

ABBOZZ TA' LIĠI
msejjah

ATT li jemenda l-Att dwar il-Kummerċ Bankarju, Kap. 371

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att tal-2010 li jemenda l-Att dwar il-Kummerċ Bankarju, u dan l-Att għandu jinqara u jiftiehem haġa waħda mal-Att dwar il-Kummerċ Bankarju, hawn iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehħ.
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(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok it-tifsira " "bank" jew "istituzzjoni ta' kreditu" ", għandha tidhol din it-tifsira ġdida li ġejja:

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" "bank" jew "istituzzjoni ta' kreditu" tfisser impriża, li n-negozju tagħha jkun dak li tirċievi depożiti jew fondi oħra li jithallsu lura minghand il-pubbliku u li tagħti krediti akkont tagħha nnifisha;"

(ii) it-tifsiriet "Direttiva", "flus elettronici", "istituzzjoni ta' flus elettronici" u "Regola dwar Flus Elettronici" għandhom jithassru;

(iii) minnufih wara t-tifsira "Direttiva dwar Adegwatezza Kapitali" għandha tidhol din it-tifsira ġdida li ġejja:

" "Direttiva dwar Htigiet Kapitali" tfisser id-Direttiva tal-Kunsill 2006/48/KE tal-14 ta' Ġunju 2006, rigward il-bidu u l-eżerċizzju tan-negozju tal-istituzzjonijiet ta' kreditu (tfassil mil-ġdid), kif din tista' tkun emendata jew aġġornata minn żmien għal żmien, u tinkludi kull miżura ta' implimentazzjoni li tkun inharget jew li tista' tinhareg taħtha;"

(iv) minnufih wara t-tifsira "*holding* kwalifikattiv ta' azzjonijiet" għandha tidhol din it-tifsira ġdida li ġejja:

" "istituzzjoni ta' kreditu prinċipali tal-UE" tfisser istituzzjoni ta' kreditu prinċipali fi Stat Membru li mhijiex sussidjarja ta' istituzzjoni ta' kreditu oħra awtorizzata f'xi Stat Membru, jew ta' kumpannija *holding* finanzjarja stabbilita f'xi Stat Membru:

Għall-finijiet ta' din it-tifsira, "istituzzjoni ta' kreditu prinċipali fi Stat Membru" tfisser istituzzjoni ta' kreditu li jkollha istituzzjoni ta' kreditu jew istituzzjoni finanzjarja bħala sussidjarja jew li jkollha parteċipazzjoni f'istituzzjoni bħal dik, u li fiha nnifisha ma tkunx sussidjarja ta' istituzzjoni ta' kreditu oħra awtorizzata fl-istess Stat Membru, jew ta' kumpannija *holding* finanzjarja stabbilita fl-istess Stat Membru;"

(v) minnufih wara t-tifsira "kumpannija" għandha tidhol din it-tifsira ġdida li ġejja:

" "kumpannija *holding* finanzjarji prinċipali tal-UE" tfisser kumpannija *holding* finanzjarja prinċipali fi Stat Membru li mhijiex sussidjarja ta' istituzzjoni

ta' kreditu awtorizzata f'xi Stat Membru, jew ta' kumpannija *holding* finanzjarja oħra stabbilita f'xi Stat Membru:

Għall-finijiet ta' din it-tifsira, "kumpannija *holding* finanzjarja prinċipali fi Stat Membru" tfisser kumpannija *holding* finanzjarja li fiha nnifisha ma tkunx sussidjarja ta' istituzzjoni ta' kreditu awtorizzata fl-istess Stat Membru, jew ta' kumpannija *holding* finanzjarja stabbilita fl-istess Stat Membru;"

(vi) minnufih wara t-tifsira "Stat Membru" għandhom jidhlu dawn it-tifsiriet godda li ġejjin:

" "Stat Membru domestiku" tfisser dak l-Istat Membru fejn istituzzjoni ta' kreditu tkun giet awtorizzata skont l-artikolu 6 sa 9 u 11 sa 14 tad-Direttiva dwar Ftigiet Kapitali;

