder, or any person appointed to make a report in respect of that body under this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder and anyone who has a qualifying shareholding in, or is a controller of, that body -

(*a*) to produce to the persons appointed under sub-article (1), within such time and at such place as they may require, all documents relating to the body concerned which are in his custody or power;

(*b*) to attend before the persons so appointed at such time and place as they may require; and

(*c*) otherwise to give those persons all assistance in connection with the investigation which he is reasonably able to give,

and those persons may take copies of or extracts from any documents produced to them under paragraph (*a*) above.

(6) A person exercising powers by virtue of an appointment under this article shall, if so required, produce evidence of his authority.

(7) No person shall -

(*a*) without lawful excuse fail to produce any documents which it is his duty to produce under sub-article (5);

(*b*) without lawful excuse fail to attend before the persons appointed under sub-article (1) when required to do so; or

(*c*) without lawful excuse fail to answer any question which is put to him by persons so appointed with respect to any credit institution which is under investigation or a body which is being investigated by virtue of sub-article (2) or (3).

(8) A statement made by a person in compliance with a requirement imposed by virtue of this article may be used in evidence against him.

(9) The competent authority shall have the power to recover from a credit institution reported on under sub-article (1) the costs and expenses incurred in relation to such report.

(10) For the purposes of this article, reference to a credit institution shall include reference to persons appearing to be carrying out the business of banking.

Suspected breaches. *Amended by: XX. 2007.107; II. 2011.25; X. 2015.35; XXVI.2019.11; LXXI.2021.46.*

23. (1) Where the competent authority has reasonable grounds for suspecting that a person has contravened or has failed to comply with any provision of this Act or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder, it may by notice in writing require that person or any other person -

(*a*) to provide at such place as may be specified in the

notice and either forthwith or at such time as may be so specified, such information as it may reasonably require for the purpose of investigating the suspected contravention or failure to comply;

(*b*) to produce, at such place as may be specified in the notice and either forthwith or at such time as may be so specified, such documents, or documents of such description as may be specified which it may reasonably require for that purpose;

(*c*) to attend at such place and time as may be specified in the notice, and answer questions relevant for determining whether such a contravention or failure to comply has occurred.

(2) The competent authority or their duly authorised officer, employee or agent may take copies of or extracts from any documents produced under this article.

(3) Any officer, employee or agent of the competent authority may, between five o'clock in the morning and nine o'clock at night, on producing if required evidence of his authority, enter any premises occupied by a person on whom a notice has been served under sub-article (1) for the purpose of obtaining there the information or documents required by the notice, putting the questions referred to in paragraph (*c*) of that sub-article or exercising the powers conferred by sub-article (2).

(4) No person shall without lawful excuse fail to comply with a requirement imposed on him under this article or intentionally obstruct a person in the exercise of the rights conferred by sub-article (3).

(5) A statement made by a person in compliance with a requirement imposed by virtue of this article may be used in evidence against him.

Obstruction.
Amended by: XX. 2007.108; XXVI.2019.12.

24. No person who knows or suspects that an investigation is being or is likely to be carried out -

(*a*) under article 20, article 22 or article 23; or

(*b*) into the suspected commission of any breach under this Act,

may falsify, conceal, destroy or otherwise dispose of, or cause or permit the falsification, concealment, destruction or disposal of, documents which he knows or suspects are or would be relevant to such an investigation unless he proves that he had no intention of concealing facts disclosed by the documents from persons carrying out such an investigation.

Co-operation, sharing and transmission of information. *Amended by: XVII. 2002.180; IV. 2003.180; XX. 2007.109; XVII. 2009.27; II. 2011.26; XX. 2013.63; X. 2015.36; XXVI.2019.13; LXXI.2021.47; LXXII.2021.32.*

25. (1) On the basis of Malta's international commitments, the competent authority may share its supervisory duties with overseas regulatory authorities in the case of a credit institution licensed in terms of this Act and operating in the country of such overseas regulatory authority or a branch established in Malta and having its head office in another Member State.

(2) The competent authority may further, on the basis of Malta's international commitments, exchange information with overseas regulatory authorities in other Member States or transmit information to the ESRB, the EBA or the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010, in accordance with this Act and any regulations made and Banking Rules issued thereunder transposing the CRD, with any binding legal instruments issued under the CRD, with the CRR, with Regulation (EU) 2019/2033, with Article 15 of Regulation (EU) No. 1092/2010, with Articles 31, 35 and 36 of Regulation (EU) No. 1093/2010, with Articles 31 and 36 of Regulation (EU) No. 1095/2010, with Directive (EU) 2019/2034 and with other Directives applicable to credit institutions. Such information shall be subject to professional secrecy provided for under this Act and any regulations issued thereunder.

(2A) Notwithstanding article 17(1) of the Malta Financial Services Authority Act and articles 19(6), 34(2), 34(4) and 34(7), the competent authority may also, subject to the conditions set out in sub-articles (2B) and (4A), transmit or share certain information with the following:

(a) the International Monetary Fund and the World Bank, for the purposes of assessments for the Financial Sector Assessment Program;

(b) the Bank for International Settlements, for the purposes of quantitative impact studies;

(c) the Financial Stability Board, for the purposes of its surveillance function:

Provided that where the disclosure of information in terms of this sub-article involves the processing of personal data, any processing of personal data will be in accordance with the requirements laid down in the GDPR.

(2B) The competent authority may only share confidential information with the international bodies referred to in sub-article (2A) following an explicit request and where at least the following conditions are met:

(a) the request is duly justified in light of the specific tasks performed by the requesting body in accordance with its statutory mandate;

(b) the request is sufficiently precise as to the nature, scope and format of the required information, and the means of its disclosure or transmission;

(c) the requested information is strictly necessary for the performance of the specific tasks of the requesting body and does not go beyond the statutory tasks conferred on the requesting body;

(d) the information is transmitted or disclosed exclusively to the persons directly involved in the performance of the specific task;

(e) the persons having access to the information are subject to professional secrecy requirements at least equivalent to those referred to in article 34(4).

(3) Notwithstanding article 17(1) of the Malta Financial Services Authority Act and articles 19(6) and 34(2), the competent authority may also conclude cooperation agreements, providing for exchanges of information, with third country overseas regulatory authorities or with authorities or bodies of third countries in accordance with sub-articles (7) and (8), only if the information disclosed is subject to a guarantee that professional secrecy requirements at least equivalent to those referred to in article 34(4) are complied with: Cap. 330.

Provided that such exchange of information shall be for the purpose of performing the supervisory tasks of the authorities or bodies mentioned in this sub-article:

Provided further that where the information originates in another Member State, it shall only be disclosed with the express agreement of the overseas authority which has disclosed it, and where appropriate, solely for the purposes for which the overseas authority gave its agreement.

(4) The competent authority may disclose information under the provisions of sub-article (2) only to the extent that the authorities receiving the information restrict its use for supervisory and regulatory purposes or for such other purposes as may specifically be agreed upon with the competent authority.

(4A) Where a request is made by any of the entities referred to in sub-article (2A), the competent authority may only transmit aggregate or anonymised information and may only share other information at the premises of the competent authority.

