VERŻJONI ELETTRONIKA



I assent.

**(L.S.)** GEORGE ABELA
President

5th November, 2013

## ACT No. XIII of 2013

*AN ACT to amend the Central Bank of Malta Act, Cap. 204.*

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

Short title and coming into force. Cap. 204.

**1.** (1) The short title of this Act is the Central Bank of Malta (Amendment) Act, 2013, and this Act shall be read and construed as one with the Central Bank of Malta Act, hereinafter referred to as "the Act".

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

Amendment of article 2 of the Act.

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

(a) the definition "director" shall be substituted by the following:

" "director", in relation to the Bank, includes the Governor and the Deputy Governors;";

(b) in the definition "European Central Bank" the words "with Article 8 of the Treaty" shall be substituted by the words "with Article 13 of the Treaty on European Union" and immediately thereafter there shall be inserted the following new definition:

" "European Systemic Risk Board" means the Board established by Article 1 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board;

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

(c) the definition "Governor" shall be substituted by the following:

" "Governor", and "Deputy Governors" mean respectively the Governor and the Deputy Governors of the Bank appointed under article 8;";

(d) immediately after the definition " "Governor" and "Deputy Governors" " there shall be added the following new definition:

" "Joint Financial Stability Board" means the Board established by article 17B;";

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

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

(f) the definition "reserve assets" shall be deleted and immediately after the definition "Minister" there shall be added the following new definitions:

" "participant" in relation to a payment system means a person, including the Bank, who participates in a payment system and may include an indirect participant approved by the Bank if it is warranted on the grounds of systemic risk and on condition that the indirect participant is known to the system;

"payment system" or "system" means a formal

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arrangement between three or more participants with common rules and standardised arrangements, for the execution of transfer orders between participants, including a clearing house, or for the settlement of payments relating to securities, which is approved by the Bank, and may include a payment, clearing, settlement, securities clearing, securities settlement, netting and, or, similar system. The Bank may also, on a case-by-case basis, designate as a payment system such a formal arrangement between two participants where the Bank considers that this is warranted on grounds of systemic risk;";

(g) in the definition "Statute" the words "to the Treaty;" shall be substituted by the words "to the Treaty on the Functioning of the European Union;"; and

(h) the definition "the Treaty" shall be substituted by the following:

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

Amendment of article 3 of the principal Act.

**3.** In sub-article (1) of article 3 of the principal Act, the word "Treaty", wherever it occurs, shall be substituted by the word "Treaties".

Substitution of article 4 of the principal Act.

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

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

Amendment of article 5 of the principal Act.

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

(a) in sub-article (1) thereof, the words "Treaty and the Statute, the tasks" shall be substituted by the words "Treaties and the Statute, the functions";

(b) in paragraph (b) of sub-article (1) thereof, the words "reserve assets" shall be substituted by the words "financial assets";

(c) paragraphs (d), (e), (f), (g) and (h) of sub-article (1) thereof shall be renumbered as paragraphs (e), (f), (g), (h) and (i) of sub-article (1) respectively;

(d) immediately after paragraph (c) of sub-article (1) thereof there shall be added the following new paragraph:

"(d) to formulate and implement macro-prudential policy;";

(e) in sub-article (2) thereof, the word "Treaty" shall be substituted by the word "Treaties"; and

(f) sub-article (3) thereof shall be deleted.

Amendment of article 7 of the principal Act.

**6.** Article 7 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof the word "Treaty" shall be substituted the word "Treaties"; and

(b) in sub-article (2) thereof, the words "the Deputy Governor and the three other directors appointed under article 9" shall be substituted by the words "the two Deputy Governors, and the four other directors appointed under article 9".

Amendment of article 8 of the principal Act.

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

(a) the marginal note thereof shall be substituted by the following:

"Governor and Deputy Governors.";

(b) in sub-article (1) thereof the words "The Governor and the Deputy Governor shall be" shall be substituted by the words "The Governor and the Deputy Governors shall be";

(c) in paragraph (a) of sub-article (2) thereof the word "Treaty" shall be substituted by the word "Treaties";

(d) sub-article (3) thereof shall be substituted by the following:

"(3) One Deputy Governor shall support the Governor by performing duties related to monetary policy and other duties as the Governor may direct. A second

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Deputy Governor shall support the Governor by performing duties related to financial stability and other duties as the Governor may direct. In the event of -

(a) the absence of the Governor, the Governor shall designate a Deputy Governor to perform the duties of the Governor;

(b) a vacancy in the office of the Governor, the Board shall designate a Deputy Governor to perform the duties of the Governor, until a new Governor is appointed as soon as possible under subarticle (1);

and the Deputy Governor so designated shall have and may exercise the powers and perform the functions of the Governor.";

(e) in sub-article (4) thereof the words "The Governor and the Deputy Governor shall devote" shall be substituted by the words "The Governor and the Deputy Governors shall devote" and in the proviso thereto the words "as Governor or Deputy Governor of the Bank" shall be substituted by the words "as Governor or Deputy Governors of the Bank"; and

(f) in sub-article (5) thereof the words "The Governor and the Deputy Governor may be" shall be substituted by the words "The Governor and the Deputy Governors may be".

