

MEMORANDUM OF UNDERSTANDING

between

The Central Bank of Malta

and

The Malta Financial Services Authority

**concerning
their co-operation and exchange of information
in the field of financial services**



BANK CENTRALI TA' MALTA
IL-BANĠA CENTRALI
CENTRAL BANK OF MALTA

MFSA
MALTA FINANCIAL SERVICES AUTHORITY

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’)

This Memorandum is based on the principle that while the Parties accept that each Party is fully responsible and accountable for any action it may take within the functions assigned to it by law, the Parties agree that each Party is in a position to assist the other in fulfilling their respective duties by the mutual exchange of information within the parameters allowed by law.

The Parties hereby agree to co-operate in the field of financial services, particularly through the exchange of information acquired in the course of carrying out duties entrusted by law, be they of a regulatory or economic nature, for the purposes of ensuring the overall safety and soundness of the financial system in Malta and of keeping the same under constant surveillance. The Parties acknowledge that such co-operation should facilitate the early detection of any possible threats to the safety and soundness of the financial system and thus be able to take any necessary measures that may be required in the prevailing situation in a timely manner.

The Parties therefore agree to establish and set out procedures which provide for the creation of specific and efficient channels for the mutual exchange of information of a qualitative and quantitative nature at a level which enables the Parties to make an overall assessment and, if necessary, an assessment of the components of the sectors for which each is responsible. For this purpose the Parties have agreed to conclude this Memorandum of Understanding.

1. Definitions

“Domestic Standing Group” refers to the Domestic Standing Group for the management of financial crisis situations set up in terms of articles 4 to 7 of the Memorandum of Understanding between the Ministry of Finance, the Economy and Investment, the Bank and the Authority on co-operation in the management of financial crisis situations.

“Framework for the Management of Financial Crisis Situations” means the operational structure and decision-making process established by the Parties, together with the Ministry responsible for Finance, for the management of a financial crisis situation, whether the crisis is domestic or cross-border.

“Statute” and “Treaty” shall have the same meaning as that assigned to them in article 2 of the Central Bank of Malta Act.

2. Professional Secrecy

Employees of the Parties are bound by law to respect the obligation of professional secrecy in respect of information acquired in the course of carrying out their respective duties, whatever the source of the information.

3. Responsibilities and Functions

3.1 The Bank

In accordance with the Treaty and the Statute, the primary objective of the Bank under the Central Bank of Malta Act, is to maintain price stability. Without prejudice to this primary objective, the Central Bank of Malta Act further requires the Bank to support the general economic policies of the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 of the Treaty and to act in accordance with the principles set out in Article 4 of the Treaty. In accordance with the Treaty and the Statute, the tasks of the Bank shall, *inter alia*, include the following:

- to ensure the stability of the financial system;
- to promote a sound and efficient payment system;
- to compile and publish statistics.

In carrying out its duties to promote the smooth operation of payment systems, the Bank is given the function to oversee and regulate the operation of, and the participation in, domestic payment systems under the Central Bank of Malta Act. The Bank may itself establish and operate such a payment system.

3.2 The Authority

The Authority is responsible, *inter alia*, for the licensing, regulation and supervision of credit and financial institutions, the business of insurance and activities of insurance intermediaries, investment services and collective investment schemes, retirement funds, trustees, regulated markets and central securities depositories. It also incorporates the Registry of Companies.

The Authority is also obliged by law:

- to promote consumer protection in financial services;
- to promote fair competition and consumer choice in financial services;
- to investigate allegations of malpractices;
- to ensure high standards of conduct; and
- to monitor the working of financial services legislation for which it is responsible

4. Power to obtain and exchange information

The Parties have been legally vested with the power to obtain and share information in order to provide mutual assistance within their areas of competence and responsibility.

The Central Bank of Malta Act authorises the Bank to obtain information which may be required for the discharge of its duties under the law from reporting agents.

The Authority has statutory powers of licensing, supervision and investigation in terms of the Malta Financial Services Authority Act and the specific legislation falling within the competence of the Authority, as the appointed Competent Authority, namely:

- Investment Services Act;
- Banking Act;
- Financial Institutions Act;
- Insurance Business Act;
- Insurance Intermediaries Act;
- Financial Markets Act; and
- Special Funds (Regulation) Act.

For these purposes, the Authority has been granted by law the power to obtain information relating to the activities licensed or falling under its supervisory or regulatory functions.