(5) The competent authority may further, on the basis of international agreements, or upon reciprocity agreements, authorise overseas regulatory authorities to carry out themselves, or through the intermediation of competent persons they appoint, on-site inspections for supervisory and regulatory purposes in branches or subsidiaries of credit institutions having their head office in the country of the overseas regulatory authority making the inspection:

Provided that on-the-spot checking and inspection of branches established in Malta of credit institutions authorised in another Member State, shall be carried out in accordance with the European Passport Rights for Credit Institutions Regulations. S.L. 371.11

(6) Nothing in this Act or in any other law shall prevent the competent authority from transmitting information to the following for the purposes of their tasks -

(*a*) the Central Bank, ESCB central banks and other bodies with a similar function in their capacity as monetary authorities when the information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and settlement systems and the safeguarding of stability of the financial system;

(*b*) contractual or institutional protection schemes as referred to in Article 113(7) of the CRR;

(*c*) where appropriate, other public authorities responsible for overseeing payment systems;

(*d*) the ESRB, the European Insurance and Occupational Pensions Authority established by Regulation (EU) No. 1094/2010 and the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010, where that information is relevant for the exercise of their tasks under Regulations (EU) No. 1092/2010, (EU) No. 1094/2010 or (EU) No. 1095/2010:

Provided that the competent authority shall take the appropriate measures to remove obstacles preventing it from transmitting information in accordance with this sub-article:

Provided further that information received in accordance with this sub-article shall be subject to professional secrecy requirements at least equivalent to those referred to in article 34(4):

Provided further that in an emergency situation, including a situation as described in Article 18 of Regulation (EU) No. 1093/2010 or a situation of adverse developments in markets arises, which potentially jeopardises the market liquidity and the stability of the financial system, the competent authority shall communicate without delay information to the ESCB central banks where that information is relevant for the exercise of their statutory tasks, including the conduct of monetary policy and related liquidity provision, the oversight of payments, clearing and settlement systems, and to the ESRB where such information is relevant for the exercise of its statutory tasks.

Cap. 330.

(7) The provisions of article 17(1) of the Malta Financial Services Authority Act and of article 34(2), (4) and (7) shall not preclude the exchange of information between the competent authority and other authorities in Malta; between the competent authority and overseas regulatory authorities in other Member States; or between the competent authority and the following, in the discharge of their supervisory functions -

(*a*) authorities entrusted with the public duty of supervising other financial sector entities and the authorities responsible for the supervision of financial markets;

(*b*) authorities or bodies charged with responsibility for maintaining the stability of the financial system in

Member States through the use of macro-prudential rules;

(*c*) reorganisation bodies or authorities aiming at protecting the stability of the financial system;

(*d*) contractual or institutional protection schemes as referred to in Article 113(7) of the CRR;

(*e*) bodies involved in the liquidation and bankruptcy of institutions and in other similar procedures;

(*f*) persons responsible for carrying out statutory audits of the accounts of institutions, insurance undertakings and financial institutions;

(*g*) authorities responsible for supervising the obliged entities listed in points (1) and (2) of Article 2(1) of Directive (EU) 2015/849 for compliance with that Directive, and financial intelligence units in other Member States;

(*h*) authorities or bodies responsible for the application of rules on structural separation within a banking group;

Provided that the provisions of article 34(4) and (7) shall not preclude the disclosure to bodies which administer deposit-guarantee schemes and investor compensation schemes of information necessary for the exercise of their functions:

Provided further that the information received shall in any event be subject to professional secrecy requirements at least equivalent to those referred to in article 34(4).

(8) Notwithstanding article 17(1) of the Malta Financial Services Authority Act, the provisions of sub-articles (2) and (3) and of articles 19(6), 34(2), 34(4), 34(5) and 34(7), the competent authority shall exchange information with the authorities responsible for overseeing - Cap. 330.

(*a*) the bodies involved in the liquidation and bankruptcy of institutions and in other similar procedures;

(*b*) contractual or institutional protection schemes as referred to in Article 113(7) of the CRR;

(*c*) persons charged with carrying out statutory audits of the accounts of institutions, insurance undertakings and financial institutions:

Provided that in the cases referred to in this sub-article, the competent authority shall require fulfilment of at least the following conditions:

(i) that the information is exchanged for the purpose of performing the tasks referred to in this sub-article;

(ii) that the information received is subject to professional secrecy requirements at least equivalent to those referred to in article 34(4);

(iii) where the information originates in another Member State, that it is not disclosed without the

express agreement of the overseas regulatory authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement:

Provided further that where the authorities or bodies referred to in this sub-article perform their task of detection or investigation through the assistance of persons appointed for that purpose in view of their specific competence and not employed in the public sector, the competent authority may exchange information with the authorities or bodies responsible under the law for the detection and investigation of breaches of company law, to such persons, and shall require the fulfilment of at least the following conditions:

(i) that the information is exchanged for the purpose of detecting and investigating breaches of company law;

(ii) that the information received is subject to professional secrecy requirements at least equivalent to those referred to in article 34(4);

(iii) where the information originates in another Member State, that it is not disclosed without the express agreement of the overseas regulatory authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Cap. 330. (9) Notwithstanding article 17(1) of the Malta Financial Services Authority Act and the provisions of articles 19(6), 34(4) and 34(7), the competent authority may authorise the disclosure of certain information to other government departments of other Member States' central government administrations responsible for legislation on the supervision of institutions, financial institutions and insurance undertakings and to inspectors acting on behalf of those departments:

Provided that such disclosures may be made only where necessary for reasons of prudential supervision and prevention and resolution of failing credit institutions. Without prejudice to sub-article (10), persons having access to the information shall be subject to professional secrecy requirements at least equivalent to those referred to in article 34(4):

Provided further that in an emergency situation, including a situation as described in Article 18 of Regulation (EU) No. 1093/2010 or a situation of adverse developments in markets arises, which potentially jeopardises the market liquidity and the stability of the financial system, the competent authority may disclose information which is relevant to the departments referred to in this sub-article in all Member States concerned.

(9A) The competent authority shall communicate to the EBA the names of the authorities or bodies that may receive information as described in sub-articles (8) and (9).

(9B) In order to implement sub-article (9), the authorities or bodies referred to in sub-article (8), shall communicate to the competent

authority which disclosed the information, the names and responsibilities of the persons to whom it is to be sent.

(10) Notwithstanding article 17(1) of the Malta Financial Services Authority Act, and the provisions of articles 19(6), 34(4) and 34(7), the competent authority may disclose certain information relating to the prudential supervision of credit institutions to parliamentary enquiry committees, courts of auditors and other entities in charge of enquiries in Malta, under the following conditions - Cap. 330.

(*a*) that the entities have a precise mandate under Maltese law to investigate or scrutinise the actions of the competent authority or for laws on the supervision of credit institutions;

(*b*) that the information is strictly necessary for fulfilling the mandate referred to in paragraph (*a*);

(*c*) the persons with access to the information are subject to professional secrecy requirements at least equivalent to those referred to in article 34(4);

(*d*) where the information originates in another Member State, such information shall not be disclosed without the express agreement of the overseas regulatory authorities which have disclosed it and, solely for the purposes for which those overseas regulatory authorities gave their agreement:

Provided that where the disclosure of information relating to prudential supervision involves the processing of personal data, any processing by the entities referred to in this sub-article shall comply with any applicable data protection legislation.

(11) The competent authority shall not disclose in terms of sub-articles (9) and (10), any information received under Article 52, Article 53(2) and Article 56 of the CRD, except with the express consent of the overseas regulatory authority of the Member State in which such an on-the-spot check or inspection was carried out or of the overseas regulatory authority of the Member State which disclosed such information.

(12) Notwithstanding article 17(1) of the Malta Financial Services Authority Act and of articles 19(6) and 34(2), the competent authority may communicate information referred to in sub-articles (2) and (3) and in articles 34(4), 34(5) and 34(7), to a clearing house or other similar body recognised under national law for the provision of clearing or settlement services of the relevant national market, if it considers that it is necessary to communicate such information in order to ensure the proper functioning of these bodies in relation to defaults or potential defaults by market participants: Cap. 330.

Provided that the information received under this article shall be subject to the conditions of professional secrecy at least equivalent to those referred to in article 34(4):

Provided further that information received by the competent authority under Article 53(2) of the CRD may not be disclosed by the competent authority without the express consent of the overseas regulatory authority in another Member State and the authority in

another Member State responsible for the supervision of investment firms which had disclosed it.

(13) There shall be meetings held between a credit institution, its appointed auditors and the competent authority on a trilateral or bilateral basis as circumstances may warrant. These meetings may be called by any of the parties concerned but shall always be chaired by the competent authority.

Co-operation and sharing of information with respect to supervision on a consolidated basis. *Added by: XX. 2007.110. Amended by: XVII. 2009.28; II. 2011.27; XX. 2013.64. Substituted by: X. 2015.37.* S.L. 371.15.

