CHAPTER 653

NATIONAL INTEREST (ENABLING POWERS) ACT

AN ACT to enable the implementation of certain treaties and measures and the restriction of trade and travel where the national or international interest of Malta so requires and to enable effect to be given to certain provisions of the Charter of the United Nations.

14th November, 2025

ACT XXXV of 2025.

Short title and scope.

1. (1) The short title of this Act is the National Interest (Enabling Powers) Act.

(2) The scope of this Act is to regulate the implementation of restrictive measures, including but not limited to domestic restrictive measures, United Nations Security Council Resolutions and European Union restrictive measures, and to implement the requisites and, or transpose:

(a) Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673;

(b) Regulation (EU) 2024/886 of the European Parliament and of the Council of 13 March 2024 amending Regulations (EU) No. 260/2012 and (EU) 2021/1230 and Directives 98/26/EC and (EU) 2015/2366 as regards instant credit transfers in euro; and

(c) Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (recast).

Interpretation.

2. In this Act, unless the context otherwise requires:

"Board" means the Sanctions Monitoring Board established in article 15;

"Charter" means the Charter of the United Nations signed in San Francisco on the 26th June 1945;

"Council of the European Union" means the Council established by the Treaty;

"designated person, entity or body" means a natural or legal person, entity or body subject to European Union or domestic restrictive measures or restrictive measures resulting

from a United Nations Security Council Resolution;

"domestic restrictive measures" means restrictive measures adopted by order in article 4;

"economic resources" means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services;

"European Union" means the European Union as referred to in the Treaty;

"European Union restrictive measures" means restrictive measures adopted by the European Union on the basis of Article 29 of the Treaty of the European Union or Article 215 of the Treaty of Functioning of the European Union;

"freezing of funds" means preventing the move, transfer, alteration, disposing or use of or access to funds, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, designation or in a change that would enable the funds to be used, including portfolio management;

"freezing of economic resources" means preventing the use of economic resources to obtain funds, goods or services in any way, including but not limited to, by selling, hiring, disposing or mortgaging them;

"funds" means financial assets and benefits of every kind, including but not limited to:

(a) cash, cheques, claims on money, drafts, money orders and other payment instruments;

(b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

(c) publicly-traded and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

(d) interest, dividends or other income on or value accruing from or generated by assets;

(e) credit, right of set-off, guarantees, performance bonds or other financial commitments;

(f) letter of credit, bills of lading, bills of sale;

(g) documents showing evidence of an interest in funds or financial resources;

(h) crypto assets as defined in Article 3(1), point (5) of 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;

"instant credit transfer" means a credit transfer in euro which is executed immediately, twenty-four (24) hours a day and on any calendar day;

"international treaty" includes any bilateral or regional treaty;

"legal person" means any entity, including but not limited to, a body or association of persons, whether corporate or incorporate registered in Malta;

"Minister" means the Minister responsible for foreign affairs;

"parent company" shall have the same meaning as assigned to it in the Companies Act; Cap. 386.

"payment account" shall have the same meaning as assigned to it in the Financial Institutions Act; Cap. 376.

"payment service provider" shall have the same meaning as assigned to it in the Financial Institutions Act; Cap. 376.

"payment service user" shall have the same meaning as assigned to it in the Financial Institution Act; Cap. 376.

"person, entity or body" means a natural or legal person, entity or body registered in Malta;

"proliferation financing" means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transhipment, brokering, transport, transfer, stockpiling, or the use of nuclear, chemical or biological weapons and their means of delivery and related materials including both technologies and dual use goods used for non-legitimate purposes in contravention of national laws, or where applicable, international obligations;

"Regulation (EU) 2016/679" means the 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 (General Data Protection Regulation);

"Security Council" means the Security Council established under Chapter V of the Charter;

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"Treaty" shall have the same meaning as assigned to it in article 2 of the European Union Act;

"Tribunal" means the Sanctions Implementation Appeals Tribunal established by article 20 which shall have the functions and powers assigned to it by this Act;

"United Nations" means the international organisation set up by the Charter;

"United Nations Security Council Resolution" means any Council Resolution which from time to time may be published by the United Nations Security Council imposing restrictive measures of whatever nature, referred to in the yearly compendiums of United Nations Security Council resolutions and decisions and includes any amendment thereto, including any amendment or addition to any related list of designated persons or entities and any repealing Resolution.

Applicability of the Act.

3. (1) This Act shall apply to legal persons, entities and bodies registered in Malta, natural persons resident in Malta, to citizens of Malta wherever they may be, or to vessels, aircraft or other means of transport registered in or belonging to Malta or travelling to or from such countries as the Minister may by means of regulations determine.

(2) Legal persons, entities or bodies as referred to in sub-article (1) having branches or majority-owned subsidiaries established in third countries where restrictive measures are not aligned with this Act shall ensure that those branches or majority-owned subsidiaries implement the provisions of this Act in so for as that third country legislation permits the implementation of such provisions:

Provided where legal persons, entities or bodies have branches or majority-owned subsidiaries established in third countries, and the legislation of such third countries does not permit the implementation of the restrictive measures established under this Act, legal persons, entities or bodies shall ensure that those branches and majority-owned subsidiaries apply additional measures to effectively handle the risk of violations of restrictive measures and the circumvention of any restrictive measures.

Domestic restrictive measures and power of the Minister to make regulations.

4. (1) Whenever the Security Council, acting in accordance with Article 41 of Chapter VII of the Charter, calls upon Member States of the United Nations to apply any measures to give effect to any decision of the said Security Council, provided that they are measures not involving the use of armed force under Article 42 of the Charter, or whenever an entity or competent authority appointed or set up by, or under the Charter advises, recommends, directs or orders Member States of the United Nations to take such action as may be advised, recommended, directed or ordered by such entity or competent authority, the Minister may, subject to the provisions of sub-article (4), make regulations as he may deem necessary or expedient for the implementation of such measures or action.

(2) Whenever the House ratifies or authorises the ratification of an international treaty or whenever such ratification or authorisation is made or given by an Act of Parliament, the Minister may, subject to the provisions of sub-article (4), make regulations as he may deem necessary or expedient to give effect to any of the provisions of such treaty or to give effect to any advice, recommendation, direction or order of any entity or competent authority appointed or set up by or under any such international treaty and any such regulations shall contain the text of the Resolution of the House ratifying or authorising the ratification of that treaty or shall contain a reference to the Act of Parliament by which the ratification is made or authorisation given, as the case may be.

(3) Whenever the Minister considers that the national or international interests of Malta so require, he may by regulations under this Act, impose a trade embargo with other countries, either in general or with any country or countries or part thereof, or the prohibition of travel to and from any country or countries or part thereof, as may be stated in the regulations.

(4) (a) Whenever the Minister considers that the national or international interests of Malta so require, he shall, on the recommendation of the Board, issue regulations under this Act to impose domestic restrictive measures against any person, entity or body and, orders:

(i) that any person, entity or body immediately freeze, without prior notice, all funds and, or economic resources of a designated person, entity or body;

(ii) that any person, entity or body immediately freeze, without prior notice, all funds and economic resources that are owned or controlled, whether wholly or jointly, directly or indirectly, by a designated person, entity or body, or funds and economic resources that are derived or generated from other funds or economic resources that are owned or controlled, directly or indirectly, by a designated person, entity or body, and funds and economic resources of any person, entity or body

acting on behalf of or at the direction of a designated person, entity or body;

(iii) that no Maltese citizen or any person, entity or body located in Malta shall make available any funds, economic resources or other related services, directly or indirectly, wholly or jointly, to or for the benefit of a designated person, entity or body or a legal person owned or controlled, directly or indirectly, by a designated person, entity or body, or a natural person or legal person acting on behalf of, or at the direction of, a designated person, entity or body unless licensed or authorised for such purpose;

(iv) the investigation of any matter relating to the designation of any person, entity or body, the confiscation of funds and economic resources of any designated person, entity or body and the applicability, *mutatis mutandis*, or otherwise of any provisions of any other law, including but not limited to the Criminal Code, the Dangerous Drugs Ordinance, the Medical and Kindred Professions Ordinance and the Prevention of Money Laundering Act in respect of the frozen funds and economic resources of a designated person, entity or body, or of a person, entity or body which are subject to an investigation which may lead to the designation of such person, entity or body; or

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(v) the amendment or revocation of any measure made under sub-paragraphs (i), (ii), (iii) and (iv) as may be determined in the regulations:

Provided that the Minister shall publish the regulations within a reasonable time from when the Board has made its recommendation for the publication of the regulations in the Gazette:

Provided further that an appeal from a measure issued under this sub-article can be filed by means of an application in the First Hall Civil Court.

(b) Nothing shall preclude the application of the restrictive measures referred to in this Act with respect to organizations or factions in any country or countries or part thereof, as may be determined in the regulations.

