

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 15th February 2010, 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 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 assigns to the Authority the responsibility for regulating and supervising market operators and regulated markets. The regulation and supervision of such markets may require the Authority to be involved in the supervision of the operation of registers of securities admitted for a listing, when a Regulated Market 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. Furthermore, EC Regulation 924/2009 on cross-border payments in the EU, which supersedes CBM Directive No. 3 on cross-border credit transfers, eliminates the differences in charges for cross-border and national payments in Euro.

Directive 2007/64/EC of the European Parliament and of the Council deals with payment services in the internal market. This also introduced payment institutions. The Directive was transposed into Maltese Law on the 7th May 2010 by Act No. II of 2010, and in terms of the CBM Act (Cap 204) by CBM Directive No 1 on The Provision and Use of Payment Services issued on 30th October 2009 and amended on 7th October 2010

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 on a regulated market 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:

‘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;
- (c) Oversight Standards for Euro Retail Payment Systems set by the ECB;
- (d) Oversight Framework for Card Payment Schemes – Standards, issued by the ECB;
- (e) Recommendations for Central Counterparties established by the Committee on Payment and Settlement Systems (CPSS);
- (f) Recommendations for Securities Settlement Systems and Central Counterparties in the European Union issued by the ECB and CESR;
- (g) Standards for the Use of EU Securities Settlement; and any other related international standards that are published.

‘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 regulated market or similar institution 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;

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:

TARGET2Malta

MaltaClear

5. Term and Revisions

This Memorandum of Understanding shall replace the Memorandum of Understanding entered into by the Parties on the 16th day of May 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 _____ day of _____ 2011.

for the Central Bank of Malta

Mr Michael C Bonello

Governor

for the Malta Financial Services Authority

Professor Joseph V Bannister

Chairman