



BANK CENTRALI TA' MALTA
EUROSISTEMA
CENTRAL BANK OF MALTA

CENTRAL BANK OF MALTA

DIRECTIVE No 12
in terms of the

CENTRAL BANK OF MALTA ACT
(CAP. 204)

ADMINISTRATIVE MEASURES AND PENALTIES FOR
INFRINGEMENTS UNDER THE CENTRAL BANK OF MALTA ACT

Ref: CBM/12

DIRECTIVE NO 12
DIRECTIVE ON THE ADMINISTRATIVE MEASURES AND PENALTIES FOR
INFRINGEMENTS UNDER THE CENTRAL BANK OF MALTA ACT

Issued on 21st November 2013

Amended on 13th June 2016

Amended on XX August 2018

INTRODUCTION

1. In terms of article 56 of the Central Bank of Malta Act (Cap. 204) (hereinafter referred to as “the Act”), the Central Bank of Malta (hereinafter referred to as “the Bank”) may impose administrative penalties which may be recovered by the Bank without recourse to a court hearing and which may be imposed either as a onetime penalty or on a daily cumulative basis until compliance.
2. In addition, in terms of article 50 A of the Act, the Bank has also been empowered to issue directives in order to impose administrative measures for non-observance of the rules on the authenticity, fitness checking and recirculation of euro banknotes and euro coins.
3. For the purposes of this Directive, unless otherwise provided or made clear from the context, terms used in this Directive shall have the same meaning as is assigned to them under the Act, and/or Directive No. 10, including the ECB Decision (ECB/2010/14) of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes and the Council Regulation (No 1210/2010) of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins for circulation, and/or Directive No. 8.

SCOPE AND APPLICATION

4. This Directive lays down penalties that the Bank may impose when any person fails to fulfill any obligation arising from the Act or from any of the Directives issued by the Bank, as well as administrative measures that the Bank may impose for non-observance of the rules on the authenticity, fitness checking and recirculation of euro banknotes and euro coins arising from the Act or from Directive No. 10, including the ECB Decision and the Council Regulation.

DEFINITIONS

5. For the purpose of this Directive:
 - “Council Regulation” means Regulation (EU) No 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins for circulation;
 - “Directive No. 1” means the Central Bank of Malta Directive No. 1 on the provision and use of payment services;
 - “Directive No. 8” means the Central Bank of Malta Directive No. 8 on monetary policy instrument and procedures;
 - “Directive No. 10” means the Central Bank of Malta Directive No. 10 on the authentication, fitness checking and recirculation of Euro banknotes and coins; and
 - “ECB Decision” means Decision ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes;

ADMINISTRATIVE MEASURES AND PENALTIES

6. When any person fails to comply with a provision of the Act or of an EU Regulation in respect of which the Bank has been appointed as competent authority as appearing in the first column of Annex I to this Directive consisting in the corresponding act or omission described in the second column thereof, the Bank may impose by way of an administrative penalty the corresponding sum appearing in the third column of the said Annex.

7. When any person fails to comply with a provision of Directive No. 10, including the ECB Decision or Council Regulation, as appearing in the first column of Annex II to this Directive consisting in the corresponding act or omission described in the second column thereof, the Bank may impose by way of an administrative measure the corresponding action appearing in the third column of the said Annex and/or an administrative penalty the corresponding sum appearing in the fourth column of the said Annex.

8. When a provision laid down in *Annex 6a* of Directive No. 8 is not complied with by an operator of a securities settlement system (SSS), measures and penalties outlined in third and fourth columns under Annex III of this Directive shall apply to the involved party.