(5) Regulations made under this Act may also provide for such measures as may be necessary for the said regulations to be effectively applied including the cancellation or the suspension of any obligation arising under any agreement, and without prejudice to the foregoing, such regulations may provide for the apprehension, trial and punishment of natural persons breaching such regulations.

(6) Without prejudice to the provisions of the foregoing sub-

articles, the Minister may make regulations to give effect to any provisions of this Act and such regulations may also provide for any matter which is incidental, ancillary or consequential thereto.

Direct applicability of European Union Council Regulations and Decisions. Cap. 406.

5. (1) For the purposes of this Act and of article 3 of the European Union Act, European Union restrictive measures of whatever nature, or which advise, recommend, direct or order Member States of the European Union to take such action as may be advised, recommended, directed or ordered, whether published before or after the coming into force of this article, shall be binding in their entirety in Malta and shall be part of the domestic law thereof under conditions established in the Treaty.

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(2) The provisions of article 3(4)(e) of the Interpretation Act shall apply to European Union restrictive measures referred to in this Act and to any amendment thereto and any repealing act.

Direct applicability of United Nations Security Council Resolutions.

6. (1) For the purposes of this Act, United Nations Security Council Resolutions imposing or applying restrictive measures of whatever nature, or which advise, recommend, direct or order Member States of the United Nations to take such action as may be advised, recommended, directed or ordered, whether published before or after the coming into force of this article, shall be automatically binding in their entirety in Malta and shall be part of the domestic law thereof.

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(2) The provisions of article 3(4)(e) of the Interpretation Act shall, *mutatis mutandis,* also apply to United Nations Security Council Resolutions referred to in this Act and to any amendment thereto and any repealing Resolution, and the reference in the said article, to publication in the Official Journal shall, in the case of United Nations Security Council Resolutions, be construed as a reference to publication in the yearly compendiums referred to in article 2.

Performance of obligations.

7. (1) It shall be prohibited to conclude transactions and assume new obligations the performance whereof contradicts the European Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or domestic restrictive measures implemented under this Act.

(2) It shall be prohibited to perform, until the European Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or domestic restrictive measures are in force, the transactions and obligations the performance whereof contradicts the Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or domestic restrictive measures.

(3) Transactions entered into and obligations arising prior to the establishment of the implementation of European Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or domestic restrictive measures shall be

terminated without delay unilaterally or by agreement between the parties or their performance must be suspended during the period of the implementation of the restrictive measures.

(4) Persons, entities or bodies shall not be subject to civil liability for non-performance of transactions and obligations due to the implementation of European Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or domestic restrictive measures, or shall be exempted from civil liability in accordance with the procedure established in the Civil Code.

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(5) The losses incurred by persons, entities or bodies as a result of lawful actions of the Board in implementing this Act shall not be compensated.

Realisation of economic resources.

8. (1) Economic resources, including those in transshipment, frozen in the implementation of European Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or domestic restrictive measures may be realised in accordance with the procedure established by the Board, where:

(a) the economic resources are perishable or at risk of deterioration, decay, damage or depreciation in value;

(b) the expense of keeping the economic resources is excessive or disproportionate to its fair market value when one also takes into consideration the time likely to determine whether the economic resources shall be subject to forfeiture or to a confiscation order;

(c) the economic resources are subject to a loan, mortgage or any other right over the economic resources or to taxes due; or

(d) there is any other valid and justifiable reason for the sale.

(2) Where a temporary administrator has been appointed in accordance with the procedure laid down in article 34, he shall take a decision on the realisation of economic resources.

(3) The proceeds of any sale pursuant to this article shall be held in an account maintained by the Board in the name of the designated person, entity or body at the Central Bank of Malta and shall remain in that account until the designation of the person, entity or body is no longer in effect.

Offences.

9. (1) Where it is intentional, the following breach of a prohibition of European Union restrictive measures or restrictive measures adopted by United Nations Security Council Resolution or domestic restrictive measures shall constitute a criminal offence under

this Act:

(a) making funds or economic resources available directly or indirectly to, or for the benefit of, a designated person, entity or body;

(b) failing to freeze funds or economic resources belonging to or owned, held or controlled by a designated person, entity or body;

(c) enabling designated natural persons to enter into, or transit through the territory of Malta;

(d) entering into or continuing transactions with a third State, bodies of a third State or entities or bodies directly or indirectly owned or controlled by a third State or by bodies of a third State, including the award or continued execution of public or concession contracts;

(e) trading, importing, exporting, selling, purchasing, transferring, transiting or transporting goods, as well as providing brokering services, technical assistance or other services relating to those goods:

Provided this shall constitute an offence, even if committed with gross negligence;

(f) providing financial services or performing financial activities;

(g) providing services other than those referred to in paragraph (f);

(h) circumventing European Union Restrictive Measures or restrictive measures adopted by United Nations Security Council Resolutions or domestic restrictive measures by:

(i) using, transferring to a third party, or otherwise disposing of, funds or economic resources directly or indirectly owned, held, or controlled by a designated person, entity or body, which are to be frozen pursuant to European Union restrictive measures or restrictive measures adopted by United Nations Security Council Resolutions or domestic restrictive measures, in order to conceal those funds or economic resources;

(ii) providing false or misleading information to conceal the fact that a designated person, entity or body is the ultimate beneficial owner or beneficiary of funds or economic resources or has control over the said funds or economic resources which are to be frozen

pursuant to European Union restrictive measures or restrictive measures adopted by United Nations Security Council Resolutions or domestic restrictive measures;

(iii) failure by a designated natural person, or by a representative of a designated entity or body, to comply with an obligation that constitutes European Union restrictive measures or restrictive measures adopted by United Nations Security Council Resolutions or domestic restrictive measures to report to the Board funds or economic resources within the jurisdiction of Malta, belonging to, owned, held, or controlled by them;

(iv) failing to comply with an obligation that constitutes a European Union restrictive measure or a restrictive measure adopted by United Nations Security Council resolution or domestic restrictive measures to provide the Board with information on funds or economic resources or information held about funds or economic resources within the territory of Malta, belonging to, owned, held or controlled by designated persons, entities or bodies and which have not been frozen, where such information was obtained in the performance of a professional duty;

(i) breaching or failing to fulfil conditions under authorisations granted by the Board to conduct activities, which in the absence of such an authorisation amount to a violation of a prohibition or restriction that constitutes European Union restrictive measures or restrictive measures adopted by United Nations Security Council Resolution or domestic restrictive measures.

(2) The following conduct does not constitute a criminal offence and is deemed to be an administrative failure subject to the procedure established in accordance with article 14:

(a) conduct listed in sub-article (1)(a), (b) and (h) where that conduct involves funds or economic resources of a value of less than ten thousand euro (€10,000);

(b) conduct listed in sub-article (1)(d), (e), (f), (g) and (i) where that conduct involves goods, services, transactions or activities of a value of less than ten thousand euro (€10,000):

Provided that in determining whether the ten thousand euro (€10,000) threshold is met or otherwise with regards to the conduct referred to in paragraphs (a), (b), and (d) to (i) regard shall be had to any series of conduct that is linked and of the same kind committed by the same offender.

(3) Nothing in sub-article (1) shall be understood as imposing an obligation on legal professionals to report information that they receive from, or obtain on, one of their clients in the course of ascertaining the legal position of such client or performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

(4) Nothing in sub-articles (1) and (2) shall be understood as criminalising humanitarian assistance for persons in need or activities in support of basic human needs provided in accordance with the principles of impartiality, humanity, neutrality and independence and, where applicable, with international humanitarian law.

Inciting, aiding and abetting.

10. (1) Whosoever incites, aids or abets any offence under article 8 shall be guilty of an offence and shall on conviction be liable to the punishments established in article 11 for the offence incited, aided or abetted.

(2) Whosoever with intent to commit a crime referred to in article 8(1) shall have manifested such intent by overt acts which are followed by a commencement of the commission of the crime shall be liable on conviction:

(a) if the crime was not completed as a result of an accidental cause independent of the will of the offender, to the punishment established for the completed crime with a decrease of one or two degrees;

(b) if the crime was not completed as a result of the voluntary determination of the offender not to complete the crime, to the punishment established for the acts committed.

Punishments.

11. (1) Any natural person who acts in violation of article 9(1) shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than twenty-five thousand euro (€25,000) and not exceeding five million euro (€5,000,000), or to a term of imprisonment not exceeding twelve (12) years, or to both such fine and imprisonment:

Provided that:

(a) for a breach of article 9(1)(h)(iii) and (iv) where those criminal offences involve funds or economic resources of a value of at least one hundred thousand euro (€100,000) on the date when the offence was committed, the term of imprisonment shall be that from twelve (12) months to twelve (12) years;

(b) for a breach of article 9(1)(a), (b), (h)(i) and (ii) where those criminal offences involve funds or economic

resources of a value of at least one hundred thousand euro (€100,000) on the date when the offence was committed, the term of imprisonment shall be that from five (5) years to twelve (12) years;

(c) for a breach of article 9(1)(c), the term of imprisonment shall be that from three (3) years to twelve (12) years;

(d) for a breach of article 9(1)(d), (e), (f), (g), and (i) where those criminal offences involve goods, services, transactions or activities of a value of at least one hundred thousand euro (€100,000) on the date the offence was committed, the term of imprisonment shall be that from five (5) years to twelve (12) years;

(e) for a breach of article 8(1)(e), irrespective of the value of the items involved, the term of imprisonment shall be from five (5) years to twelve (12) years:

Provided further that the threshold of one hundred thousand euro (€100,000) or more may be met through a series of offences covered by article 9(1)(a), (b), (d), (e), (f), (g), (h) and (i) that are linked and of the same kind, where those offences are committed by the same offender.