25A. The competent authority shall cooperate closely with overseas regulatory authorities in all matters with respect to supervision on a consolidated basis. Such cooperation shall be regulated through the Supervisory Consolidation Regulations.

Competent authority as consolidating supervisor. *Added by: II. 2011.29. Amended by: XX. 2013.65.*

25B. (*Deleted by Act X. 2015.38*).

Verification of information in specific cases. *Added by: XX. 2007.110. Re-numbered by: II. 2011.28. Amended by: II. 2011.30. XX. 2013.66.*

25C. (*Deleted by Act X. 2015.39*).

Communication by auditors, etc., with the competent authority. *Amended by: XVII. 2002.181; XX. 2007.111; II. 2011.31; X. 2015.40; LXXI.2021.48.*

26. (1) The disclosure in good faith to the competent authority by -

(*a*) an auditor of a credit institution, financial holding company or mixed financial holding company, as the case may be; or

(*b*) a person appointed to make a report under article 20(3)(*a*) or article 22(1),

of any fact or decision referred to in article 31(9) shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision and shall not involve such persons in any liability. Such disclosure shall be made simultaneously to the board of directors or to the management body, as applicable, of the credit institution, financial holding company or mixed financial holding company, as the case may be, unless there are compelling reasons not to do so.

(2) In relation to a person appointed to make a report under article 20(3)(*a*), this article applies to any matter of which he

becomes aware in his capacity as the person making the report and which -

(*a*) relates to the business or affairs of the credit institution in relation to which a report is made or any associated body of that credit institution; or

(*b*) if by virtue of article 20(7) the report relates to an associated body of a credit institution, to the business or affairs of that body.

(3) In relation to a person appointed to make a report under article 22(1), this article applies to any matter of which he becomes aware in his capacity as the person making the report and which -

(*a*) relates to the business or affairs of the credit institution in relation to which his report is made or any associated body of that credit institution, or

(*b*) if, by virtue of article 22(2), the report relates to an associated body of a credit institution, to the business or affairs of that body.

(4) In this article "associated body", in relation to an institution, means any such body as is mentioned in article 20(7) or in article 22(2).

(5) In relation to an auditor of a credit institution, financial holding company and mixed financial holding company, as the case may be, this article shall apply to any matter falling within article 31(9).

Joint Banking Committee.

27. *Repealed by Act XVII. 2002.182.*

Credit institutions unable to meet obligations.
Amended by: XVII. 2002.183; XX. 2007.112; II. 2011.32; X. 2015.41; LXXI.2021.49.

28. Notwithstanding any investigation provided for in this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder -

(*a*) where a credit institution, financial holding company or mixed financial holding company establishes that it is likely to become unable to meet its obligations or that it is about to suspend payment, it shall forthwith inform the competent authority and the Governor of the Central Bank in writing;

(*b*) where the competent authority becomes aware that a credit institution, financial holding company or mixed financial holding company is likely to become unable to meet its obligations or that it is about to suspend payment, it shall forthwith inform the Governor of the Central Bank in writing;

(*c*) where the Central Bank becomes aware that a credit institution, financial holding company or mixed financial holding company is likely to become unable to meet its obligations or that it is about to suspend payment, it shall forthwith inform the competent authority in writing.

Depositor protection. *Added by: XVII. 2002.184. Amended by: IV. 2003.181; XX. 2007.113.*

28A. Without prejudice to the powers arising under article 3, the Minister, acting on the advice of the competent authority, may make regulations to establish schemes or other arrangements with such distinct legal personality or otherwise as may be prescribed, for the protection of depositors in cases where credit institutions are unable to satisfy their obligations towards depositors and to regulate the management and the financing of any such schemes or arrangements for compensation and the contributions and levies to be paid thereto, to set out minimum and maximum levels of compensation, to exclude certain deposits from the application of such schemes or arrangements, and to make provision for any other aspect related to depositor protection schemes including rules on advertising; and such schemes shall be exempt from the payment of income tax as from the date of establishment of such schemes.

Power of competent authority to take control of credit institutions. *Amended by: XVII. 2002.185; XX. 2007.114; XLIV.2018.11; XXVI.2019.14; LXXI.2021.50; XI.2025.34.*

29. (1) If, whether from any report made under article 20 or article 22 or otherwise, it appears to the competent authority that any of the circumstances indicated in article 9(2) apply, the competent authority, after consulting with the Central Bank, may, without prejudice to the provisions of article 9(2) and to any other powers conferred on the competent authority under this Act or any other applicable law –

(*a*) require the credit institution forthwith to take such steps as the competent authority may consider necessary to remedy or rectify the matter;

(*b*) appoint a competent person to advise the credit institution in the proper conduct of its business;

(*c*) appoint a competent person to take charge of the assets of the credit institution or any portion of them for the purpose of safeguarding the interests of depositors;

(*d*) appoint a competent person to assume control of the business of the credit institution and either to carry on that business or to carry out such other function or functions in respect of such business, or part thereof, including to take the necessary action for the credit institution to be dissolved and wound up, as the competent authority may direct;

(*e*) require the credit institution to wind up its business or to wind up its business in Malta;

(*f*) appoint a competent person to act as liquidator for the purpose of winding up the affairs of the credit institution;

(*g*) fix the remuneration to be paid by the credit institution to any person appointed under this sub-article;

(*h*) appoint a person to act as controller and, or to assume control of a credit institution for the purposes of the Controlled Companies (Procedure for Liquidation) Act; Cap. 383.

and having adopted any one or more of the measures aforesaid, the competent authority may further adopt any one or more measures, whether in addition thereto or in

substitution therefor.

(2) Where a competent person is appointed by the competent authority:

(*a*) under sub-article (1)(*b*), the credit institution shall act in accordance with the advice given by such person unless and until the competent authority otherwise directs;

(*b*) under sub-article (1)(*c*), the credit institution shall deliver to such person all the assets of which he is placed in charge, and all the powers, functions and duties of the credit institution in respect of those assets whether exercisable by the company in general meeting or by the board of directors or by any other person, including the legal and judicial representation of the credit institution, shall be exercisable by and vest in him to the exclusion of the credit institution;

(*c*) under sub-article (1)(*d*), the credit institution shall submit its business to the control of such person and shall provide him with such facilities as he may require in order to carry on that business or to carry out the functions assigned to him under that paragraph, and all the powers, functions and duties of the credit institution, whether exercisable by the company in general meeting or by the board of directors or by any other person, including for the purpose of the dissolution and winding up of the credit institution as well as the legal and judicial representation of the credit institution in all matters, shall be exercisable by and vest in him to the exclusion of any other person:

Provided that the competent person shall not take any decision for the purpose of the dissolution and winding up of the credit institution unless the competent authority, after consulting with the Central Bank, issues a directive to that effect in terms of article 4B and any such directive may contain such instructions, requirements and conditions as the competent authority may consider necessary, including with regard to the mode of winding up.