"Stat Membru ospitanti" tfisser dak l-Istat Membru fejn istituzzjoni ta' kreditu jkollha fergħa jew fejn din tkun tipprovdi servizzi;" u

(vii) minnufih wara t-tifsira "Stat ŻEE" għandha tidhol din it-tifsira ġdida li ġejja:

" "superviżur konsolidatur" tfisser l-awtorità kompetenti jew l-awtorità regolatorja barranija, hekk kif jista' jkun il-każ, responsabbli għall-eżerċizzju ta' sorveljanza fuq bażi konsolidata ta' istituzzjonijiet ta' kreditu prinċipali tal-UE u istituzzjonijiet ta' kreditu kontrollati minn kumpanniji *holding* finanzjarji prinċipali tal-UE;"

(b) fis-subartikolu (2) tiegħu:

(i) fl-ewwel proviso, minflok il-kliem "magħmulin taħtu:", għandhom jidhlu l-kliem "magħmulin taħtu."; u

(ii) it-tieni proviso għandu jithassar;

(ċ) is-subartikolu (3) tiegħu għandu jithassar;

(d) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3);

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(e) fis-subartikolu (3) tiegħu, kif enumerat mill-ġdid, il-kliem "barra minn istituzzjoni ta' flus elettronici," għandhom jithassru;

(f) is-subartikolu (5) tiegħu għandu jithassar;

(g) is-subartikoli (6) u (7) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (4) u (5) rispettivament; u

(h) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "tad-Direttiva", għandhom jidhlu l-kliem "tad-Direttiva dwar Htiġiet Kapitali".

Emenda tal-artikolu 3 tal-Att prinċipali.

3. Fil-paragrafu (a) tas-subartikolu (2) tal-artikolu 3 tal-Att prinċipali, minflok il-kliem "lill-htiġiet tad-Direttiva 2006/48/KE tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Ġunju 2006 li tirrigwarda l-bidu u l-ġestjoni tan-negozju ta' istituzzjonijiet ta' kreditu u l-htiġiet tad-Direttiva 2006/49/KE tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Ġunju 2006 fuq l-adeqwatezza kapitali ta' ditti ta' investiment u istituzzjonijiet ta' kreditu.", għandhom jidhlu l-kliem "lill-htiġiet tad-Direttiva dwar Htiġiet Kapitali u d-Direttiva dwar Adegwatezza Kapitali".

Emenda tal-artikolu 4 tal-Att prinċipali.

4. L-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "li tesegwixxi l-funzjonijiet preskritti b'dan l-Att u kull regolament, Regoli Bankarji, jew Regoli dwar Flus Elettronici magħmulin tahtu u li tassikura li l-istituzzjonijiet ta' kreditu li jagħmlu kummerċ f'Malta jikkonformaw ruħhom ma' dan l-Att, u ma' kull regolament, direttiva, Regoli Bankarji u Regoli dwar Flus Elettronici maħruġa tahtu", għandhom jidhlu l-kliem "li tesegwixxi l-funzjonijiet preskritti b'dan l-Att u kull regolament jew Regoli Bankarji magħmulin tahtu u li tassikura li l-istituzzjonijiet ta' kreditu li jagħmlu kummerċ f'Malta josservaw dan l-Att, u kull regolament, direttiva u Regoli Bankarji maħruġin tahtu";

(b) fis-subartikolu (2) tiegħu, kull fejn dawn jinsabu, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru;

(ċ) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Ir-Regoli Bankarji għandhom ikunu vinkolanti fuq id-detenturi ta' liċenza u oħrajn kif jista' jiġi speċifikat fl-istess regoli.";

(d) fis-subartikolu (4) tiegħu, il-kliem "u Regoli dwar Flus Elettroniċi" għandhom jithassru; u

(e) fis-subartikolu (5) tiegħu, il-kliem "u Regoli dwar Flus Elettroniċi" għandhom jithassru.