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(2) The provisions of article 121D of the Criminal Code shall, *mutatis mutandis*, apply to the offences under this Act, so however that the punishment to which the legal person, entity or body shall be liable under this sub-article shall be that of the payment of a fine (*multa*) of:

(a) one percent (1%) of the total worldwide turnover of the legal person, entity or body either in the business year preceding that in which the offence was committed, or in the business year preceding the decision to impose the fine in relation to a criminal offence referred to in article 9(1)(h)(iii) and (iv);

(b) five percent (5%) of the total worldwide turnover of the legal person, entity or body either in the business year preceding that in which the offence was committed, or in the business year preceding the decision to impose the fine in relation to a criminal offence referred to in article 9(1)(a), (b), (c), (d), (e), (f), (g), (h)(iii) and (iv), and (i):

Provided that where it is not possible to determine the amount of the fine (*multa*) on the basis of the total worldwide turnover of the legal person, entity or body in the business year preceding that in which the offence was committed, or in the business year preceding the decision to impose the fine, the punishment to which the legal person, entity or body shall be liable is the payment of a fine (*multa*) of

not less than eighty thousand euro (€80,000) and not exceeding ten million euro (€10,000,000).

(3) The legal person shall also be held liable for an offence under this Act where the lack of supervision or control by a natural person or legal person referred to in article 121D of the Criminal Code has made possible the commission of the offence for the benefit of the legal person, which shall upon conviction be liable to the punishment established in sub-article (2). Cap. 9.

(4) Without prejudice to any other punishment to which the offence may be liable under this Act or any other law, where the offender is a legal person liable to punishment under the provisions of sub-articles (2) and (3), the Court may, at the request of the prosecution, order:

(a) the suspension or cancellation of any licence, permit or other authority to engage in any trade, business or other commercial activity;

(b) the withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence;

(c) the temporary or permanent closure of any establishment which may have been used for the commission of the offence;

(d) the compulsory judicial winding up of the legal person;

(e) exclusion from entitlement to public benefits or aid;

(f) exclusion from access to public funding, including tender procedures, grants and concessions;

(g) disqualification from the practice of business activities;

(h) placing of the legal person under judicial supervision by appointing a temporary administrator.

(5) Where an offence against the provisions of this Act is committed by a legal person, every natural person who, at the time of the commission of the offence, was a director, manager, secretary, legal representative, temporary administrator or other similar officer or persons exercising control over such legal person, shall be guilty of an offence unless he proves that the offence was committed without his knowledge and that he exercised adequate due diligence to prevent the commission of the offence.

(6) Natural persons referred to in sub-article (5) shall be liable

to the punishment stipulated in article 11(1).

(7) The punishment prescribed for any of the crimes referred to in article 9, shall be increased by one to two degrees if any one or more of the following circumstances results:

(a) the offence was committed in the framework of a criminal organisation as defined in Council Framework Decision 2008/841/JHA;

(b) the offence involved the use by the offender of false or forged documents;

(c) the offence was committed by a professional service provider in violation of the professional obligations of such professional service provider;

(d) the offence was committed by a public official when performing his or her duties or by another person performing a public function;

(e) the offence generated or was expected to generate substantial financial benefits, or avoided substantial expenses, directly or indirectly, to the extent that such benefits or expenses can be determined;

(f) the offender destroyed evidence or intimidated witnesses or complainants;

(g) the natural or legal person had previously been convicted by a final judgment of offences covered by articles 9 and 10.

(8) The punishment awarded under this article may be reduced by up to two degrees if the offender:

(a) provides the Malta Police with information they would otherwise not have been able to obtain, helping them to identify or bring to justice the other offenders;

(b) provides the Malta Police with information they would otherwise not have been able to obtain, helping them to find evidence.

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(9) The provisions of articles 21 and 28A of the Criminal Code and the provisions of the Probation Act shall not apply in respect of any natural person convicted of an offence under this Act.

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(10) Without prejudice to the provisions of article 5 of the Criminal Code, the Maltese courts shall also have jurisdiction over the offences referred to in this Act where:

(a) only part of the action giving rise to the offence took place in Malta;

(b) the offender is a Maltese national or habitual resident in Malta or the offence was committed for the benefit of a legal person registered in Malta;

(c) the gain or benefit from the commission of the offence was received in Malta; or

(d) a person in Malta knowingly incites, aids, or abets another person to commit the offence.

(11) Notwithstanding any other provision in any other law, where an offence under this Act and, or regulations made thereunder has been committed in whole or in part by a legal person, entity or body corporate, the prosecution shall not prove that the offence was committed in whole or in part, for the benefit of that legal person, entity or body corporate.

Special mechanism for out-of-court settlement in case criminal proceedings have not yet been initiated.

12. (1) (a) Notwithstanding any other provision of this Act or any other law, where the Board is satisfied that there has been a breach of any provision of this Act and, or any regulations made thereunder, by any person, entity or body corporate which breach shall constitute a criminal offence and in the event that:

(i) after having regard to the particular circumstances, it is appropriate to impose an administrative penalty in accordance with this article; and

(ii) where the particular person, entity or body corporate has not previously been convicted of any breach of this Act and, or any regulations made thereunder, or which has not previously made use of this provision under this article or of the provisions of article 13 in the last five (5) years.

(b) As an alternative to criminal proceedings, the Board may, after a written request is made to him by the person, entity or body, hereinafter referred to as "person concerned", enter into an agreement with the person concerned, who has committed an offence against this Act and, or any regulation made thereunder, and upon the conclusion of an agreement made in accordance with this article between the Board and the person concerned to provide for the payment of an administrative penalty in addition to any sanction or measure, or the combination of other sanctions and measures which the Board deems appropriate in the circumstances of the case, the criminal liability of the person concerned for any breach against this Act and for any breach connected with the acts in connection with the agreement entered into, shall be extinguished when the terms of the agreement are fulfilled in their entirety by the person concerned:

Provided that the administrative penalty which such person concerned shall be liable to pay in respect of such breach shall not exceed half of the maximum administrative penalty which the person concerned would have been liable for had he been convicted of an offence against this Act and, or any regulations made thereunder:

Provided further that the person concerned shall make a request in writing to the Board for the agreement to be made. Following such a request by the person concerned, the Board shall within one (1) month of being notified by registered post of the request, inform the person concerned of the outcome of such request and in case the Board accedes to such request, it shall also notify the person concerned with the draft agreement:

Provided further the mentioned period of one month (1) may be extended once, unilaterally by the Board for a period of one (1) month, where the Board shall inform the person concerned of its decision while explaining in detail the reason on the basis of which this extension is made. The notification for the extension shall be made by registered mail in the first twenty (20) days from the day that the Board has been notified through the request of the person concerned according to sub-article (1).

(2) The notice in accordance with sub-article (1) shall specify:

(a) the date and nature of the alleged breach;

(b) a summary of the facts on which the allegation of a breach is based:

Provided that the summary shall be sufficiently detailed so as to fully and fairly inform the person of the allegation against him;

(c) any other matter, not consisting of previous convictions, which the Board deems relevant in the imposition of any administrative penalty and, or sanction or measure, or the combination of sanctions and measures which the Board deems appropriate;

(d) a draft agreement under this article which shall include:

(i) details of the breaches which shall include *inter alia* admissions made by the person concerned;

(ii) an obligation on the person concerned to pay the administrative penalty due and, if applicable, any sanction or measure, or the combination of sanctions and other measures, which the Board deems appropriate in the circumstances of the case;

(iii) the period allowed for the payment of the administrative penalty and, where applicable, the execution of the sanction or measure, or the combination of sanctions and measures; and

(iv) consequences of any failure to comply with any terms of the agreement:

Provided that this notice as well as the draft agreement shall be notified to the person concerned by registered post, and in case the person concerned is an entity or body corporate, they shall be delivered to the natural person who is a director, manager, secretary or person vested with the representation of the said entity or body corporate:

Provided further that the amount resulting from this agreement shall constitute an executive title within the meaning of and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure. Cap. 12.