(3) Where a person is appointed under sub-article (1)(*c*) or (*d*) -

(*a*) any function, power or duty exercisable by any other person, including the curator of a bankrupt or any other person appointed by or under any other law, and relating to any assets or business of which the person appointed under either of the paragraphs aforesaid is placed in charge or in control, shall, unless or until the competent authority otherwise directs or an express provision of law specifically provides otherwise, cease to be so exercisable;

(*b*) the person appointed under either of the paragraphs aforesaid shall, in respect of such property,

partnerships, firms or other business as the competent authority may specify and in which the credit institution has an interest, whether directly or indirectly, including any interest arising from advances or loans made or credit facilities given or any liability undertaken, have such powers, functions and duties, including legal and judicial representation, as the competent authority may direct, and any such power, function or duty shall be exercisable by and vest in such person to the exclusion of any other person:

Provided that:

(i) the competent authority shall have power to direct that all or any of the powers, functions or duties aforesaid should be exercisable by any other person, and in any such case, with effect from such date or dates as the competent authority may specify and unless and until the competent authority otherwise directs, the powers, functions and duties to which the direction of the competent authority applies shall be exercisable by and vest in such other person appointed for the purpose to the exclusion of all others;

(ii) where the competent authority is of the opinion that the credit institution has ceased to have any interest as aforesaid, it shall direct that any powers, functions and duties exercisable under this paragraph shall cease to be so exercisable, but any such direction shall not affect anything done or omitted to be done by virtue or by reason of any of the aforesaid powers, functions or duties;

(*c*) the person appointed under either of the paragraphs aforesaid shall have the power to require any other person to provide him with such facilities as he may deem necessary to carry out any of the powers, functions or duties under this article;

(*d*) the provision of law relating to bankruptcy and in particular Part III of the Commercial Code shall cease to apply to, and shall cease to operate in respect of any property, partnership, firm or other business specified by the competent authority under paragraph (*b*), unless and until, or except to the extent that, the competent authority otherwise directs; and in any such case the person appointed as aforesaid shall, subject to any directions of the competent authority given in the interest of the creditors, act as if those provisions did not exist and as if any declaration of bankruptcy had not been made.

Cap. 13.

(*e*) *Deleted by Act XI.2025.34.*

(3*a*) Any person appointed by the competent authority under paragraphs (c), (d), (f) or (h) of sub-article (1) shall submit six-monthly reports of his activities and annual accounts of all transactions carried out by him in the performance of his functions, audited by an independent auditor, to the Minister who shall place such reports and accounts on the Table of the House within fifteen (15) days.

(4) Where a person is appointed under sub-article (1)(*f*), such person shall be the liquidator of the company for all purposes of law to the exclusion of any other person.

(5) The provisions of this article shall have effect notwithstanding any other provision of any enactment, and notwithstanding any deed, contract, instrument or other document whatsoever.

(6) The foregoing provisions of this article vesting exclusive powers of representation in a person appointed by the competent authority thereunder shall apply also to any act or proceedings commenced or instituted before such representation vested as aforesaid, and in respect of any such act or proceedings any other person acting or purporting to act, or in respect of whom action is taken, in that capacity shall cease to be a party to, and shall be excluded from, any such act or proceedings.

(7) No person shall in any way obstruct a person appointed under sub-article (1) in the performance of any of his functions, powers or duties under this article.

(8) *Deleted by Act XXVI.2019.14.*

(9) Upon receipt of a report as is mentioned in sub-article (1), the competent authority shall inform the Central Bank on whether it intends to take any action pursuant to such report and of any action it intends to take thereon.

(10) Without prejudice to the powers of the competent authority in terms of sub-article (1), the competent authority may also make an application to the Civil Court (Commercial Section) for the dissolution and winding up by the Civil Court (Commercial Section) of a credit institution where it appears to the competent authority that a credit institution should be dissolved and wound up by the Civil Court (Commercial Section) for the reason set out in article 214(2)(b)(iii) of the Companies Act, and where the Civil Court (Commercial Section) accedes to the application the relevant provisions of the Companies Act in relation to the dissolution and winding up by the Civil Court (Commercial Section) and any other applicable provisions of any other law shall apply. Cap. 386.

(11) Any measure adopted in terms of sub-article (1) shall remain in force notwithstanding that a credit institution ceases to hold a licence for whatever reason or such licence ceases to have effect, unless the competent authority otherwise directs.

Ranking of creditors in case of insolvency or winding up of a credit institution. *Substituted by: X. 2017.3. Amended by: XLIV.2018.12; LXXI.2021.51.*

29A. *Repealed by Act LXXII of 2021.*

Supervisory measures related to financial holding companies and mixed financial holding companies. *Added by: LXXI.2021.52.*

29AA. (1) Without prejudice to any other power of the competent authority under this Act or any other law, where the competent authority is the consolidating supervisor and has established that the conditions set out in article 11B(4) are not met or have ceased to be met, the competent authority shall take the appropriate supervisory measures to ensure or restore, as the case may be, continuity and integrity of consolidated supervision and ensure compliance with the requirements laid down in this Act and any regulations made and Banking Rules issued thereunder transposing the CRD, in any binding legal instruments issued under the CRD, and in the CRR, on a consolidated basis. In the case of a mixed financial holding company, the supervisory measures applied by the competent authority as the consolidating supervisor shall, in particular, take into account the effects on the financial conglomerate. The supervisory measures referred to in this sub-article shall include:

(a) withdrawing the approval granted to a financial holding company or mixed financial holding company in terms of article 11B;

(b) suspending the exercise of voting rights attached to the shares of the subsidiary institutions held by the financial holding company or mixed financial holding company;

(c) issuing administrative measures or administrative penalties, in terms of this Act and any regulations made or Banking Rules issued thereunder, against the financial holding company, the mixed financial holding company or the directors and managers, subject to the provisions of national law transposing Articles 65 to 72 of the CRD;

(d) issuing instructions or directions to the financial holding company or mixed financial holding company, to transfer to its shareholders the participations in its subsidiary institutions;

(e) issuing a directive to the financial holding company or mixed financial holding company in terms of Article 4B;

(f) designating on a temporary basis another financial holding company, mixed financial holding company or institution within the group as responsible for ensuring compliance with the requirements laid down in this Act and, or any regulations made and, or Banking Rules issued thereunder transposing the CRD, in the

CRD and, or in the CRR on a consolidated basis;

(g) restricting or prohibiting distributions or interest payments to shareholders;

(h) requiring financial holding companies or mixed financial holding companies to divest from, or reduce, holdings in institutions or other financial sector entities;

(i) requiring financial holding companies or mixed financial holding companies to submit a plan on return, without delay, to compliance;

(j) restraining any person within financial holding companies or mixed financial holding companies and, or financial holding companies or mixed financial holding companies from taking, or continuing to take, any action as a result of which the conditions set out in article 11B(4) are not met or have ceased to be met;

(k) requiring any person within financial holding companies or mixed financial holding companies and, or financial holding companies or mixed financial holding companies to take such steps as may be necessary to restore the position existing immediately before any action, as a result of which the conditions set out in article 11B(4) are not met or have ceased to be met, was taken;

(l) restraining any person within financial holding companies or mixed financial holding companies and, or financial holding companies or mixed financial holding companies from exercising any rights which a lawful action, as a result of which the conditions set out in article 11B(4) are not met or have ceased to be met, would have conferred upon them, including the right to receive any payment or to exercise any voting rights attaching to the shares acquired;

(m) any measure under article 29 of this Act:

Provided that in exercising any of its powers under article 29, the provisions of the said article shall apply *mutatis mutandis*, and provided further that any reference to "the credit institution" shall be deemed to be reference to "the financial holding company" and, or "the mixed financial holding company", as applicable.

(2) Where the competent authority intends to withdraw an approval in accordance with sub-article (1)(a), it shall serve written notice of its intention on the financial holding company or mixed financial holding company; such notice shall specify the grounds upon which the competent authority intends to take such action and shall specify a period, being a period not less than forty-eight hours and not more than thirty calendar days, in which the financial holding company or mixed financial holding company shall be entitled to make representations to the competent authority as to why such action

should not be taken. Unless the competent authority decides that the matter is urgent, it shall not withdraw an approval before the expiry of such period.

(3) For the purpose of taking decisions on the supervisory measures referred to in sub-article (1), where the financial holding company or the mixed financial holding company is established in a Member State other than Malta and the competent authority is the consolidating supervisor, the competent authority shall work together with the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established, as the case may be, in full consultation.

(4) Where the competent authority is not the consolidating supervisor but the financial holding company or the mixed financial holding company is established in Malta, the competent authority shall, for the purposes of taking decisions on the supervisory measures referred to in Article 21a(6) of the CRD, work together with the overseas regulatory authority acting as the consolidating supervisor in full consultation.

(5) Where the competent authority is the consolidating supervisor and where the financial holding company or the mixed financial holding company is not established in Malta, the competent authority shall prepare an assessment on the matters referred to in sub-article (1), and shall forward that assessment to the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established.