Amendment of article 9 of the principal Act.

**8.** Article 9 of the principal Act shall be amended as follows:

(a) the marginal note thereof shall be substituted by the following:

"Directors other than Governor and Deputy Governors"; and

(b) in sub-article (1) thereof the words "the Governor and the Deputy Governor" shall be substituted by the words "the Governor and the Deputy Governors".

Amendment of article 12 of the principal Act.

**9.** Article 12 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof the words "the Deputy Governor shall preside" shall be substituted by the words "a Deputy Governor shall preside" and the words "nor the Deputy Governor is present" shall be substituted by the words "nor the

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Deputy Governors are present"; and

(b) in sub-article (4) thereof the words "Three members" shall be substituted by the words "Five members" and the words "the Deputy Governor" shall be substituted by the words "a Deputy Governor".

Amendment of article 13 of the principal Act.

**10.** In article 13 of the principal Act the words "nor the Deputy Governor" shall be substituted by the words "nor a Deputy Governor".

Amendment of article 17 of the principal Act.

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

(a) the marginal note thereof shall be substituted by the following:

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

(b) in sub-article (1) thereof, the word "Treaty" shall be substituted by the word "Treaties", and for the word "tasks" there shall be substituted the word "functions";

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

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

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

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

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

(f) in paragraph (d) of sub-article (1) thereof, the words "to issue, purchase, sell, discount or re-discount" shall be

substituted by the words "issuing, purchasing, selling, discounting or re-discounting";

(g) in paragraph (e) of sub-article (1) thereof, the words "to grant" shall be substituted by the word "granting";

(h) in paragraph (f) of sub-article (1) thereof, the words "to enter" shall be substituted by the word "entering";

(i) in paragraph (g) of sub-article (1) thereof, the words "to grant" shall be substituted by the word "granting";

(j) sub-articles (2) to (7) thereof shall be renumbered as sub-articles (3) to (8) respectively;

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

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

(l) in sub-article (3), as re-numbered, thereof, the word "reserve" shall be substituted by the word "financial";

(m) in paragraph (a) of sub-article (3), as re-numbered, thereof, the word "reserve" shall be substituted by the word "financial";

(n) in paragraph (b) of sub-article (3), as re-numbered, thereof, the word "transaction" shall be substituted by the word "transactions";

(o) in sub-article (4), as re-numbered thereof, the words "may invest its staff and pension funds" shall be substituted by the words "may invest staff and pension funds"; and

(p) in paragraph (a) of sub-article (7), as re-numbered, thereof, the words "as a Central Bank" shall be substituted by the words "as a central bank".

Addition of new article to the principal Act.

**12.** Immediately after article 17 of the principal Act there shall be added the following new article:

"Macro-prudential Policy.

17A. (1) In accordance with the provisions of the Treaties and the Statue, the Bank may issue, amend or revoke directives in order to implement macro-prudential policy and tools.

(2) Without prejudice to any other provisions on the exchange of information under the Treaties and the Statute or legal acts issued thereunder, the Bank may, on the basis of international agreements or upon reciprocity agreements, or otherwise in order to fulfil its international obligations in relation to macro-prudential oversight, cooperate with the European Systemic Risk Board and, as may be required, with other national or international macro-prudential authorities, in the exchange of information which is required to ensure effective macro-prudential oversight.".

Addition of new article to the principal Act.

**13.** Immediately after the new article 17A of the principal Act, there shall be added the following new article:

"Joint Financial Stability Board.

17B. (1) There shall be a Joint Financial Stability Board which is a body established for the purpose of ensuring effective cooperation between the Bank and the competent authority in the area of financial stability and which shall have the functions set out in this Act.

(2) The Joint Financial Stability Board shall be composed of the Governor of the Bank, who shall be the Chairman, and in his absence the Deputy Governor of the Bank responsible for financial stability who shall preside, two other representatives of the Bank and two representatives of the competent authority.

(3) The Minister may appoint a representative to participate as a non-voting observer at meetings of the Joint Financial Stability Board. The Chairman may co-opt other non-voting observers.