(3) The agreement shall be signed within one (1) month from the date on which the person concerned was duly notified:

Provided that the said period of one (1) month may be extended by the Board for a further period of one (1) month upon request in writing by the person concerned, where he shall explain in detail the reason on the basis of which the said extension is being requested. This request shall be made by registered mail in the first twenty (20) days from when the draft agreement was notified to the person concerned. The Board shall, within five (5) working days, inform the person concerned of its decision, and in the event that this request is rejected there shall also be the reasons for this decision.

(4) (a) The prescription period in respect of any breach of this Act and, as the case may be, related breaches shall be suspended and no prosecution shall be instituted in respect of the breach and, as the case may be, related breaches at the time when such periods are running.

(b) This suspension shall apply from the day the Board receives a written request from the person concerned in accordance with sub-article (1), and in the event that the Board accedes to the request this suspension shall continue to apply until the expiry of the period referred to in sub-article (3) and, in the event that the period is renewed, such suspension shall remain in force during the extended period:

Provided that in the event that the person concerned signs the agreement in terms of this article, the suspension of prescription shall continue throughout the period indicated in the agreement in accordance with sub-article (2)(d)(iii).

(5) The Board shall report to the Executive Police any breach of the agreement by the person concerned.

(6) Notwithstanding any other provision of this Act or of any other law, where the administrative penalty and, as the case may be, the sanction or measure, or the combination of sanctions and measures are committed by the person concerned within the period indicated in the said agreement in their entirety, no further charges may be made in respect of the said breach against the said person, entity or body corporate.

(7) An agreement concluded in accordance with this Act shall constitute proof against the person concerned that he has entered into such agreement and for any reason he has not honoured such agreement, including the admission made in the agreement in terms of sub-article (2)(d)(i).

(8) In this article:

"Board" means the Sanctions Monitoring Board as constituted in accordance with article 15, with the exclusion of the Attorney General and the Executive Police;

"breach" means any act or acts constituting a criminal offence;

"connected breach" means any act which constitutes a criminal offence and which has been committed with the purpose of committing or facilitating a breach against this Act.

Special mechanism for out-of-court settlement in case criminal proceedings have been instituted.

13. (1) (a) Subject to any other civil liability, where a person, entity or body corporate, hereinafter referred to as the "accused", is being charged before the Court with an offence and, or offences under this Act, he may request the Board to enter into an out-of-court settlement.

(b) The Board may enter into an agreement in accordance with this article only where it is satisfied that:

(i) an offence against this Act and, or a related offence was committed by the accused; and

(ii) taking into account all the circumstances of the case, the offences committed, the previous conduct and the stage reached in the case; and

(iii) the case concerns an accused who has not previously been convicted for any breach of this Act or who has not previously made use of this provision under this article or of the provision under article 12 in the last five (5) years,

as an alternative to a criminal judgment, the Board may, following

a written request from the accused, reach an out-of-court agreement with the said accused.

(2) (a) The provisions of this article shall only apply after the accused makes a written request to the Board, for the purpose of applying for the mechanism under this article.

(b) After the Board has received such a request from the accused, the Board shall within one (1) month of being notified of the request, inform the accused of the outcome of such request and, in case the Board accedes to such request, it shall also notify by registered mail the person concerned by means of the notice including the draft agreement:

Provided the said period of one (1) month may be extended once, unilaterally by the Board for a period of one (1) month, where the Board shall inform both the person concerned and the Court before which the case is, of its decision while explaining in detail the reason on the basis of which this extension is made. The notification for the extension shall be made in the case of the accused by registered mail, and in the case of the Court by means of a note, in the first twenty (20) days from the day that the Board has been notified through the request of the person concerned in accordance with sub-article (1).

(3) (a) The notice in accordance with sub-article (3) shall specify:

(i) the date and nature of the alleged breach;

(ii) a summary of the facts on which the allegation that a breach has been committed is based;

(iii) any other matter, not consisting of previous convictions, which the Board deems relevant in the imposition of any administrative penalty and, or sanction or measure, or the combination of sanctions and measures which the Board deems appropriate.

(b) The draft of the agreement pursuant to this article shall include:

(i) details of the breach which shall include *inter alia* admissions made by the person concerned;

(ii) an obligation on the person concerned to pay the administrative penalty due and, if applicable, any sanction or measure, or the combination of other sanctions and measures, which the Board deems appropriate in the circumstances of the case;

(iii) the period allowed for payment of the administrative penalty and, if applicable, of the execution of the

sanction or measure, or the combination of sanctions and measures;

(iv) the consequences of any failure to comply with any terms of the agreement:

Provided that the administrative penalty which such person concerned shall be liable to pay in respect of such breach shall not exceed seven tenths the maximum punishment which the accused would have been liable had he been found guilty of an offence against this Act and, or regulations made thereunder:

Provided further that the amount resulting from this agreement shall constitute an executive title within the meaning of and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure:

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Provided further that in the event that the notice and, or draft agreement does not contain any of the requirements mentioned in accordance with this sub-article, this shall not render that agreement null and void.

(4) The agreement duly notified to the person concerned shall be signed within one (1) month from the date on which the accused was duly notified by registered post:

Provided that the said period of one (1) month may be extended by the Board, for one further period of one (1) month, upon request in writing by the accused, where he shall explain in detail the reason on the basis of which the one-off extension is being requested. This request shall be made by registered mail in the first twenty (20) days from when the draft agreement was notified to the accused. The Board shall, within five (5) working days, inform the accused of its decision and, in the event that this request is rejected, there shall also be the reasons for this decision.

(5) (a) In the case that the Board reaches a written agreement with the accused:

(i) the accused shall inform the Court that an agreement has been reached; and

(ii) the Court shall hear a representative of the Board with a view to submitting the agreement reached.

(b) After the agreement has been submitted to the Court, the periods referred to in articles 401, 407 and 432(2) of the Criminal Code shall be suspended until the conditions in the agreement have been fulfilled and the case shall be sent *sine die* and shall be reappointed only after the Board informs the Court by means of a note of the outcome of the agreement:

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(6) In the event that the conditions listed in the agreement are fulfilled in their entirety, the Court shall declare the criminal action on such charges extinguished, but in the event that the conditions listed in the agreement have not been fulfilled within the period stipulated in the said agreement, the Court shall proceed to hear the case against the accused:

Provided that where the number of accused in the criminal proceedings is two (2) or more, the provisions of this article shall apply only in respect of one (1) or more of those who have reached an agreement under this article and register an admission, and the proceedings in respect of one (1) or more of those who have not reached an agreement, the Court shall at the request of the prosecution order the separation of the acts, which shall be dealt with separately.

(7) Without prejudice to the provisions of this Act, the request under this article of the accused to the Board may not be made when the proceedings have reached the Court of Criminal Appeal.

(8) The agreement concluded under this Act shall constitute proof against the person concerned who has entered into such agreement and if for any reason he has not honoured such agreement, including the admission made under this article and the prosecution can use such agreement against the person in question.

(9) In this article:

"Act" includes this Act as well as any subsidiary law made under this Act;

"Board" means the Sanctions Monitoring Board, with the exclusion of the Attorney General and the Commissioner of Police;

"breach" means any act constituting a criminal offence;

"connected breach" means any act which constitutes a criminal offence and which has been committed with the purpose of committing or facilitating a breach against this Act;

"person" means both a natural person and a legal person.

Administrative penalties for offences falling under article 9(2).

14. (1) Administrative penalties for breaches of article 9(2) shall be imposed by the Board and shall be as follows:

(a) for a natural person, the administrative penalty shall be fifteen per cent (15%) of the value of the funds, economic resources, goods, services, transactions or activities in breach of the restrictive measures;

(b) for a legal person, the administrative penalty shall be thirty-five per cent (35%) of the value of the funds,

economic resources, goods, services, transactions or activities in breach of the restrictive measures.

(2) Where the offence is committed by a legal person, every natural person who, at the time of the commission of the offence, was a director, manager, secretary, legal representative, temporary administrator or other similar officer or persons exercising control over such legal person, shall be guilty of an offence unless he proves that the offence was committed without his knowledge and that he exercised adequate due diligence to prevent the commission of the offence.

(3) The administrative penalty in relation to sub-article (2) shall be that referred to in sub-article (1)(a).

Sanctions Monitoring Board.

15. (1) There shall be a board to be known as the "Sanctions Monitoring Board".

(2) The Board shall be composed of the following members:

(a) a representative of the Ministry responsible for foreign affairs who shall be the Chairperson;

(b) the Attorney General or his representative;

(c) the State Advocate or his representative;

(d) the Commissioner of Police or his representative;

(e) a representative of the Office of the Prime Minister;

(f) a representative of the Financial Intelligence Analysis Unit;

(g) a representative of the Malta Security Service;

(h) a representative of the Ministry responsible for home affairs;

(i) a representative of the Ministry responsible for defence;

(j) a representative of the Ministry responsible for finance;

(k) a representative of the Ministry responsible for the economy;

(l) a representative of the Commerce Department;

(m) a representative of the Malta Tax and Customs Administration;

(n) a representative of the Central Bank of Malta;

(o) a representative of the Malta Financial Services Authority;

(p) a representative of the Ministry responsible for maritime affairs;

(q) a representative of the Ministry responsible for aviation matters;

(r) a representative of the Ministry responsible for lands;

(s) a representative of the Ministry responsible for the public registry;

(t) a representative of the Ministry responsible for immigration, citizenship and residency matters;

(u) the Registrar of Companies and Registrar for Legal Persons or his representative;

(v) a representative of the Office of the Commissioner for Voluntary Organisations; and

(w) a representative of the Malta Gaming Authority.