The Central Bank of Malta Act provides for the exchange of information between the Bank and the Competent Authority, while similar provisions in the Malta Financial Services Authority Act govern the exchange of information between the Authority and the Bank.

The Parties further acknowledge the need to collaborate in order to avoid separate collection of the same data and to minimise the burden on reporting agents. Where both Parties, therefore, require access to the same information, they will reach agreement as to who should collect such information and how it should be transmitted to the other party.

4.1 Requirements of the Bank

The Authority recognises and acknowledges that the Bank may need to have access to information on institutions falling within the regulatory and supervisory competence of the Authority in order to fulfil its responsibilities under the Central Bank of Malta Act as regards financial stability and the compilation of monetary statistics.

For this purpose, the Authority undertakes to assist the Bank through:

- the provision of information in the possession of or accessible to the Authority through regulatory and prudential returns or in any other way on institutions falling within the regulatory and supervisory competence of the Authority; and
- the provision of other information that the Bank may require from time to time in order to fulfil its responsibilities at law.

4.2 Requirements of the Authority

The Bank recognises and acknowledges that the Authority may need to have access to information held by the Bank in order to assist it in fulfilling its functions under the relevant legislation.

For this purpose, the Bank undertakes to assist the Authority by providing it with information in the possession of or accessible to the Bank, which the Authority may require from time to time in the exercise of its licensing, regulatory, supervisory, and investigative functions and other powers under the law.

5. Standing Committee

The Parties agree to establish a Standing Committee to meet, exchange views, evaluate and consult on matters and developments of mutual interest, and to consider the most appropriate measures and action that either or both of the Parties should put into effect.

The Standing Committee shall regulate its own procedures. It shall meet on a regular basis, and as may be necessary if either of the Parties considers that there are any matters that need to be addressed urgently.

Either of the Parties may require the Standing Committee to convene urgently when a Party has reason to believe that there may be a genuine threat to the stability of the financial system, and in order to avoid a serious disturbance in the domestic economy or any implications for the euro-area. If any one of the Parties identifies a situation where immediate corrective or emergency action might be necessary, it shall immediately inform and consult with the other Party.

The Parties, however, agree and clarify that the functions and powers given to the Standing Committee under this Memorandum of Understanding shall not affect, or in any way act as a substitute to, the operation and implementation of the provisions of the Framework for the Management of Financial Crisis Situations. The Parties therefore agree that, if as a result of the operation of this Memorandum of Understanding, either Party or, alternatively, members of the Standing Committee, suspect or in any way become aware that circumstances prevail which might give rise to a serious disruption to the financial system, the Chairmen of both Parties and the Chairman of the Domestic Standing Group shall be immediately notified.

6. Communications

The Standing Committee shall not be construed as being a replacement for the day-to-day working relationship between the Parties in the exchange of information as established by this Memorandum of Understanding.

A Party making a request for information under this Memorandum of Understanding shall endeavour to use the mode of communication best suited for that purpose, provided that the other Party may require that a request in any particular case or cases be made in writing. When communicating, due consideration shall be given by the Parties to the importance and significance of the information being exchanged and, consequently, to the level of management at which the information may be exchanged.

Each of the Parties agree to nominate a contact person who shall be responsible to co-ordinate, oversee and consult as necessary in order to ensure the smooth working of this Memorandum of Understanding.

7. International Relations

The Parties shall seek to co-operate in international regulatory, supervisory and economic initiatives of mutual interest through participation in relevant international fora and conferences on relevant financial matters.

8. Records

Pursuant and subject to the other provisions of this Memorandum of Understanding, the Parties agree to exchange information arising from the records for which each is responsible and, in order to achieve this, the Parties shall consult on the level of accessibility which each Party shall give to the other in respect of returns or other information within its areas of competence and responsibility. Such an understanding is also necessary to prevent the unnecessary collection of the same data from the same reporting institutions.

The Parties shall consult on the modalities of the operating procedures for the smooth implementation of this provision.

9. Term and Revisions

This Memorandum of Understanding shall replace the Memorandum of Understanding entered into by the Parties on the 4th day of February 2003 for this same purpose, and shall remain in force until such time as it is terminated by agreement of the Parties.

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

Agreed and signed this 15th day of the month of *February* 2010.

(signed)

Michael C Bonello
Governor
Central Bank of Malta

(signed)

Joseph V Bannister
Chairman
Malta Financial Services Authority