5. Minnufih wara l-artikolu 4 tal-Att prinċipali, għandu jizdied dan l-artikolu ġdid li ġej:

Żjieda tal-artikolu 4A ġdid ma' l-Att prinċipali.

"Prattici ta' supervizjoni.

4A. (1) Fit-twettiq ta' dmirijietha, l-awtorità kompetenti għandha tikkonsidra l-konvergenza dwar mezzi supervizorji u Prattici supervizorji fl-applikazzjoni ta' dan l-Att, u tar-regolamenti u r-regoli magħmulin tahtu.

(2) Għall-finijiet tas-subartikolu (1):

(a) l-awtorità kompetenti għandha tiehu sehem fl-attivitajiet tal-Kumitat ta' Supervizuri Bankarji Ewropej;

(b) l-awtorità kompetenti għandha ssegwi l-linji gwida, rakkomandazzjonijiet, *standards* u miżuri oħra miftiehma mill-Kumitat ta' Supervizuri Bankarji Ewropej u tiddikjara x'ikunu sewwasew ir-raġunijiet jekk dan ma jġgrix; u

(c) kummissjonijiet nazzjonali mogħtijin lill-awtorità kompetenti m'għandhomx iżommuha milli twettaq dmirijietha taht dan l-Att jew bħala membru tal-Kumitat ta' Supervizuri Bankarji Ewropej."

6. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 5 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "jew ta' hruġ ta' flus elettronici" għandhom jithassru;

(b) fis-subartikolu (3) tiegħu, il-kliem "jew il-hruġ ta' flus elettronici" għandhom jithassru;

(c) is-subartikoli (5) u (6) tiegħu għandhom jithassru; u

(d) is-subartikolu (7) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5).

7. L-artikolu 6 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 6 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "jew li toħroġ

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flus elettronici" għandhom jithassru; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "kif jista' jiġi preskritt minn żmien għal żmien minn Regola Bankarja u, jew, Regola dwar Flus Elettronici u", għandhom jidhlu l-kliem "kif jista' jiġi preskritt minn żmien għal żmien minn Regola Bankarja u".

Emenda tal-artikolu 7 tal-Att prinċipali.

8. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem "(a) il-kapital inizjali tagħha jammonta għal mhux inqas minn ħames miljuni u wieħed u erbgħin elf u disa' mija u tmienja u għoxrin euro u tnejn u sebgħin ċenteżmu (5,041,928.72) jew fil-każ ta' istituzzjoni ta' flus elettronici, minn miljun euro (1,000,000.00):", għandhom jidhlu l-kliem "(a) il-kapital inizjali tagħha jammonta għal mhux inqas minn ħames miljun euro (5,000,000.00):"; u

(b) fis-subartikolu (8) tiegħu, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru.

Thassir tal-artikolu 7A tal-Att prinċipali.

9. L-artikolu 7A tal-Att prinċipali għandu jithassar.

Emenda tal-artikolu 9 tal-Att prinċipali.

10. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, fil-paragrafu (a) il-kliem "jew Regoli dwar Flus Elettronici" u fil-paragrafu (ċ) il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru; u

(b) fis-subartikolu (3) tiegħu, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru.

Emenda tal-artikolu 11 tal-Att prinċipali.

11. L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (4); u

(b) minnufih wara s-subartikolu (2) tiegħu, għandu jizdied dan is-subartikolu ġdid li ġej:

"(3) Istituzzjoni ta' kreditu li jkollha liċenza f'Malta tkun projbita milli tiftaħ xi fergħa, uffiċċju sussidjarju jew rappreżentattiv f'pajjiż terz meta l-liġijiet dwar is-segretzza jew xi regolamenti oħra f'dak il-pajjiż ikunu jipprojbixxu l-mogħdija ta' informazzjoni li jitqiesu

li jkunu meħtieġa biex tkun tista' ssir superviżjoni konsolidata adegwata."

12. Minnufih wara l-artikolu 11 tal-Att prinċipali, għandu jżieded dan l-artikolu ġdid li ġej:

Zjieda tal-artikolu ġdid 11A mal-Att prinċipali.