(3) There shall be a Secretary to the Board appointed from among officers of the Ministry responsible for foreign affairs, on the advice of the Chairperson. The Secretary shall be responsible for recording the minutes of all Board meetings.

(4) In its day-to-day functions, the Board shall be assisted by a designated Directorate within the Ministry responsible for foreign affairs. The Directorate shall act on the direction of the Board and its officers may be delegated by the Board to act on its behalf and in its name to carry out anything that may be necessary to ensure the proper exercise of any functions, powers or obligations entrusted or imposed on the Board, including exercising any rights to access registers, databases or other compilation of records vested or otherwise entrusted to the Board and carry out searches within the same.

(5) (a) The functions of the Board include:

(i) monitor the implementation of restrictive measures imposed by regulations made under this Act, European Union restrictive measures, restrictive measures adopted by United Nations Security Council Resolutions and domestic restrictive measures;

(ii) propose persons, entities or bodies to be

designated by the United Nations Security Council, or by the Council of the European Union or domestic restrictive measures;

(iii) propose the delisting of any designated person, entity or body, by the United Nations Security Council or by the Council of the European Union or domestic restrictive measures, or the unfreezing of funds or economic resources of any natural person or legal person which funds or economic resources were frozen in accordance with the provisions of this Act;

(iv) receive and consider applications from designated persons, entities or bodies for de-listing, or unfreezing of funds or economic resources, where the criteria for designation or freezing are not satisfied, or are no longer satisfied, and from persons, entities or bodies who have been erroneously or inadvertently designated, and make recommendations in accordance with sub-paragraph (iii);

(v) authorise access to frozen funds, economic resources or other assets which the Board determines to be necessary for basic expenses, for the payment of reasonable costs and fees for legal, medical, professional or other essential services, or for documented extraordinary expenses;

(vi) ensuring coordination and cooperation between law enforcement authorities and authorities in charge of implementation;

(vii) ensure common priorities and understanding of the relationship between criminal and administrative enforcement;

(viii) exchange information for strategic purposes, within the limits established in applicable Union and national law;

(ix) consult in individual investigations, within the limits set out in the applicable Union and national law;

(x) monitor and enforce the obligations referred to in articles 32 and 33;

(xi) have the authority to appoint temporary administrators in accordance with article 34;

(b) the Board shall, in the exercise of its functions, have the power to take decisions, make recommendations, grant or deny authorisations, issue rulings, declarations and notices, monitor and evaluate compliance with restrictive measures, impose administrative

penalties, conduct inspections, including on-site and off-site examinations in accordance with the internal policies and procedures of the Board, and refer to the relevant authorities for action, assistance or information;

(c) the Board may issue procedures and guidance as may be required for the carrying into effect of the provisions of this Act, and which shall be binding on all persons to whom they are addressed;

(d) the Board may, whenever it deems necessary, engage one or more persons, whom it considers to be in possession of suitable expertise or may provide legal counsel, to assist it in carrying out of specific tasks requiring such expertise and for this purpose, the Board may impose such conditions as it considers necessary;

(e) the Board shall have such other functions as may be assigned to it by the Prime Minister, by regulations made under this Act.

(6) The Board shall at the end of each year, or earlier if so requested, make a report of its activities to the Prime Minister.

Powers and functions of the substitute of the Chairperson.

16. In the Chairperson's absence or inability to act as such, the Minister shall appoint a substitute from amongst the members of the Board.

Meetings of the Board.

17. (1) The meetings of the Board shall be called by the Chairperson on his own initiative or at the request of any two (2) of the other members and shall meet as often as may be necessary or expedient, but in no case less frequently than twice (2) in each year.

(2) The Board shall not act unless a quorum consisting of the Chairperson or his substitute in accordance with article 16 and not less than two (2) other members are present.

(3) The meetings of the Board shall be chaired by the Chairperson or in his absence by his substitute appointed in accordance to article 16.

(4) Senior officials from the Directorate referred to in article 15(4) shall be present at the meetings to assist the Board members as necessary.

(5) The decisions of the Board shall be adopted by a simple majority of the votes of the members present and voting and in the event of an equality of votes the Chairperson shall have and exercise the casting vote.

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

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

(8) The Chairperson may, following consultation with Board members, invite observers on the Board as and when required provided they have the necessary security clearance.

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

Decisions in cases of emergency.

18. In cases of emergency, decisions shall be taken by at least two (2) members of the Board, one of whom shall be the Chairperson or his substitute appointed in accordance with article 16.

Board ruling.

19. (1) A person, entity or body may request in writing the Board to give a ruling on whether a proposed immediate action intended by him is prohibited by any particular domestic restrictive measures or any regulations made under this Act, or by any European Union restrictive measures, or restrictive measures adopted by United Nations Security Council Resolutions or domestic restrictive measures. No liability shall result from any such regulations or European Union restrictive measures or restrictive measures adopted by United Nations Security Council Resolutions where a person, entity or body has acted in conformity with any such ruling.

(2) The Board may refuse to give a ruling on any matter not within the parameters of article 3.

(3) The Board reserves the right not to reply taking into account considerations related to the national interest.

(4) If the applicant considers that the Board's ruling, decisions or denial for an authorisation are a result of an error of fact, the applicant may request the Board to reconsider its ruling or denial, as the case may be.

(5) A request for reconsideration shall be made within five (5) working days from the notification of the ruling, decisions or denial for an authorisation of the Board and may not be made concurrently with an appeal. The request for reconsideration shall include a written document containing the reasons for such a request. This is without prejudice to the right of appeal before the Sanctions Implementation Appeals Board.

(6) An appeal from the reconsideration issued under sub-article (1), may be filed by means of an application before the Sanctions Implementation Appeals Tribunal by the person, entity or body who had requested the Board to reconsider its decision and who feels aggrieved by the Board's decision in relation to the said request.

Sanctions Implementation Appeals Tribunal.

20. (1) The Tribunal shall be composed of a Chairperson and two (2) other members appointed by the Minister.

(2) The Chairperson of the Tribunal shall be an advocate with a minimum of seven (7) years legal experience and shall have the qualifications, experience and skills, in particular in the field of restrictive measures required to fulfil his role.

(3) The other two (2) members referred to in sub-article (1) shall be persons who are well versed in the subject-matter and who have the qualifications, experience and skills, in particular in the field of restrictive measures, required to fulfil their roles.

(4) The Chairperson and other members of the Tribunal shall hold office for a period of three (3) years and shall be eligible for re-appointment for another term.

(5) A member of the Tribunal shall be disqualified from hearing an appeal in such circumstances as would disqualify a judge in accordance with Sub-Title II of Title II of Book Third of the Code of Organization and Civil Procedure and in any case the member shall be substituted by another person appointed by the Minister.

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(6) A member of the Tribunal may be removed from office by the Minister, on grounds of gross negligence, conflict of interest, incompetence or acts or omissions unbecoming a member of the Tribunal, proven misbehaviour or proven inability to perform the functions of his office, whether arising from infirmity of body or mind or any other cause.

(7) The Minister shall also designate a person to serve as Secretary to the Tribunal.

(8) An applicant aggrieved by any ruling, including those decisions taken in accordance with article 35 or denial for authorisation, may file an appeal against such a ruling, including those decisions taken in accordance with article 35 or denial for authorisation, and the Tribunal shall have jurisdiction to hear and determine such appeals.

Registry of the Tribunal.

21. (1) There shall be a Registry of the Tribunal and all records shall be filed therein.

(2) The Secretary of the Tribunal shall be responsible for managing the Registry. The Secretary shall also perform any other duty which may be assigned to him under this Act or any regulations made thereunder.

Procedure.

22. (1) An appeal as referred to in article 19(6) shall be filed in the Registry of the Tribunal within twenty (20) working days from service of the decision taken by the Board on the person, entity or body who had requested the Board to reconsider its decision.

(2) An appeal to the Tribunal may be filed on the following grounds:

(a) a material error as to the facts has been made;

(b) there was a material procedural error;

(c) an error of law has been made; and

(d) there was some material illegality, including unreasonableness or lack of proportionality.

(3) An appeal application shall be filed in the Registry of the Tribunal and shall contain:

(a) the grounds on which such appeal is based;

(b) the names of the witnesses the appellant intends to produce in evidence, together with their full address, stating in respect of each of them the facts and proof he intends to establish by their evidence;

(c) any other documents as may be necessary in support of the appeal.