(6) The competent authority, whether acting as the consolidating supervisor or whether it is in receipt of an assessment referred to in Article 21a(8) of the CRD from the overseas regulatory authority acting as the consolidating supervisor, shall do everything within its powers to reach a joint decision on the measures referred to in sub-article (1) of this article and, or in Article 21a(6) of the CRD, with the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established or with the overseas regulatory authority acting as the consolidating supervisor, as the case may be, within two months of receipt of that assessment:

Provided that the joint decision shall be duly documented and reasoned and where the competent authority is the consolidating supervisor, it shall communicate the joint decision to the financial holding company or the mixed financial holding company.

(7) In the event of a disagreement between the competent authority and the overseas regulatory authority acting as the consolidating supervisor or with the overseas regulatory authority in the Member State where the financial holding company or the mixed

financial holding company is established, as the case may be, the competent authority shall refrain from taking the joint decision referred to in sub-article (6) and shall refer the matter to the EBA in accordance with Article 19 of Regulation (EU) No. 1093/2010. In such cases, the competent authority shall adopt a joint decision with the overseas regulatory authority acting as the consolidating supervisor or with the overseas regulatory authority in the Member State where the financial holding company or the mixed financial holding company is established, as the case may be, in conformity with the decision of the EBA:

Provided that the matter shall not be referred to the EBA after the end of the two-month period referred to in sub-article (6) or after a joint decision has been reached.

(8) In the case of mixed financial holding companies, where the coordinator appointed in terms of Article 10 of Directive 2002/87/EC is neither the competent authority, nor the overseas regulatory authority acting as the consolidating supervisor, nor the overseas regulatory authority in the Member State where the mixed financial holding company is established, the agreement of the said coordinator shall be required for the purposes of the decisions or joint decisions referred to in sub-article (1) of this article and, or in Article 21a(6) of the CRD, as applicable.

Where the agreement of the coordinator is required, the competent authority shall refer any disagreements to the relevant European Supervisory Authority, namely, to the EBA or to the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA), established by Regulation (EU) No. 1094/2010, which shall take its decision within one month of receipt of the referral. Any decision taken in accordance with this sub-article shall be without prejudice to the obligations under Directive 2002/87/EC or Directive 2009/138/EC.

Language of regulations. *Added by: XIII. 2004.84. Amended by: XX. 2007.117; LXXI.2021.53.*

29B. Regulations, Banking Rules and Conduct of Business Rules made under this Act and any amendment thereto or revocation thereof may be made in the English language only.

Publication of audited financial statements. *Amended by: XVII. 2002.187; XX. 2007.85, 118; II. 2010.5; X. 2015.43; XXVI.2019.15; LXXI.2021.54.*

30. Every credit institution, and, where applicable, financial holding company and mixed financial holding company, shall, not later than four months from the closing of its financial year or at any other time as may be authorised in writing by the competent authority -

(*a*) forward to the competent authority and the Central Bank, and

(*b*) make available to the public, in paper or in electronic form,

a copy of its audited financial statements or consolidated financial statements, as may be applicable, drawn up and published in such manner as may be specified in accordance with a Banking Rule.

Specific publication requirements. *Added by: X. 2015.44.*

30A. (1) The competent authority may require credit institutions -

(*a*) to publish information referred to in Part Eight of the CRR more than once per year and to set deadlines for publication;

(*b*) to use specific media and locations for publications other than the financial statements.

(2) The competent authority may require parent undertakings to publish annually, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure of the group of institutions in accordance with Article 14(3), Article 74(1) and Article 109(2) of the CRD .

Auditors. *Amended by: XXV. 1995.434; XVII. 2002.188; XX. 2007.85, 119; X. 2015.45; LXXI.2021.55.*

31.(1)(*a*) Every credit institution shall each year appoint an approved auditor or auditors whose duty shall be to report on the financial statements of the credit institution examined by them and on all financial statements prepared by the credit institution.

(*b*) For the purpose of this article an approved auditor shall be a person who is qualified to be an auditor in accordance with the Companies Act, and holds the authorisation of the competent authority to act as auditor of a credit institution.

Cap. 386.

(2) If a credit institution fails to appoint an auditor under sub-article (1) or, at any time fails to fill any vacancy in the office of an auditor, the competent authority shall have the power to appoint an auditor for that credit institution and shall fix the remuneration to be paid by that credit institution to such auditor.

(3) The auditors' report shall include statements as to the following matters -

(*a*) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purpose of their audit;

(*b*) whether in their opinion, proper books of account have been kept by the credit institution, so far as appears from their examination of those books,

(*c*) whether the credit institution's financial statements dealt with by the report are in agreement with the books of account;

(*d*) whether, in their opinion, and to the best of their knowledge and according to the explanations given to them, the said financial statements give the information required by any law which may from time to time be in force in the manner so required and give a true and fair view.

(4) The report of the auditors shall be read together with the report of the directors of the credit institution at the annual meeting of shareholders.

(5) Every auditor of a credit institution shall have the right to demand such information or explanation as he deems necessary in the performance of his duties from any officer or employee of the credit institution.

(6) A credit institution shall forthwith give written notice to the competent authority -

(*a*) on the appointment of its auditors;

(*b*) if it proposes to give notice to its shareholders to -

(i) replace its auditors at the expiration of their term of office;

(ii) remove its auditors before the expiration of their term of office;

(*c*) if the auditors cease to be auditors of the credit institution for any reason other than those in paragraph (*b*).

(7) The competent authority may require a credit institution to change its appointed auditors where, in the competent authority's opinion, such auditors are considered unfit for this appointment at any time during their term of office.

(8) An auditor shall immediately advise the competent authority if -

(*a*) he resigns;

(*b*) he does not seek to be re-appointed; or

(*c*) he decides to qualify the audit report.

(9) In his capacity as an auditor of a credit institution or due to a direct request by the competent authority under article 20 or under article 22, an auditor shall promptly notify the competent authority of any fact or decision concerning that credit institution of which he has become aware while carrying out his tasks, which is liable to -

(*a*) constitute a material breach of this Act or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder which lay down the licensing conditions or which specifically govern the activities of credit institutions;

(*b*) affect the ongoing functioning of the credit institution;

(*c*) affect the depositors of the credit institution, of the branches in Malta of a credit institution authorised by an overseas regulatory authority or of any connected person which is a credit institution;

(*d*) lead to refusal to certify the accounts or to the expression of reservations:

Provided that an auditor shall also have the duty to report any fact or decision of which he becomes aware in the course of

carrying out his tasks in an undertaking having close links resulting from a control relationship with the credit institution within which he is carrying out that task.

(9A) The competent authority may require the replacement of an auditor if that auditor acts in breach of his obligations under sub-article (9).

(10) Notwithstanding any of the provisions of the foregoing sub-articles, the competent authority may in the case of a credit institution not licensed in Malta grant exemption by way of Banking Rule from any of the requirements of this article provided that the same does not materially detract from the main objects of this article.

Cap. 386.

(11) In so far as the provisions of this article are inconsistent with the provisions of the Companies Act, the provisions of this article shall prevail and the provisions of the said Act shall, to the extent of the inconsistency, not apply to credit institutions.

Disqualification of officers.
Amended by: XVII. 2002.188; XX. 2007.120; X. 2015.46.

32. (1) No person -

(*a*) who has been adjudged bankrupt or has made a composition with his creditors or has been an officer of a credit institution which has had its licence withdrawn under article 9(2); and who has not been exempted in writing by the competent authority from the provisions of this article; or

(*b*) who is interdicted or incapacitated or who has been involved in money laundering or found guilty of a crime affecting public trust, theft, fraud, extortion or of knowingly receiving property obtained by theft or fraud,

shall act or continue to act as an officer of a credit institution.

Duties of officers of credit institutions.
Amended by: XVII. 2002.188; XX. 2007.85; X. 2015.47; LXXI.2021.56.