ENTRY INTO EFFECT

9. This Directive shall enter into force on 21 November 2013.

10. The Annexes attached to this Directive are intended to form an integral part of this Directive.

ANNEX I

Paragraph 6: Failure to comply with a provision of the Act, including directives issued thereunder, and EU Regulations in respect of which the Bank has been appointed as competent authority

| Administrative penalties which may be imposed by the Central Bank of Malta without recourse to a court hearing | | |
|---|---|--|
| Provision (First Column) | Act or Omission (Second Column) | Penalty (Third Column) |
| 56 (a) with reference to 34 (5), 34A(1), 50A or 60A, including directives issued thereunder | Contravening or failing to comply with a requirement contained in any directive issued by the Bank which is not stipulated in Annex II and Annex III of this Directive | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |
| 56 (b) with reference to 23 and 24, including directives issued thereunder | Contravening or failing to comply with any reporting requirement | €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |
| 56 (c) with reference to 50 | Contravening or failing to comply with any obligation relating to counterfeit currency notes or coins or the authentication and fitness checking of euro currency notes and coins which is not stipulated in Annex II of this Directive | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |
| 56 (d) with reference to 45 to 49 | A body corporate deriving benefit from commission of offences under articles 45 to 49 by a person having a senior position within the body corporate | From €15,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |
| 56 (d) with reference to 45 to 49 | A body corporate deriving benefit from the actions of a person, having a senior position within the body corporate, aiding or acting as accessory in the commission of offences under articles 45 to 49 | From €10,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |
| 56 (e) with reference to 45 to 49 | Failure by a body corporate to exercise supervision or control over a person, having a senior position within the body corporate, who commits, or aids or acts as accessory in the | From €10,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |

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| | commission of offences under articles 45 to 49 | |
| 56 (f) with reference to 34A (2) | Contravening or failing to comply with the provisions of Regulation (EC) No 924/2009 on cross-border payments | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |
| 56 (g) with reference to 34A (3) | Contravening or failing to comply with the provisions of Regulation (EC) No 260/2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |
| Regulation 3 of the Central Bank of Malta Act (Appointment of Competent Authority on Interchange Fees for Card-based Payment Transactions) Regulations, 2015 (S.L.204.07) with reference to article 60(2) of the Act | Contravening or failing to comply with the provisions of Regulation (EC) No 2015/751 on interchange fees for card-based payment transactions. | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 |

ANNEX II

A. Paragraph 7: Failure to comply with a provision of Directive No. 10 in relation to Euro banknotes, including the ECB Decision

| EURO BANKNOTES | | | |
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| Provision (First Column) | Act or Omission (Second Column) | Measure (Third Column) | Penalty (Fourth Column) |
| Article 3(3) of the ECB Decision | Authenticity and fitness checking of euro banknotes not carried out by a successfully tested banknote handling machine or trained staff | Operation should be stopped | From a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 if the administrative measure is not implemented |
| Article 3(4) of the ECB Decision | Euro banknotes recirculated via customer operated machines or cash dispensers which have not been checked for authenticity and fitness by a successfully tested banknote handling machine | Operation of Customer operated machines/Cash dispensers should be stopped | From a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 if the administrative measure is not implemented |
| Article 3(5) of the ECB Decision | Staff-operated machines put into operation without having been successfully tested and included in the ECB list or changing the standard factory setting of a successfully tested machine or from the stricter setting agreed with the Bank | Operation of machine should be stopped and/or immediate prohibition of recirculating one or more denomination (s) of banknote (s) | From €2,000 up to a maximum penalty of €25,000 if the administrative measure is not performed for each infringement and from a daily cumulative penalty of €500 per day up to a maximum penalty of €50,000 if the administrative measure is not implemented |
| Article 5 of the ECB Decision | Banknotes not authenticated as genuine are not handed over to the competent authorities within 20 working days | N/A | From €2,000 up to a maximum penalty of €25,000 |

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|---|---|-----|--|
| Paragraphs 8 to 11 of Directive No. 10 and Article 10 of the ECB Decision | Cash handler resisting or not cooperating in an inspection by the Bank or not complying with a requirement of the Bank following an inspection. | N/A | From €1,000 up to a maximum penalty of €50,000 for each infringement |
| Paragraph 12 of Directive No. 10 | No reporting or wrong reporting of data to the Bank or no reporting of the type of banknote handling machine before putting it into operation | N/A | From €2,000 up to a maximum penalty of €25,000 |