(4) The Registry of the Tribunal shall, not later than ten (10) working days from the date of filing of the appeal, serve a copy of the appeal on the Board and request the Chairperson of the Board to file a reply, together with any other information on which such decision was based and which the Board considers relevant to the case, within twenty (20) working days from the date when the appeal application was served.

(5) Upon the expiry of the time-limits for filing the Board's statement, the Tribunal shall appoint a date and time for the hearing. The Tribunal shall notify such date and time to the appellant and to the Chairperson of the Board.

(6) The parties to the appeal may be represented or assisted by their advocates or legal procurators, or by any person who enjoys their trust:

Provided that no person shall claim fees for representing or assisting a party before the Tribunal unless such assistance is provided by an advocate or legal procurator.

Competence of the Tribunal.

23. (1) The Tribunal shall be competent to hear and decide any appeal made to it in accordance with the provisions of this Act.

(2) The Tribunal may summon any person to appear before it to give evidence and produce documents. The Tribunal may also appoint experts to advise it on any technical issue that may be relevant to its

decision. On the day appointed by the Tribunal for the hearing of the appeal, it shall hear under oath, the evidence of the appellant and of the Board, as well as of other witnesses. The Secretary of the Tribunal shall issue the necessary summons for any person involved in the hearing of the appeal.

(3) The Tribunal shall hold its sittings in public unless having regard to the nature of the appeal or any other matter before it, it deems it proper to conduct the proceedings or part thereof *in camera*.

(4) The Tribunal shall have the same powers as are competent to the First Hall, Civil Court according to law.

(5) Without prejudice to the provisions of this Act or any other law, the Tribunal shall regulate its own procedure.

Decisions of the Tribunal.

24. (1) In determining an appeal the Tribunal may:

(a) dismiss the appeal and confirm the decisions, ruling or denial for authorisation in its entirety;

(b) substitute the decisions, ruling or denial for authorisation;

(c) modify or vary the decisions, ruling or denial for authorisation; or

(d) annul the decisions, ruling or denial for authorisation.

(2) The Tribunal shall give reasons for its decision and shall cause such decision to be made public, omitting, if it deems it appropriate for reasons of confidentiality, the identity of the persons, entities or bodies involved.

(3) The decisions of the Tribunal shall be served to all parties to the appeal.

Court of Appeal.

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25. Any of the parties to an appeal before the Tribunal who feels aggrieved by a decision of the Tribunal, may appeal to the Court of Appeal as constituted in accordance with article 41(9) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court within twenty (20) days from the date on which the decision of the Tribunal was notified.

Exemption from liability.

26. No liability, criminal or civil, shall attach to any member of the Board for any action done, or omitted to be done in good faith in the discharge or purported discharge of any function as a member thereof. The same shall apply to the officers exercising their functions within the designated Directorate within the Ministry responsible for foreign affairs.

Confidentiality.

27. (1) The members of the Board, of the designated Directorate, observers at the Board meetings and anyone engaged by the Board to assist it in the execution of its functions shall treat any matter coming to their knowledge as secret and confidential and shall not disclose the same unless this is strictly necessary for the execution of their functions at law:

Provided that in no circumstances shall any data, information or documentation received from any other authority, agency or body in accordance with article 30, or which is otherwise provided voluntarily by any such authority, agency or body, be disclosed without the prior written agreement of the disclosing authority, agency or body.

(2) Any information relating to the requests made under article 19 shall not in any report made in accordance with article 15(6), reveal the names or other identifying particulars known to them in connection with any such request.

Legal and judicial representation.

28. (1) The legal and judicial representation of the Board shall vest in the Chairperson and in his absence in his substitute in accordance with article 16:

Provided that the Board may appoint any one (1) or more of its other members or officers, or any officer from within the Directorate referred to under article 15(4) to appear in the name and on behalf of the Board in any judicial proceedings and in any act, contract, instrument or other document whatsoever.

(2) Any document purporting to be an instrument made or issued by the Board and to be signed by the Chairman or by his substitute in accordance with article 16 on behalf of the Board shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Board:

Provided that the Board may appoint one (1) or more persons from the Ministry responsible for foreign affairs to sign documents purporting to be an instrument made or issued by the Board.

Cooperation with the Board.

29. (1) Without prejudice to the generality of the provisions of this Act, the Board shall in the exercise of its functions under this Act, co-operate with competent law enforcement authorities, the Security Service, the Financial Intelligence Analysis Unit, public and regulatory authorities, Government Ministries, departments, agencies and entities and regulatory authorities to ensure that regulations made under this Act, European Union restrictive measures and United Nations Security Council Resolutions are observed.

(2) Without prejudice to the special provisions of any other law applicable to them, the authorities and entities mentioned in sub-article

(1) shall extend all assistance and co-operation to the Board in the fulfilment of its functions and responsibilities under this Act, and where necessary, in accordance with any memorandum of understanding that the Board may conclude with any of the aforementioned authorities and entities, taking into account the domestic and international obligations of the same authorities, entities and the Board.

Power of the Board to request and exchange information.

30. (1) Notwithstanding anything contained in any other law, the Board shall have the power to request from any person, entity or body, any information that is strictly necessary for the purpose of exercising its functions under the Act in accordance with article 15(5)(a).

(2) Any information processed by the Board that relates to an identified or identifiable natural person shall fully comply with the provisions of Regulation (EU) 2016/679 and the Data Protection Act, including the regulations made thereunder, safeguarding the rights and freedoms of the data subjects.

Cap. 586.

(3) Where personal data communicated or otherwise made available to the Board pursuant to this article includes data other than required for the purposes for which such data was communicated or otherwise made available to, the Board shall immediately erase such data upon receipt.

(4) Notwithstanding anything contained in the Professional Secrecy Act and any obligation of secrecy or confidentiality in accordance with any other law, any person, entity or body from whom information is requested by the Board in pursuance of its functions under this Act, shall communicate without delay the information requested to the Board, and for the purposes of article 257 of the Criminal Code any such disclosure shall be deemed to be a disclosure of information to a public authority compelled by law:

Cap. 377.

Cap. 9.

Provided that nothing in this article and in article 29 shall place or imply any obligation on the competent law enforcement authorities, the Security Service, the Financial Intelligence Analysis Unit and the Malta Tax and Customs Administration to communicate to the Board any information which is deemed to be of a privileged nature or the communication of which may be in breach of their domestic or international obligations or otherwise hinder or prejudice the proper exercise of their functions, and any communication of information by the said authorities to the Board shall be upon a request of the Board and in accordance with a Memorandum of Understanding that the Board and the said authorities may respectively conclude between them for this purpose, taking into account their domestic and international obligations:

Provided further that nothing in this article and in article 29 shall imply any obligation on the Attorney General to communicate to the Board any information which in any way relates to, or is connected with or came into his possession as a result of the exercise of any of his powers referred to in article 91(3) of the Constitution or any obligation on any person to communicate to the Board any information which would in legal proceedings be protected from disclosure by article 642(1) of the Criminal Code or by article 588(1) of the Code of Organization and Civil Procedure:

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Provided further that the provisions of this article shall not apply to a person who is a member of the legal profession.

(5) Any restrictions that are to be implemented in terms of any European Union restrictive measures or of a United Nations Security Council Resolution or regulations made under this Act shall prevail over any other legal or contractual obligation to which any natural person or legal person may be subject to.

(6) The Board shall, for each breach or failure to comply with the provisions of this article, impose an administrative penalty not exceeding one hundred euro (€100) on any person.

(7) The Board may exchange information with competent authorities of other Member States carrying out similar or equivalent functions of the Board, including third countries, or Union institutions, bodies, offices or agencies, if it is strictly necessary for the purpose of the prevention, detection, investigation or enforcement of domestic restrictive measures, European Union restrictive measures and United Nations Security Council Resolutions including cases involving actual or suspected violation or where cross-border cooperation is required to ensure the effective implementation of such measures:

Provided that where the Board transfers personal data to a third country which is not recognised by the European Commission as ensuring an adequate level of protection pursuant to Article 45 of Regulation (EU) 2016/679, the transfer of personal data shall be subject to the provisions of Chapter V of Regulation (EU) 2016/679.

Freezing measures.

31. (1) Notwithstanding the provisions of this Act or of any other law, when European Union restrictive measures, restrictive measures adopted by United Nations Security Council Resolutions or domestic restrictive measures impose the freezing of funds or economic resources of a designated person, entity or body shall immediately upon publication be tantamount to a freezing measure having the force of law in Malta.

(2) Where the Board has reasonable grounds to believe that economic resources are owned or controlled by a designated person, entity or body, it shall issue a freezing measure, attaching the said economic resources in the hands of third parties for which there is a

reasonable cause to believe that the economic resources are subject to freezing:

Provided that a notice of the freezing measure shall be published by the Board without delay in the Gazette and also cause a copy thereof to be registered in the Public Registry, the Land Registry, the Registry of Companies established in accordance with the Companies Act and any other registry established by law. Cap. 386.

