

MEMORANDUM OF UNDERSTANDING

between

the Central Bank of Malta

and

the Malta Financial Services Authority

in respect of

Payment and Securities Settlement Systems

MEMORANDUM OF UNDERSTANDING

between

**the Central Bank of Malta
(hereinafter ‘the Bank’)**

and

**the Malta Financial Services Authority
(hereinafter ‘the Authority’)**

(both hereinafter also referred to jointly as ‘the Parties’)

1. Introduction

The Parties, in a Memorandum of Understanding signed on 4th February 2003, agreed to establish procedures to provide for the mutual exchange of information to ensure financial stability within the financial system in Malta. The Parties now agree, by means of this memorandum, to extend the application of that Memorandum to cover the regulation, oversight and smooth running of payment and securities settlement systems.

Well functioning payment systems, including the smooth operation of clearing and settlement systems, are essential for the safety and soundness of the financial system. These systems are key elements of the financial infrastructure and must be regulated to ensure the proper management of risks.

The Central Bank of Malta Act (Cap. 204) assigns to the Bank the responsibility to oversee and regulate the operation of, and the participation in, domestic payment systems as well as any form of cash or securities transactions, whether domestic or cross-border, that may be involved therein.

The Financial Markets Act (Cap 345) assigns to the Authority the responsibility for regulating investment exchanges. The regulation of such entities may require the Authority to be involved in the supervision of the operation of registers of securities admitted for a listing, when an Investment Exchange operates such registers.

Legal and systemic risks associated with payment and securities settlements systems have been addressed by the Bank in its Directive No 2 - *Directive on Payment and Securities Settlement Systems* - whilst the other risks in such systems are managed by the Bank through a process of oversight which ensures that a system operates to international standards.

2. Scope of Memorandum of Understanding

This Memorandum of Understanding shall cover systemically important payment and securities settlement systems operating in Malta.

Whereas the primary responsibility to oversee and regulate the operation of payment and securities settlement systems vests in the Bank, the Bank and the Authority shall co-operate to the greatest degree possible to ensure that payment and securities settlement systems operate within international standards.

The Parties recognise that the transfer of securities and the related payments are closely linked and that the failure to deliver a security against payment, once traded, could result in financial instability. The Parties acknowledge that the Bank is by law entrusted with the duty to effectively address the risks associated with securities settlement and that the Bank is responsible for overseeing the execution of delivery of securities and the settlement of payments relating to securities, even if this process takes place in an investment exchange or similar institution regulated by the Authority.

The Parties agree to exchange information that is of significant importance to the operations of the systems or which may be of assistance in the regulatory role of the Bank or the Authority where such systems are concerned.

3. Definitions

For the purpose of this document:

'payment system' or 'system' means a payment system which is approved by the Bank, It may include a payment, clearing, settlement, netting and, or, similar system;

'securities' mean any securities which are traded on a recognised investment exchange and that are settled within a securities settlement system;

'systemically important payment and, or securities settlement system' means a system agreed to as being systemically important by the Bank and the Authority;

'international standards' mean the: (a) *Core Principles for Systemically Important Payment Systems (15/1/2002)* established by the Committee on Payment and Settlement Systems of the G-10 central banks (CPSS); (b) *the Recommendations for Securities Settlement Systems* presented by the CPSS in co-operation with the International Organisation of Securities Commissions (IOSCO) in November 2001;

4. Systems designated as systemically Important Payment Systems

The Parties agree that currently the systems designated as systemically important payment and, or securities settlement systems are:

MaRIS – Malta Real-time Inter-bank Settlement System

MaSS – Malta Securities Settlement System

5. Term and Revision

Amendments to this Memorandum of Understanding may be proposed by any one of the Parties by giving notice to the other Party and shall only be brought in force by agreement of the Parties. The Parties further agree that any proposed amendment shall not suspend the operations of this Agreement until it is implemented or otherwise.

Agreed and signed this *16th* day of *May* 2003.