33. Every officer of a credit institution shall take all reasonable steps -

(*a*) to secure compliance by the credit institution with its licence and with the provisions of this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder, and

(*b*) to ensure that no incorrect information is provided to the competent authority either wilfully or as the result of gross negligence.

Duties of officers of financial holding companies and mixed financial holding companies.
Added by: LXXI.2021.57.

33A. Every officer of a financial holding company or a mixed financial holding company shall take all reasonable steps –

(a) to secure compliance by the financial holding company or the mixed financial holding company, as the case may be, with its approval and with this Act and any regulations made or Banking Rules issued thereunder

(b) to ensure that no incorrect information is provided to the competent authority either wilfully or as the

result of gross negligence.

Confidentiality. *Amended by: XVII. 2002.189; XX. 2007.85, 121; II. 2011.33; X. 2011.39; X. 2015.48; XXXI. 2017.72; XXVI.2018.91; XXVI.2019.16; LXXI.2021.58; LXXII.2021.34; XXIX.2025.18.*

34. (1) Nothing in this Act shall authorise the Central Bank or the competent authority to enquire or cause an enquiry to be made in a credit institution into the affairs of any individual customer of a credit institution except -

(*a*) for the purpose of ensuring compliance with any of the provisions of this or any other Act, or

(*b*) for the purpose of enabling the Central Bank to satisfy its responsibilities under the Central Bank of Malta Act, or

Cap. 204.

(*c*) for the purpose of enabling the Central Bank or the competent authority, as the case may be, to satisfy their respective obligations arising under Malta's international commitments.

(2) No person, including past and present officers or agents of a bank, financial holding company or mixed financial holding company, shall disclose any information relating to the affairs of a bank or of a customer of a bank, or relating to the affairs of a financial holding company or a mixed financial holding company, which he has acquired in the performance of his duties or the exercise of his functions under this Act or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder except -

(*a*) when authorised to do so under any of the provisions of this Act or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder; or

(*b*) for the purpose of the performance of his duties or the exercise of his functions;

(*c*) when lawfully required to do so by any court or tribunal or under a provision of any law;

(*d*) for the purpose of enabling the Central Bank or the competent authority, as the case may be, to satisfy their respective obligations arising under Malta's international commitments; or

(*e*) when the customer expressly consents, in writing, to the disclosure of information relating to his affairs, to the extent authorised by the customer.

(3) Where an officer of a credit institution has reason to believe that a transaction or a proposed transaction could involve money laundering or the funding of terrorism, he shall act in compliance with the reporting and other obligations set out in the regulations made under article 12 of the Prevention of Money Laundering Act, and any procedures and guidance issued thereunder, and such disclosure shall not constitute a breach of confidentiality.

Cap. 373.

(4) Officers of the competent authority and of the Central Bank, including past and present officers, as well as auditors or experts acting on behalf of the competent authority or the Central Bank, shall be governed by the obligation of professional secrecy and shall not disclose information obtained in the course of carrying out supervisory and other duties unless such disclosure of information be done in summary or collective form, such that individual credit institutions cannot be identified, without prejudice to the provisions of the Criminal Code:

Cap. 9.

Provided that the said officers, auditors or experts may divulge such information for the purpose of the performance of their duties, or the exercise of their functions, only in summary and collective form as specified in sub-article (4), or when lawfully required to do so, by any court or under a provision of any law:

Provided further that where a credit institution has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties involved in attempts to rescue that credit institution may be disclosed in civil or commercial proceedings.

(5) The provisions of sub-article (4) shall not prevent the competent authority from exchanging information with overseas regulatory authorities in other Member States and authorities in other Member States responsible for the supervision of credit institutions and investment firms or transmitting information to the ESRB, the EBA or the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010, in accordance with the Act and any regulations made and Banking Rules issued thereunder transposing the CRD, with any binding legal instruments issued under the CRD, with the CRR, with Regulation (EU) 2019/2033, with Article 15 of Regulation (EU) No. 1092/2010, with Articles 31, 35 and 36 of Regulation (EU) No. 1093/2010 and with Articles 31 and 36 of Regulation (EU) No.1095/2010, with Directive (EU) 2019/2034 and with other Directives applicable to credit institutions. Such information shall be subject to the provisions of sub-article (4):

Provided that the provisions of sub-article (4) shall not prevent the competent authority from publishing the outcome of stress tests carried out in accordance with the Banking Act (Supervisory Review) Regulations or Article 32 of Regulation (EU) No. 1093/2010 or from transmitting the outcome of the stress tests to the EBA for the purpose of publication by the EBA of the results of Union-wide stress tests.

S.L. 371.16.

Provided that the provisions of sub-article (4) shall not prevent the competent authority from publishing the outcome of stress tests carried out in accordance with the Banking Act (Supervisory Review) Regulations or Article 32 of Regulation (EU) No. 1093/2010 or from transmitting the outcome of the stress tests to the EBA for the purpose of the publication by the EBA of the results of Union-wide stress tests.

S.L. 371.16

Substituted by: XXXI. 2017.72.

(6) Notwithstanding the provisions of the Professional Secrecy Act and of article 257 of the Criminal Code, a credit institution may, where necessary for the proper carrying out of its activities or for the fulfilment of its obligations, communicate any information which is in its possession and which is related to the affairs of a customer or of a connected person to:

Cap. 377.
Cap. 9.

(*a*) other members of the group of companies of which that credit institution forms part, which carry out any activities licensed or authorised by the competent authority under this Act, the Trusts and Trustees Act, the Investment Services Act, the Financial Institutions Act or the Insurance Business Act, or which otherwise carry out activities equivalent to those activities mentioned in this paragraph, and which are authorised by an overseas authority in a recognised jurisdiction, as well as the credit institution's holding company or financial holding company or mixed financial holding company or mixed activity holding company, where this is necessary for the proper carrying out of its activities or for the fulfilment of its obligations or for the carrying out of risk management**,** audit or compliance processes of the credit institution or of the group of companies of which it forms part; or

Cap. 331.
Cap. 370.
Cap. 376.
Cap. 403.

(*b*) any auditor or expert engaged by the credit institution to carry out a compliance assessment, monitoring, auditing or a similar review in relation to any of the activities or risk management, audit or compliance processes of the credit institution or of the group of companies of which it forms part or in order to assess the credit institution's compliance with any statutory obligations relating to the prevention of money laundering and the funding of terrorism;

(*c*) an outsourcing service provider in whose favour a credit institution has outsourced any of its activities. This shall be without prejudice to article 19A:

Provided that, for the purposes of this sub-article, any such communication of information shall be made subject to all proper controls and safeguards, so that it shall be the responsibility of the credit institution to ensure that the group company member, the auditor or expert, or the outsourcing service provider, as the case may be, is subject to equivalent obligations of data protection, confidentiality and care as required under Maltese law and any European Union law, including the GDPR:

Provided further that for the purpose of this article, advertising, marketing or promotion, shall not, under any circumstances, be considered as necessary for the proper carrying out of the activities of a credit institution or for the fulfilment of its obligations:

Provided further that communication of information made in terms of paragraphs (*a*) to (*c*) shall be without prejudice to any provision of the Prevention of Money Laundering and Funding of Terrorism Regulations.

S.L. 373.01.

(7) Where the competent authority receives confidential information under sub-articles (4) and (5), it shall use such information only in the course of its duties and only for any of the following purposes -

(*a*) to check that the conditions governing access to the activity of credit institutions are met and to facilitate monitoring, on a non-consolidated or consolidated basis, of the conduct of such activity, especially with regard to the monitoring of liquidity, solvency, large exposures and administrative and accounting procedures and internal control mechanisms;

(*b*) to impose penalties;

(*c*) in an appeal against a decision of the competent authority pursuant to article 10 and in any court proceedings before the Court of Appeal in terms of article 21(14) of the Malta Financial Services Authority Act;

Cap. 330.

(*d*) in court proceedings initiated pursuant to special provisions provided for in European Union law adopted in the field of credit institutions.