(3) A freezing measure as is mentioned in sub-articles (1) and (2) shall have the effect of:

(a) freezing, without delay or prior notice, all funds and economic resources due or in pertaining or belonging to the designated person, entity or body, or that is wholly or jointly owned or controlled, directly or indirectly, by the designated person, entity or body;

(b) freezing, without delay or prior notice, all funds and economic resources that are derived or generated from funds and economic resources that are owned or controlled, directly or indirectly by the designated persons, entities or bodies;

(c) freezing, without delay or prior notice all funds and economic resources of natural persons and legal persons acting on behalf of or under the direction of the designated person, entity or body;

(d) prohibiting the transfer, conversion, movement, pledging, hypothecating, mortgaging or otherwise disposing of any funds and economic resources in accordance with paragraphs (a) to (c);

(e) prohibiting any Maltese citizen or any person, entity or body located in Malta from making available any economic resources or funds or other related services, directly or indirectly, wholly or jointly, to or for the benefit of a designated person, entity or body; or an entity or body owned or controlled, directly or indirectly, by a designated person, entity or body; or a person, entity or body acting on behalf of, or at the direction of, a designated person, entity or body, unless licensed or authorised in accordance with the relevant European Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or domestic restrictive measures.

(4) The freezing measure as mentioned in sub-article (1) shall become operative and binding on all third parties immediately upon the publication of European Union restrictive measures or restrictive measures adopted by a United Nations Security Council Resolution or

domestic restrictive measures mentioned in sub-article (1), and the said measure shall remain in force:

(a) in the case of a measure made by regulations in accordance with article 4(4)(a), until it is revoked according to the provisions of article 4(4)(a)(v); and

(b) in the case of a European Union restrictive measures or restrictive measures adopted by United Nations Security Council Resolution, until the de-listing of the designated person, entity or body is made by the United Nations Security Council or by the Council of the European Union, as the case may be.

(5) Where any funds are or become due to a designated person, entity or body from any person, entity or body while a freezing measure in accordance with this article is in force, such funds shall, unless otherwise directed in such measure, be deposited in a bank to the credit of the designated person, entity or body.

(6) When such measure ceases to be in force as provided in sub-article (2), a note of cancellation of the registration of such measure shall be entered in the Public Registry.

Obligations of persons, entities or bodies.

32. (1) The persons, entities or bodies listed in Schedule I shall:

(a) identify the identity of a customer and, where applicable, identify and verify the ownership and control structure of the said customer prior to engaging to service the same customer, and ensure on an on-going basis that the information so obtained is still current and up-to-date;

(b) regularly check the list of designated persons, entities or bodies in accordance with European Union restrictive measures, restrictive measures by the United Nations Security Council Resolutions and domestic restrictive measures and to screen their client databases against those lists prior to engaging with a client, on a regular basis and immediately after a change to any of these lists occurs and upon awareness that the relevant circumstances surrounding the client and its operations have changed;

(c) have in place and effectively implement internal controls, policies and procedures to ensure compliance with the obligations arising from this Act and European Union restrictive measures, restrictive measures by the United Nations Security Council Resolutions and domestic restrictive measures, with the said internal controls, policies and procedures having to be in compliance with Chapter IV of Regulation (EU) 2023/1113 of the European Parliament and of

the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 when being implemented by a payment service provider or a crypto-asset service provider when performing transfers of funds and crypto-assets respectively;

(d) immediately notify the Board in case targeted funds and economic resources are identified, and of the actions taken in relation to such funds and economic resources in compliance with the requirements of this Act, including in relation to any attempted transactions; and

(e) upon awareness, immediately notify the Board of any suspected violations of European Union restrictive measures, restrictive measures by the United Nations Security Council Resolutions and domestic restrictive measures.

(2) The Minister may, from time to time, by regulations amend Schedule I as necessary.

(3) All persons, entities or bodies listed in Schedule I may rely on a third-party to comply with their obligations in accordance with sub-article (1), with the person, entity or body relying on third parties remaining ultimately responsible for compliance with the said obligations.

(4) All persons, entities or bodies listed in Schedule I relying on other third parties to comply with their obligations in accordance with sub-article (1) shall take adequate steps to ensure that, upon request, such third-party shall immediately provide any relevant data, information and documentation required in terms of sub-article (1).

(5) All persons, entities or bodies listed in Schedule I operating in Malta shall take appropriate steps, proportionate to the nature and size of their business, to identify and assess the risks of violations of restrictive measures and proliferation financing and circumvention thereof that arise out of its activities or business. These steps shall take into account risk factors, including those relating to clients, geographical areas, products, services, transactions and delivery channels:

Provided that crypto-asset service providers shall in particular consider the risks associated with transfers of crypto-assets directed to or originating from a self-hosted address measure to mitigate and manage the risk of non-implementation and evasion of targeted financial restrictive measures and proliferation financing-related targeted financial restrictive measures.

(6) All persons, entities or bodies listed in Schedule I referred to in sub-article (5) shall properly document the risk assessment

referred to in that sub-article and shall make such documentation available to the Board or any other relevant supervisory authority acting on the Board's behalf, upon demand by the said Board or supervisory authority.

(7) All persons, entities or bodies listed in Schedule I shall ensure that the risk assessment carried out in terms of sub-article (5) is regularly reviewed and kept up-to-date.

(8) Any person, entity or body listed in Schedule I referred to in sub-article (1) shall be prohibited from informing the client or any third party in advance that a freezing order pursuant to this Act is to be applied.

(9) Any person, entity or body listed in Schedule I referred to in sub-article (1) shall retain records to demonstrate its compliance with the obligations referred to in accordance with this article for a period of five (5) years from the end of the business relationship with the clients which shall start to run as follows:

(a) in relation to the records retained to demonstrate compliance with the obligations referred to in accordance with sub-article (1)(a), from the date when the person, entity or body no longer services the client;

(b) in relation to the records to be retained to demonstrate compliance with the obligations referred to in accordance sub-article (1)(b), from the date when the verification takes place;

(c) in relation to the records to be retained to demonstrate compliance with any other obligation, from the date when the person, entity or body referred to no longer falls within any of the categories listed in Schedule I:

Provided that the Board may extend the five (5) year retention period in so far as that period is limited to what is strictly necessary in relation to the purpose for which the information is processed.

Cap. 527.

(10) In accordance with the provisions of the Protection of the Whistleblower Act, the Board, in any investigating, prosecuting, judicial or administrative authority shall protect and keep confidential the identity of any person, entity or body who reports, either internally within a person, entity or body or to the Board, awareness or suspicions that economic resources are the proceeds of violations of restrictive measures or the circumvention of the restrictive measures.

(11) Detrimental action shall be not taken against any person, entity or body, including employees or officials of the person, entities or bodies who reports, either internally within the person, entity or

body or to the Board, awareness or suspicions of sanctions violation or sanctions circumvention or awareness or suspicions that funds are the proceeds of violations of restrictive measures or the circumvention of restrictive measures.

Obligations of payment service providers.

33. In the case of payment service providers offering instant credit transfers, they shall verify whether any of their payment service users are persons, entities or bodies subject to European Union restrictive measures. Such verifications shall be carried out immediately after the entry into force of European Union restrictive measures and immediately after the entry into force of any amendments of such European Union restrictive measures and at least once every calendar day:

Provided that during execution of an instant credit transfer, the payer's payment service provider and the payment service provider involved in the execution of such instant credit transfer shall not verify whether the payer or the payee whose payment accounts are used for the execution of that instant credit transfer are persons, entities or bodies subject to European Union restrictive measures:

Provided further that is without prejudice to actions taken by the payment service providers in order to comply with European Union restrictive measures, other than designated persons, entities or bodies under European Union restrictive measures.

The establishment of a firewall mechanism.

34. (1) The Board shall have the right to appoint a temporary administrator to a legal person when European Union restrictive measures or any restrictive measure adopted by a United Nations Resolution or domestic restrictive measures are implemented in Malta in respect of the same legal person, the owner or controlling person thereof and where temporary administration is necessary to avoid adverse social, economic, ecological or other significant consequences for the public or Malta.

(2) A person, entity or body may be appointed as temporary administrator and such person shall be of good repute. A temporary administrator may be a natural person provided he is of age and legal capacity and not under any legal impediment to so act. A temporary administrator may be a legal person provided he is of good standing and the objects of which include the administration of legal persons.

(3) The legal person placed under temporary administration shall propose its temporary administrator to the Board for authorisation. The Board shall assess the appropriateness of the proposed temporary administrator, taking into consideration qualifications and experience, any conflicts of interest with the legal person to be administered, and other factors which may affect the proper performance of the activities.

(4) A temporary administrator shall be appointed by a decision

of the Board. The Board shall determine the term of appointment of the temporary administrator, powers, functions and actions that the temporary administrator may perform only subject to prior approval of the Board. The decision of the Board may also provide, where necessary, that the powers of certain or all bodies of the legal person are suspended and temporarily taken over by the temporary administrator or that certain decisions of the bodies of the legal person require the temporary administrator's approval.