(4) Without prejudice to the Treaties, the Statute and any legal acts issued thereunder, the Joint Financial Stability Board shall have the function to facilitate cooperation between the relevant authorities in matters impacting on financial stability, including macro-prudential policy and, where relevant, micro-prudential instruments. In addition, it shall have the following functions:

(a) to formulate policy recommendations designed to safeguard the stability of the financial system and which may be communicated to the relevant public authority or public institution;

(b) to identify and assess macro-prudential instruments and, where relevant, micro-prudential instruments required to be implemented to mitigate or control potential systemic and other risks to the financial system;

(c) to give advice about whether and how an authority or public institution should act in respect of a credit or financial institution, where the issue appears to the Joint Financial Stability Board to be relevant to the stability of the financial system;

and any such recommendation, advice or assessment made by the Joint Financial Stability Board shall be taken into consideration by a public authority or public institution in Malta in the execution of its functions. It shall be the duty of such public authority or public institution to seek the opinion of the Joint Financial Stability Board prior to exercising any functions in matters which may impact on financial stability.

(5) The Joint Financial Stability Board shall meet as often as may be necessary or expedient but in any case not less frequently than once every three months. The meetings shall be convened by the Chairman either on his own initiative or on the written request of any three members.

(6) The Joint Financial Stability Board may act notwithstanding any vacancy amongst its members provided there is a quorum consisting of not less than three members present at the meeting including one member from the competent authority.

(7) Subject to the provisions of this article, the Joint Financial Stability Board shall regulate its own procedure.".

Substitution of article 18 of the principal Act.

**14.** Article 18 of the principal Act shall be substituted by the following:

"Transfer of data or information.

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

Amendment of article 21 of the principal Act.

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

(a) in paragraph (a) of sub-article (1) thereof the words "by the auditors," shall be substituted by the words "by the auditors; and";

(b) paragraph (b) of sub-article (1) thereof shall be deleted and paragraph (c) shall be renumbered as paragraph (b);

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

(d) in paragraph (a) of sub-article (3) thereof, the words ", of the statement" shall be deleted.

Substitution of the Title in Part IV of the principal Act.

**16.** The title in Part IV of the principal Act shall be substituted by the following:

"COLLECTION OF STATISTICAL AND OTHER INFORMATION".

Substitution of article 23 of the principal Act.

**17.** Article 23 of the principal Act shall be substituted by the following:

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"Collection of Statistical and other Information.

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

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

(3) The Bank may issue directives providing for the definition and imposition of reporting requirements, establishing the standards for transmission and accuracy of statistical and other information, and specifying the conditions under which the right to verify or to carry out the compulsory collection of statistical and other information may be exercised under the provisions of subarticle (4).

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

(a) require submission of documents;

(b) examine the books and records of the persons or entities referred to in subarticle (1);

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

(d) obtain written or oral explanations.

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

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

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

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

Deletion of article 24 of the principal Act.

**18.** Article 24 of the principal Act shall be deleted.

Amendment of article 26 of the principal Act.

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

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

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

Amendment of article 27 of the principal Act.

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

Amendment of article 30 of the principal Act.

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

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

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

Substitution of article 31 of the principal Act.

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

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"Other credit and financial institutions as agents.

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

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

Substitution of heading of Part VII of the principal Act.

**23.** For the words "PAYMENT SYSTEMS" in the heading of Part VII of the principal Act, there shall be substituted the words "PAYMENT SYSTEMS AND PAYMENT SERVICES".

Deletion of article 32 of the principal Act.

**24.** Article 32 of the principal Act shall be deleted.

Deletion of article 33 of the principal Act.

**25.** Article 33 of the principal Act shall be deleted.

Amendment of article 34 of the principal Act.

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

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

(b) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) No person shall organise, establish, operate or participate in a domestic payment system unless such system, including the rules of the system, are approved by the Bank and, without prejudice to subarticle (3), the Bank shall have the right to order:

(a) the closure of a domestic payment system which has been set up, or is being operated, without the necessary approval, and

(b) the suspension of the operations of an approved domestic payment system or the revocation of the approval granted by the Bank in cases where the domestic payment system is or has been operated in breach of such approval, or of any term or

condition imposed by the Bank,

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

(c) sub-article (5) thereof shall be substituted by the following new sub-article:

"(5) The Bank may issue, amend or revoke directives in respect of any or all of the objects mentioned in subarticles (1) and (2) including, without prejudice to the generality of the aforesaid, the regulation of payment systems, the regulation of clearing houses, settlement agents and participants in payment systems as well as the legal enforceability of payments made through such systems and the collateral given in connection with the operation of such a payment system:

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

(d) sub-article (7) thereof shall be deleted.

Addition of new article to the principal Act.

**27.** Immediately after article 34 of the principal Act there shall be added the following:

"Payment services.

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

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

(3) The Bank is also appointed as competent authority for the purposes of Article 10 of Regulation (EU) No 260/2012 of 14 March 2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/ 2009, and shall be responsible to monitor compliance with this Regulation and take all necessary measures to ensure such compliance.".

Substitution of article 35 of the principal Act.

**28.** Article 35 of the principal Act shall be substituted by the following new article:

"Appeals.