(8) The competent authority, when processing personal data for the purposes of this Act and any regulations and, or Banking Rules and, or Conduct of Business Rules issued thereunder, shall do so in accordance with any applicable legislation on data protection.

(9) The provisions of article 25(2) and sub-articles (4), (5) and (7) of this article shall be without prejudice to the powers of investigation conferred on the European Parliament pursuant to Article 226 of the Treaty on the Functioning of the European Union.

Data protection. *Added by: XXVI.2019.17.*

34A. (1) Credit institutions may, when necessary to safeguard the prevention, investigation and detection of payment fraud, process personal data.

(2) The provision of information to individuals about the processing of personal data, the processing of such personal data and any other processing of personal data for the purposes of this Act and any regulations and, or Rules issued thereunder shall be carried out in accordance with any applicable data protection legislation.

(3) Unless otherwise permitted under other provisions of this Act and under applicable legislation, credit institutions shall only access, process and retain personal data necessary for the provision of their services with the explicit consent of those making use of their services.

Offences.
Amended by: XVII. 2002.190; XX. 2007.85, 122; L.N. 425 of 2007; II. 2011.34; X. 2011.40. Substituted by: X. 2015.49. Amended by: XXI. 2015.23; LXXI.2021.59.

35. (1) Any person who -

(*a*) fails to comply with any directive issued by the competent authority under this Act;

(*b*) without reasonable excuse alters, suppresses, conceals, destroys or refuses to produce any document which he is lawfully required to produce by any person under this Act or any regulations made or Banking Rules or Conduct of Business Rules issued thereunder;

(*c*) makes a statement, promise or forecast which he knows to be misleading, false or deceptive, or dishonestly conceals any material facts;

(*d*) recklessly makes (dishonestly or otherwise) a statement, promise or forecast which is misleading, false or deceptive; or

(*e*) contravenes or fails to comply with any of the provisions of articles 2A, 5(1) and (2), 6(1), 6A, 12, 13, 17B, 21(2), 22(7), 23(4), 24, 28(*a*), 29(7), 32, 33(*b*), and 34(2) and (4),

shall be guilty of an offence:

Provided that, with respect to paragraphs (*c*) and (*d*), a person shall be guilty of an offence if he makes the statement, promise or forecast or conceals the facts for the purpose of inducing, or is reckless as to whether it may induce, another person (whether or not to the person to whom the statement, promise or forecast is made or from whom the facts are concealed) -

(i) to make, or refrain from making, a deposit with him or any other person; or

(ii) to enter, or refrain from entering, into an agreement for the purpose of making such a deposit:

Provided further that, with respect to paragraphs (*c*) and (*d*), a person shall not be guilty of an offence unless -

(i) the statement, promise or forecast is made in or from Malta, or the facts are concealed in or from Malta, or arrangements are made in or from Malta for the statement, promise or forecast to be made or the facts to be concealed;

(ii) the person on whom the inducement is intended to or may have effect on is in Malta; or

(iii) the deposit is or would be made, or the agreement is or would be entered into, in Malta.

(2) Any person who is knowingly a party to, or procures or aids and abets the commission of any offence under sub-article (1), shall be guilty of an offence and shall be liable to the same penalties as the principal offender.

(3) Any person found guilty of an offence shall, on conviction, be liable to a fine (*multa*) not exceeding two million euro (€2,000,000) or to a term of imprisonment not exceeding three

years or to both such fine and imprisonment.

(4) No proceedings for an offence under this Act shall be commenced without the sanction of the Attorney General.

Administrative penalties and other administrative measures imposed by the competent authority.
Added by: XVII. 2002.191.
Amended by: XX. 2007.123.
Substituted by: X. 2015.50.
Amended by: LXXI.2021.60.

35A. (1) Without prejudice to the provisions of articles 29AA(1)(c), 35 and 35B and to any regulations made under articles 3(1)(a), 3(1)(c) and 3(1)(e), where any person fails to comply with any of the conditions imposed in a licence, and, or where the competent authority is satisfied that a person's conduct amounts to a breach of any of the provisions of this Act, or any regulations made or Banking Rules issued thereunder, or the CRR, or such person has failed to comply with a directive issued by the competent authority under this Act, or any regulation made or Banking Rules or Conduct of Business Rules issued thereunder, or the CRR, or any binding legal instruments issued under the CRD, the competent authority may, by notice in writing and without recourse to a court hearing, impose on such person an administrative penalty of -

(*a*) up to twice the amount of the benefit derived from the breach where that benefit can be determined;

(*b*) in the case of a natural person, up to five million euro (€5,000,000); or

(*c*) in the case of a legal person, up to 10% of the total annual net turnover of the undertaking in the preceding business year including the gross income consisting of interest receivable and similar income, income from shares and other variable or fixed-yield securities, and commissions or fees receivable in accordance with Article 316 of the CRR:

Provided that, in the case of a subsidiary of a parent undertaking, the relevant gross income shall be the gross income resulting from the consolidated account of the ultimate parent undertaking in the preceding business year.

(2) The Minister may, acting on the advice of the competent authority, make regulations as shall be deemed appropriate to provide for the establishment and imposition of administrative penalties and other administrative measures on licence holders or others as may be specified therein.

(3) Where the competent authority decides to impose an administrative penalty in terms of this Act or any regulations made thereunder, it shall notify the person on whom the penalty is being imposed by means of a notice in writing.

(4) Where the person upon whom the notice referred to in sub-article (3) is served -

(*a*) fails to pay to the competent authority the amount of the penalty within a period of thirty days of the service of the notice, and fails to appeal from the decision of the competent authority to the Financial Services Tribunal; or

(*b*) appeals to the Financial Service Tribunal and fails

within a period of fifteen days from the decision of the Tribunal to pay the administrative penalty as confirmed or as reduced by that Tribunal,

then, in every case, the amount of the administrative penalty, as originally imposed or as reduced, as the case may be, shall be due to the competent authority as a civil debt, and the provisions of sub-article (5) shall apply.

(5) A notice as is referred to in sub-article (3), or the decision of the Financial Services Tribunal, as the case may be, shall upon the service by judicial act of a copy thereof on the person indicated in the notice, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure. Cap. 12.

(6) The imposition by the competent authority of an administrative penalty in terms of this Act, or any regulations made thereunder, shall be without prejudice to any other consequences of the act or omission of the offender under civil or criminal law:

Provided that in all cases where the competent authority imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

Publication of administrative penalties. *Added by: X. 2015.51. Amended by: LXXI.2021.61; XIX.2026.25.*

35B. (1) The competent authority shall publish, on its official website and in any other media as it considers appropriate, any administrative penalty or penalties imposed under the provisions of this Act or of any regulations made or Banking Rules or Conduct of Business Rules issued thereunder, of the CRR, or of any binding legal instruments issued under the CRD. Such publications shall include information on the type and nature of the breach and the identity of the person on whom the penalty is imposed, without undue delay after that person is informed of those penalties:

Provided that in cases where an appeal has been filed by the person on whom such administrative penalty or penalties have been imposed, the competent authority shall, without undue delay, also publish on its official website and in any other media as it considers appropriate, information on the status of the appeal and the outcome thereof.

(2) The competent authority shall publish the penalties imposed under the provisions of this Act or of any regulations made or Banking Rules or Conduct of Business Rules issued thereunder, of the CRR, or of any binding legal instruments issued under the CRD, on an anonymous basis, in any of the following circumstances:

(*a*) where the penalty is imposed on a natural person and, following an obligatory prior assessment, publication of personal data is found to be disproportionate;

(*b*) where publication would jeopardise the stability of financial markets or an on-going criminal investigation;

(*c*) where publication would cause, insofar as it can be determined, disproportionate damage to the credit institutions or natural persons involved:

Provided that, with respect to paragraphs (*a*), (*b*) and (*c*), publication on an anonymous basis in any such circumstances shall be an exceptional measure which needs to be justified by a detailed report compiled by the competent authority:

Provided further that, where the circumstances referred to in this sub-article are likely to cease within a reasonable period of time, publication under this article may be postponed for such a period of time.