(5) The conditions of activities of a temporary administrator shall be defined in a temporary administrator's contract between the temporary administrator and the legal person as authorised by the Board. This contract shall also specify the temporary administrator's remuneration and other expenses, including expenses related to the services provided by service providers, taking into account the scope of activities of the temporary administrator, his qualification and duration of activities, the procedure for reimbursement of the expenses as well as the liability of the temporary administrator, the procedure for his resignation and removal. Remuneration shall be paid, and expenses shall be reimbursed, including expenses related to services rendered by service providers from funds of the legal person put under temporary administration.

(6) A temporary administrator shall be appointed by the Board for a maximum period of one year. In exceptional cases, the time limit for the appointment of the temporary administrator may be extended by a decision of the Board. The temporary administrator may be replaced or removed from office at any time and if the need for his appointment ceases to exist, he shall be removed from office without delay.

(7) A temporary administrator shall have the right to engage service providers including legal, accounting, auditing and management consultants at his discretion to fulfil his functions.

(8) A temporary administrator shall take all required steps to ensure compliance with the requirements established in this Act and to avoid the adverse consequences referred to in sub-article (1). If necessary, the temporary administrator shall have the right to open deposit accounts with financial or credit institutions that operate in Malta which would be used to ensure the continuity of the activities of the legal person.

(9) The Board may require a temporary administrator to provide, within the time limits laid down in the contract referred to in sub-article (7), information on the financial situation of a legal person and on the economic activity carried out during the period of the appointment of the temporary administrator.

(10) A temporary administrator shall perform his functions prudently and in good faith. A temporary administrator shall not

exercise the rights granted to him for his personal needs or those of third parties.

(11) A temporary administrator shall have the right to resign in accordance with the procedure established in the contract referred to in sub-article (5). If a temporary administrator resigns, the legal person placed under temporary administration shall without delay initiate the process for appointment of a new temporary administrator.

Administrative penalties.

35. (1) Any person, entity or body who breaches the provisions of article 32, and when such breach is not accompanied by any other breach of this Act, shall be liable to an administrative penalty to be imposed by the Board of not less than one hundred euro (€100) and not more than five hundred euro (€500) in respect of every separate breach:

Provided that in the case of payment service provides and crypto-assets providers, every natural person who, at the time of the commission of the breach, was a member of the management body of the relevant service provider shall be liable to the same administrative penalty as the legal person where the said natural person, through an act or omission, whether intentional or due to gross negligence, including through the lack of proper oversight of subordinates, caused or contributed to the commission of any such breach.

(2) The administrative sanction penalty shall be of not less than three hundred euro (€300) and not more than one thousand five hundred euro (€1,500) in respect of breaches that are deemed to be serious, repeated or systematic:

Provided that instead of or in conjunction with the imposition of any administrative penalty in accordance with sub-article (1) or this sub-article, the Board may issue directives in writing requiring any natural person or legal person to take any action or measure to remedy such breach or ensure compliance with the provisions of article 30(1):

Provided further that in cases where any natural or legal person fails to comply with any such directives issued in writing within the time and in the manner stipulated therein, the Board shall impose an administrative penalty in accordance with sub-article (1).

(3) The Board shall, in accordance with its policies and procedures, impose administrative penalties in accordance with this article, which penalties may be imposed either as a one-time penalty or as a daily cumulative penalty, or both.

(4) Administrative penalties imposed on a daily cumulative basis, shall not be less than a hundred euro (€100) and the accumulated administrative penalty shall not exceed two thousand five hundred euro (€2,500).

(5) Where the Board imposes an administrative penalty on a natural person or legal person, it shall inform in a timely manner any relevant supervisory authority or any other authority, body or committee responsible for the authorisation, licensing, registration or regulation of, or the granting of a warrant to, the person, entity or body concerned, and shall provide all relevant information on the administrative penalty which it deems necessary:

Provided that where the Board imposes an administrative penalty as stipulated in accordance with sub-articles (1) or (2), the Board may also recommend to the relevant supervisory authority, body or committee responsible for the authorisation, licensing, registration or regulation of, or the granting of a warrant to, the natural person or legal person concerned, to take any action or regulatory measures available to it in accordance with the applicable law as it may deem appropriate based on the specific facts and context of the case.

(6) Any administrative penalty imposed by the Board which exceeds one thousand five hundred euro (€1,500) shall be subject to publication on the Board's website in accordance with policies and procedures established from time to time by the Board:

Provided that the above-mentioned threshold shall not apply in the case of payment service providers and crypto-assets service providers, where the Board may, if considered necessary and proportionate, after a case-by-case evaluation, publish administrative penalties and directives imposed in accordance with its policies and procedures.

Administrative penalties for breaches of article 33.

36. (1) Any legal person who breaches the provisions of article 33, shall be liable to an administrative penalty of up to ten percent (10%) of its total annual net turnover in the preceding business year.

(2) Where the legal person is a subsidiary of parent undertaking, or of any undertaking which effectively exercises a dominant influence over that legal person, the relevant turnover shall be the turnover resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year.

Appeals from administrative penalties.

37. (1) Any person, entity or body who feels aggrieved by an administrative penalty imposed by the Board in accordance with articles 14, 35 and 36, whether imposed in respect of one or more breaches, may appeal such administrative penalty both on points of law and fact.

(2) The appeal referred to in sub-article (1) shall lie before the Court of Appeal (Inferior Jurisdiction) constituted in terms of article 41(9) of the Code of Organization and Civil Procedure.

Cap. 12.

(3) An appeal before the Court of Appeal (Inferior Jurisdiction) in terms of sub-article (1) shall be filed in the registry of the said Court within twenty (20) working days from the date when the imposition of the administrative penalty is served to the person, entity or body and, saving the provisions of this article, such an appeal shall be regulated by the applicable provisions in accordance with Title VI of Part I of Book Second of the Code of Organization and Civil Procedure relating to appeals. Cap. 12.

(4) The Court of Appeal (Inferior Jurisdiction) shall without delay appoint a date for the hearing of the appeal.

(5) For the purposes of the confidentiality of information and documents relating to the proceedings, the appeal before the Court of Appeal (Inferior Jurisdiction) filed in terms of this article shall be heard *in camera*.

Recovery of administrative penalties.

38. (1) An administrative penalty, served on the person, entity or body against whom it is imposed by means of a notice in writing, which is not appealed in accordance with the provisions of article 37 and which is not paid within twenty (20) working days from the date of service, shall be recoverable as a civil debt, and the notice in writing shall, upon the service of a copy thereof by means of a judicial act on the subject 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.

(2) Where the administrative penalty is appealed and is subsequently confirmed in whole or in part, such administrative penalty shall be enforceable in accordance with the procedure provided for in sub-article (1).

Transitory provisions. Act No. XXXV of 2025. Cap. 365.

39. Any criminal proceedings that were commenced prior to the coming into force of this Act shall continue to be regulated by the provisions of the National Interest (Enabling Powers) Act as in force prior to the coming into force of this Act.

Repeal and saving. Cap. 365.

40. The National Interest (Enabling Powers) Act is hereby repealed without prejudice to anything done or omitted to be done thereunder, and subject to article 39.

Saving.

41. Upon the coming into force of this Act, the subsidiary legislation listed in the first column of Schedule II shall be deemed to have been made under the corresponding provisions of this Act, and shall be re-numbered accordingly as specified in the third column of the said Schedule.

Schedule I
(article 32)

Schedule of persons, entities and bodies subject to the obligations of article 32

Any natural or legal person conducting a relevant activity or relevant financial business as defined in accordance with the Prevention of Money Laundering and Funding of Terrorism Regulations:

S.L. 373.01.

Provided that the Board shall, in accordance with this Act, and in the exercise of its functions, issue rulings and guidance documents, which shall be binding on casino licensees and gaming licensees, and which shall govern the applicability of the obligations emanating from this Act.

Schedule II
(article 41)

Subsidiary legislation deemed to have been made under this Act

Subsidiary Legislation	Current Numbering	New re-numbering to be given
Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction Regulations	S.L. 365.09.	S.L. 653.01
Comprehensive Nuclear-Test Ban Treaty Regulations	S.L. 365.11.	S.L. 653.02
Dual-Use Items (Export Control) Regulations	S.L. 365.12.	S.L. 653.03
Military Equipment (Export Control) Regulations	S.L. 365.13.	S.L. 653.04
Nuclear Safety and Radiation Protection Regulations	S.L. 365.15.	S.L. 653.05
Importation and Exportation Control of Goods which could be used for Capital Punishment, Torture or other Cruel, Inhuman or Degrading Treatment or Punishment Regulations	S.L. 365.22.	S.L. 653.06
Measures in support of actions addressing smuggling activities in the Central Mediterranean Regulations	S.L. 365.75.	S.L. 653.07