"Ftuh ta' fergħat li jkollhom l-uffiċċju prinċipali tagħhom band'ohra milli fl-Unjoni Ewropea.

11A. (1) L-awtorità kompetenti ma tistax tapplika dispożizzjonijiet li jirriżultaw fi trattament aktar favorevoli għal fergħa ta' istituzzjoni ta' kreditu li jkollha l-uffiċċju prinċipali tagħha band'ohra milli fl-Unjoni Ewropea minn dak li jingħata lil fergħat ta' istituzzjonijiet ta' kreditu li jkollhom l-uffiċċju prinċipali tagħhom fl-Unjoni Ewropea.

(2) L-awtorità kompetenti għandha tavża lill-Kummissjoni Ewropea u lill-Kumitat Bankarju Ewropew b'kull awtorizzazzjoni għal fergħat mogħtija lil istituzzjonijiet ta' kreditu li jkollhom l-uffiċċju prinċipali tagħhom band'ohra milli fl-Unjoni Ewropea."

13. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 12 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "istituzzjoni ta' kreditu, li ma tkunx istituzzjoni ta' flus elettronici, b'licenza korrenti", għandhom jidhlu l-kliem "istituzzjoni ta' kreditu b'licenza korrenti"; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem "Kull istituzzjoni ta' kreditu, barra minn istituzzjoni ta' flus elettronici, għandha", għandhom jidhlu l-kliem "Kull istituzzjoni ta' kreditu għandha".

14. Fis-subparagrafu (i) tal-paragrafu (b) tas-subartikolu (6) tal-artikolu 13A tal-Att prinċipali, minflok il-kliem "id-Direttiva;", għandhom jidhlu l-kliem "id-Direttiva dwar Htigiet Kapitali;".

Emenda tal-artikolu 13A tal-Att prinċipali.

15. L-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 15 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Istituzzjoni ta' kreditu, b'eskluzjoni ta' istituzzjoni ta' flus elettronici, ma għandhiex -", għandhom jidhlu l-kliem "Istituzzjoni ta' kreditu m'għandhiex -"; u

(b) is-subartikolu (3) tiegħu għandu jithassar.

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Amendment of article 17 of the principal Act.

16. In sub-article (1) of article 17 of the principal Act, for the words "A credit institution, to the exclusion of an electronic money institution, shall -", there shall be substituted the words "A credit institution shall -".

Emenda tal-artikolu 17 tal-Att prinċipali.

16. Fis-subartikolu (1) tal-artikolu 17 tal-Att prinċipali, minflok il-kliem "Istituzzjoni ta' kreditu, b'esklużjoni ta' istituzzjoni ta' flus elettronici, għandha -", għandhom jidhlu l-kliem "Istituzzjoni ta' kreditu għandha -".

Emenda tal-artikolu 17A tal-Att prinċipali.

17. Fis-subartikolu (1) tal-artikolu 17A tal-Att prinċipali, minflok il-kliem "Kull istituzzjoni ta' kreditu, b'esklużjoni ta' istituzzjoni ta' flus elettronici, għandu jkollha", għandhom jidhlu l-kliem "Kull istituzzjoni ta' kreditu għandu jkollha".

Emenda tal-artikolu 17B tal-Att prinċipali.

18. L-artikolu 17B tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "u mekkaniżmi ta' kontroll intern adegwati li jinkludu proċeduri amministrattivi u ta' kontijiet sodi.", għandhom jidhlu l-kliem "u mekkaniżmi ta' kontroll intern adegwati li jinkludu proċeduri amministrattivi u ta' kontijiet sodi, u kull politka u prattika ta' rimunerazzjoni li tkun konsistenti ma' u tippromwovi maniġġar ta' riskju sod u effettiv."; u

(b) fis-subartikolu (2) tiegħu, il-kliem "jew Regola dwar Flus Elettronici" għandhom jithassru.

Emenda tal-artikolu 17C tal-Att prinċipali.

