

L.N. 76 of 2008**BANKING ACT
(CAP. 371)****Banking Act (Capital Adequacy) Regulations, 2008**

IN exercise of the powers conferred by article 3 (2) of the Banking Act, the Prime Minister and Minister of Finance, on the advice of the Malta Financial Services Authority, has made the following regulations:-

1. (1) The title of these regulations is the Banking Act (Capital Adequacy) Regulations, 2008. Title and scope.

(2) The objective of these regulations is to implement articles 36 and 38 of the Capital Adequacy Directive and shall be interpreted and applied accordingly.

2. (1) In this Act unless the context otherwise requires: Interpretation.

“the Act” means the Banking Act;

“Capital Adequacy Directive” means Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions, as may be amended from time to time, and includes any implementing measures that have been issued or may be issued thereunder;

“the Directive” means Council Directive 2006/48/EC of 14 June 2006, relating to the taking up and pursuit of the business of credit institutions (recast), as may be amended or updated from time to time, and includes any implementing measures that have been issued or may be issued thereunder;

“European regulatory authority” means the body or bodies designated by a Member State or EEA State:

(a) to act as a supervisory authority in relation to the European credit institution concerned in that Member State or EEA State within the meaning of the Directive, or

(b) to carry out the duties provided for in the Directive in relation to a Maltese credit institution exercising or proposing to exercise a European right;

(2) Words and expressions which are also used in the Act shall have the same meaning as in the Act.

Banking Rules.

3. The competent authority may from time to time issue Banking Rules in terms of article 4 (2) of the Act for the better carrying out of the provisions of these regulations and for the purposes of further implementing the Capital Adequacy Directive.

Competent authority.

4. For the purposes of implementing the provisions of the Capital Adequacy Directive, the authority competent to carry out the duties provided for in this Directive and the authority responsible for carrying out the obligations provided for therein shall be the Malta Financial Services Authority established by the Malta Financial Services Authority Act.

Cap. 330.

Cooperation with other European regulatory authorities.

5. (1) The competent authority shall:

(a) cooperate closely with other European regulatory authorities in the performance of their respective duties provided for in the Capital Adequacy Directive, in particular where investment services are provided on the basis of the freedom to provide services or through the establishment of branches; and

(b) supply, on request, other European regulatory authorities with all the information that is likely to facilitate the supervision of the capital adequacy of credit institutions, in particular the verification of their compliance with the rules laid down in this Directive.

(2) Any exchange of information between the competent authority and other European regulatory authorities provided for in the Capital Adequacy Directive shall be subject to the obligations of professional secrecy as set out in articles 44 to 52 of the Directive.