35. Any person who:

(a) is aggrieved by decisions taken by the Bank under article 34(2) or under any directives issued under articles 34(5) or 34A;

(b) is a party to any dispute in respect of rights and obligations arising under any directives issued under articles 34(5) or 34A(1) or under the provisions of Regulation (EC) No 924/2009 of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001; or

(c) is a party to any dispute arising in respect of rights and obligations under the provisions of Regulation (EU) No 260/2012 of 14 March 2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009; or

(d) has had an administrative penalty imposed upon him pursuant to article 56,

may appeal to the Financial Services Tribunal established under article 21 of the Malta Financial Services Authority Act within such period and under such conditions as established under that Act.".

Cap. 330.

Amendment of article 39 of the principal Act.

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

(a) the marginal note thereof shall be substituted by the following:

"Participation in International and other Organisations."; and

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(b) for the word "Treaty" there shall be substituted the word "Treaties".

Amendment of article 41 of the principal Act.

**30.** In article 41 of the principal Act for the words "The Bank may", there shall be substituted the words "Without prejudice to any other provisions on the disclosure of information under the Treaties and the Statute or legal acts issued thereunder, the Bank may,".

Amendment of article 42 of the principal Act.

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

Amendment of article 43 of the principal Act.

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

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

(b) immediately after sub-article (2) thereof, there shall be added the following new sub-articles:

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

(4) Without prejudice to subarticle (1) and in accordance with the Treaties or any legal acts issued thereunder, the Bank shall have the sole right in Malta to issue euro circulation coins and commemorative euro circulation coins.".

Substitution of article 44 of the principal Act.

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

"Reference to currency note or coin.

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

Amendment of article 49 of the principal Act.

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

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

Amendment of article 50 of the principal Act.

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

(a) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (3) and (4) respectively;

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

"(2) A cash handler as referred to in Article 6 of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting, and as subsequently amended, shall have an obligation to ensure that euro currency notes and coins which it has received and which it intends to put back into circulation are checked for authenticity and counterfeits are detected. Any counterfeits so detected shall be delivered immediately to the Bank."; and

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

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

Cap. 440.

Addition of new article to the principal Act.

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

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

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

Substitution of article 55 of the principal Act.

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

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

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

Substitution of article 56 of the principal Act.

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

"56. Without prejudice to the Treaties and the Statute and any legal acts issued thereunder, the Bank may impose

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administrative penalties which may be recovered by the Bank without recourse to a court hearing and which may be imposed either as a one-time penalty or on a daily cumulative basis until compliance in respect of the following:

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

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

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

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

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

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

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

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

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

(f) where any person (payment service provider) contravenes or fails to comply with the provisions of Regulation (EC) No 924/2009 of 16 September 2009 on

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

(g) where any person, other than any natural person who is not acting for purposes of trade, business or profession in payment service contracts, contravenes or fails to comply with the provision of Regulation (EC) No 260/2012 of 14 March 2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009:

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

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

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

Amendment of article 57 of the principal Act.

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

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

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

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

(c) in sub-article (3) thereof, immediately after the words "such person", wherever they appear, there shall be added the words "or entity".

Amendment of article 60 of the principal Act.

**40.** Article 60 of the principal Act shall be re-numbered as sub-article (1) of the said article, and immediately thereafter there shall be added the following new sub-article:

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"(2) Without prejudice to the Treaties, the Statute and any legal acts issued thereunder and without prejudice to the ability of the Bank to carry out its functions under this Act, the Treaty and the Statute, the Minister may, after consultation with the Bank, by regulations appoint the Bank to act as competent authority for the purposes of any regulation or other legal act issued under the Treaties or the Statute or when otherwise required as a result of Malta's membership of the European Union or in order to carry out a function which is important for the stability or orderly functioning of the financial system. The Minister may further provide in such regulations for anything that is necessary for the carrying into effect of any of the provisions of any such regulation or other legal act, including to empower the Bank to issue and enforce sanctions and to grant competence to any court or tribunal in Malta to settle disputes arising under such regulations or other legal acts.".

Addition of new article to the principal Act.

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

"Power to issue, amend and revoke directives.

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

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

Substitution of article 61 of the principal Act.

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

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

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

Amendment of article 62 of the principal Act.

**43.** In sub-article (1) of article 62 of the principal Act, for the word "Treaty" there shall be substituted the word "Treaties".

Amendment of article 63 of the principal Act.

**44.** In sub-article (1) of article 63 of the principal Act, for the word "Treaty" there shall be substituted the word "Treaties".

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Amendment of the Schedule of the principal Act.

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

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Passed by the House of Representatives at Sitting No. 69 of the 30th October, 2013.

ANĠLU FARRUGIA

*Speaker*

RAYMOND SCICLUNA

*Clerk to the House of Representatives*