(3) Information published in terms of this article shall remain on the official website of the competent authority for a period of not less than five years. Personal data shall be retained on the official website of the competent authority and in any other media it considers appropriate only for the period necessary, in accordance with the provisions of Maltese legislation on data protection.

(4) The information published in accordance with this article shall also be made accessible on ESAP by the collection body:

Provided that for the purposes of this sub-article, the collection body shall be the competent authority:

Provided further that the information shall be submitted in a data extractable format and shall be accompanied by the following metadata:

(*a*) all the names of the natural persons or institutions to which the information relates;

(*b*) where available, the legal entity identifier of the institution, as specified in accordance with point (b) of Article 7(4) of the ESAP Regulation;

(*c*) the type of information, as classified in terms of point (c) of Article 7(4) of ESAP Regulation;

(*d*) an indication of whether the information contains personal data:

Provided further that such obligation shall apply with effect from 10 January 2030.

Obligation to give reasons. *Added by: LXXI.2021.62.*

35C. In exercising its supervisory powers in accordance with this Act and any regulations made and, or Banking Rules and, or Conduct of Business Rules issued thereunder, with the CRR and with any binding legal instruments issued under the CRD, the competent authority shall, in its decisions, state the grounds on which such decisions have been based.

Application of Act to the Central Bank.

36. The provisions of this Act shall not apply to the Central Bank, save where and to the extent that the Central Bank is referred to by name.

Complaints.

Cap. 378.

Cap. 555.

37. Any complaints made by any person making use of a payment service provided by a credit institution or by other interested third parties, including consumer associations within the meaning of the Consumer Affairs Act, in relation to any alleged infringements of the provisions of this Act transposing the Payment Services Directive by a credit institution licensed in terms of this Act, or an agent or a branch established in Malta under the right of establishment of a credit institution in another Member State, shall be submitted to the Arbiter in terms of the Arbiter for Financial Services Act.

Transitory provisions. *Amended by: LXXI.2021.63.*

38. (1) Credit institutions that, before 12 January 2016, have performed in Malta activities of payment initiation service providers and account information service providers shall not until eighteen months after the date of entry into force of the regulatory technical standards referred to in Article 98 of the Payment Services Directive, be prohibited from continuing to perform such activities in Malta in accordance with the currently applicable regulatory framework.

(2) Until credit institutions acting as account servicing payment service providers comply with the regulatory technical standards referred to in Article 98 of the Payment Services Directive, such credit institutions shall not block or obstruct the use of payment initiation services or account information services for the accounts that they are servicing.

(3) By way of derogation from article 11C(1), where a third-country group operates through a credit institution licensed in terms of this Act, and through one or more other institutions in the European Union and with a total value of assets in the European Union equal to or greater than forty billion euro (€40,000,000,000) on 27 June 2019, the credit institution licensed in terms of this Act shall ensure that the intermediate EU parent undertaking referred to in article 11C(1) or the two (2) intermediate EU parent undertakings referred to in article 11C(2), as the case may be, shall be established by 30 December 2023.

Added by: XVII. 2002.192. Amended by: II. 2010.6; II. 2011.35; X. 2015.52; LXXI.2021.64; XXXVI.2024.61.

FIRST SCHEDULE

(Article 2(2))

List of Additional Activities

1. Financial leasing;

2. Payment Services as defined in the Financial Institutions Act;

3. Issuing and administering other means of payment (travellers' cheques, bankers' drafts and similar instruments) insofar as this activity is not covered by activity 2 above;

4. Guarantees and commitments;

5. Trading for own account or for account of customers in:

(*a*) money market instruments (cheques, bills, certificates of deposit, and similar instruments);

(*b*) foreign exchange;

(*c*) financial futures and options;

(*d*) exchange and interest-rate instruments;

(*e*) transferable securities.

6. Participation in securities issues and the provision of services related to such issues;

7. Advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings;

8. Money broking;

9. Portfolio management and advice;

10. Safekeeping and administration of securities;

11. Credit reference services;

12. Safe custody services;

13. Issuing electronic money including electronic money tokens as defined in point (7) of Article 3(1) of the MiCA Regulation;

14. Issuing of asset-referenced tokens as defined in point (6) of Article 3(1) of the MiCA Regulation;

15. Crypto-asset services as defined in point (16) of Article 3 of the MiCA Regulation.

Added by: LXXI.2021.65.

SECOND SCHEDULE
(Article 6(1))

List of entities that are not subject to the requirement to apply to the competent authority for a licence under this Act:

1. The Central Bank and central banks of other Member States;

2. Post office giro institutions;

3. In Denmark, the "Eksport Kredit Fonden", the "Eksport Kredit Fonden A/S", the "Danmarks Skibskredit A/S" and the "KommuneKredit

4. In Germany, the "Kreditanstalt für Wiederaufbau", "Landwirtschaftliche Rentenbank", "Bremer Aufbau-Bank GmbH", "Hamburgische Investitions- und Förderbank", "Investitionsbank Berlin", "Investitionsbank des Landes Brandenburg", "Investitionsbank Schleswig-Holstein", "Investitions- und Förderbank Niedersachsen – NBank", "Investitions- und Strukturbank Rheinland-

Pfalz", "Landeskreditbank Baden-Württemberg – Förderbank", "LfA Förderbank Bayern", "NRW.BANK", "Saarländische Investitionskreditbank AG", "Sächsische Aufbaubank – Förderbank", "Thüringer Aufbaubank", undertakings which are recognised under the "Wohnungsgemeinnützigkeitsgesetz" as bodies of State housing policy and are not mainly engaged in banking transactions, and undertakings recognised under that law as non-profit housing undertakings;

5. In Estonia, the "hoiu-laenuühistud", as cooperative undertakings that are recognised under the "hoiu-laenuühistu seadus

6. In Ireland, the Strategic Banking Corporation of Ireland, credit unions and friendly societies;

7. In Greece, the "Ταμείο Παρακαταθηκών και Δανείων" (Tamio Parakatathikon kai Danion);

8. In Spain, the "Instituto de Crédito Oficial

9. In France, the "Caisse des dépôts et consignations

10. In Croatia, the "kreditne unije" and the "Hrvatska banka za obnovu i razvitak

11. In Italy, the "Cassa depositi e prestiti

12. In Latvia, the "krājaizdevu sabiedrības", undertakings that are recognised under the "krājaizdevu sabiedrību likums" as cooperative undertakings rendering financial services solely to their members;

13. In Lithuania, the "kredito unijos" other than the "centrinės kredito unijos

14. In Hungary, the "MFB Magyar Fejlesztési Bank Zártkörűen Működő Részvénytársaság" and the "Magyar Export-Import Bank Zártkörűen Működő Részvénytársaság

15. In Malta, "The Malta Development Bank" established in terms of the Malta Development Bank Act; Cap. 574.

16. In the Netherlands, the "Nederlandse Investeringsbank voor Ontwikkelingslanden NV", the "NV Noordelijke Ontwikkelingsmaatschappij", the "NV Limburgs Instituut voor Ontwikkeling en Financiering", the "Ontwikkelingsmaatschappij Oost-Nederland NV" and kredietunies;

17. In Austria, undertakings recognised as housing associations in the public interest and the "Österreichische Kontrollbank AG

18. In Poland, the "Spółdzielcze Kasy Oszczędnościowo — Kredytowe" and the "Bank Gospodarstwa Krajowego

19. In Portugal, the "Caixas Económicas" existing on 1 January 1986 with the exception of those incorporated as limited companies and of the "Caixa Económica Montepio Geral

20. In Slovenia, the "SID-Slovenska izvozna in razvojna banka, d.d. Ljubljana

21. In Finland, the "Teollisen yhteistyön rahasto Oy/Fonden för industriellt samarbete AB", and the "Finnvera Oyj/Finnvera Abp

22. In Sweden, the "Svenska Skeppshypotekskassan.