B. Paragraph 7: Failure to comply with a provision of Directive No. 10 in relation to Euro coins, including the Council Regulation

| EURO COINS | | | |
|--|--|--|---|
| Provision (First Column) | Act or Omission (Second Column) | Measure (Third Column) | Penalty (Fourth Column) |
| Article 3 (1) of the Council Regulation | Authenticity checking of euro coins not carried out by a coin-processing machine or trained staff | Operation should be stopped | From a daily cumulative penalty of €100 per day up to a maximum penalty of €30,000 if the administrative measure is not implemented |
| Article 4 (1) of the Council Regulation | Detection test of the coin-processing machine not carried out before putting it into operation or coin-processing machine failing detection test is put into operation | Operation of coin-processing machine should be stopped and/or adjusted | From a daily cumulative penalty of €100 per day up to a maximum penalty of €30,000 if the administrative measure is not performed |
| Paragraph 14 of Directive No. 10 | Counterfeit or unfit coins put into circulation and not delivered to the Bank. | N/A | From €500 up to a maximum penalty of €50,000 |
| Paragraphs 14 and 15 of Directive No. 10 | Institutions resisting or not cooperating during an inspection by the Bank | N/A | From €2,000 up to a maximum penalty of €30,000 |
| Paragraph 17 of Directive No. 10 | Non-compliance regarding procedures specified | To submit rectification within 6 months | From a daily cumulative penalty of €100 per day up to a maximum penalty of €30,000 if the administrative measure is not performed |
| Paragraph 28 of Directive No. 10 | Incorrect packaging of euro coins unfit for circulation | N/A | From €500 up to a maximum penalty of €15,000 |
| Paragraph 32 of Directive No. 10 | No reporting or wrong reporting of data to the Bank | N/A | From €1,000 up to a maximum penalty of €20,000 |

ANNEX III

Paragraph 8: Failure to comply with a provision laid down in Annex 6a of Directive No. 8 in relation to Eligibility criteria for the use of Securities Settlement Systems and links between Securities Settlement Systems in Eurosystem Credit Operations

| Section II of Annex 6A (Eurosystem Requirements) | | | |
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| Provision (First Column) | Act or Omission (Second Column) | Measure (Third Column) | Penalty (Fourth Column) |
| Paragraph 1(a) of Annex 6a Section II of Directive No. 8 | Entitlement of securities not governed by the law of an EEA State | Such situation should be addressed immediately | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €1,000 per day up to a maximum penalty of €50,000 |
| Paragraph 1(b-g) of Annex 6a Section II of Directive No. 8 | Entitlement of securities, procedures for allocating any shortfall of securities and procedures relating to securities claim that are not clear and unambiguous | A plan to address such shortfall is required within 3 months | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €1,000 per day up to a maximum penalty of €50,000 |
| Paragraph 2 of Annex 6a Section II of Directive No. 8 | Securities transfers made via links are not final, i.e. not effected according to Settlement Finality Directive | Such situation should be addressed immediately | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €1,000 per day up to a maximum penalty of €50,000 |
| Paragraph 3 of Annex 6a Section II of Directive No. 8 | SSS operator makes use of a third-party institution when the operator acts as an issuer SSS in direct or relayed links | This action should be discontinued immediately | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €1,000 per day up to a maximum penalty of €50,000 |
| Paragraph 4 of Annex 6a Section II of Directive No. 8 | Central bank transactions carried out using links are not effected through intraday DvP settlement or intraday FoP settlement | Settlement method should be addressed immediately | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €1,000 per day up to a maximum penalty of €50,000 |
| Paragraph 5(a-e) of Annex 6a Section II of Directive No. 8 | SSS operator does not follow the schedules for operating hours and opening days | Such situation should be addressed immediately | From €1,000 up to a maximum of €50,000 or as the case may be from a daily cumulative penalty of €1,000 per day up to a maximum penalty of €50,000 |