19. Fl-artikolu 17C tal-Att prinċipali, minflok il-kliem "Kull istituzzjoni ta' kreditu, b'esklużjoni ta' istituzzjonijiet ta' flus elettronici, għandu jkollhom" għandhom jidhlu l-kliem "Kull istituzzjoni ta' kreditu għandu jkollha".

Emenda tal-artikolu 17D tal-Att prinċipali.

20. Is-subartikolu (1) tal-artikolu 17D tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "jew Regoli Bankarji u Regoli dwar Flus Elettronici magħmulin tahtu u l-kriterji tekniċi mnizzla fl-Anness XI mad-Direttiva", għandhom jidhlu l-kliem "jew Regoli Bankarji magħmulin tahtu u l-kriterji tekniċi mnizzla fl-Anness XI mad-Direttiva dwar Htiġiet Kapitali"; u

(b) fis-subartikolu (2) tiegħu, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru.

Emenda tal-artikolu 19 tal-Att prinċipali.

21. Fil-paragrafu (ċ) tas-subartikolu (1) tal-artikolu 19 tal-Att prinċipali, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru.

22. Fis-subartikolu (2) tal-artikolu 19A tal-Att prinċipali, minflok il-kliem "Regola Bankarja u, jew Regola dwar Flus Elettroniċi skond il-każ", għandhom jidhlu l-kliem "Regola Bankarja".

Emenda tal-artikolu 19A tal-Att prinċipali.

23. Fil-paragrafu (ċ) tas-subartikolu (3) tal-artikolu 20 tal-Att prinċipali, il-kliem "u Regoli dwar Flus Elettroniċi" għandhom jithassru.

Emenda tal-artikolu 20 tal-Att prinċipali.

24. Fis-subartikolu (5) tal-artikolu 22 tal-Att prinċipali l-kliem "u Regoli dwar Flus Elettroniċi", kull fejn dawn jinsabu, għandhom jithassru.

Emenda tal-artikolu 22 tal-Att prinċipali.

25. Fis-subartikolu (1) tal-artikolu 23 tal-Att prinċipali, il-kliem "u Regoli dwar Flus Elettroniċi" għandhom jithassru.

Emenda tal-artikolu 23 tal-Att prinċipali.

26. L-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 25 tal-Att prinċipali.

(a) fis-subartikolu (3) tiegħu, minflok il-kliem "kif imfissra fl-Artikoli 47 u 48(1) tad-Direttiva", għandhom jidhlu l-kliem "kif imfissra fl-Artikoli 47 u 48(1) tad-Direttiva dwar Htiġiet Kapitali,"; u

(b) minflok is-subartikolu (6) tiegħu, għandu jidhol dan li ġej:

"(6) L-awtorità kompetenti tista' wkoll, wara li ssirilha talba bil-miktub, tiżvela lill-Bank Ċentrali, lil banek ċentrali tas-sistema Ewropea ta' banek ċentrali, banek ċentrali barranin oħra, korpi oħra li jkollhom funzjoni simili fil-kwalità tagħhom ta' awtoritajiet monetarji, meta dik l-informazzjoni tkun rilevanti għall-eżerċizzju tal-hidmiet statutorji rispettivi tagħhom, inkluża t-tmexxija ta' politka monetarja u l-provdiment ta' likwidità relatata, il-monitoraġġ ta' hlas, sistemi ta' *clearing* u ta' hlas assaldu u l-harsien tal-istabbiltà tas-sistema finanzjarja. L-awtorità kompetenti għandha wkoll, wara li ssirilha talba bil-miktub u kif ikun adatt, tiżvela lil awtoritajiet oħra li jkunu responsabbli għall-monitoraġġ ta' sistemi ta' hlas, kull informazzjoni li tkun fil-pussess tal-awtorità kompetenti jew aċċessibbli għaliha, li tkun meħtieġa għat-twettiq tad-dmirijiet tal-Bank Ċentrali u ta' l-awtoritajiet l-oħra msemmija hawn qabel, taħt il-liġi:

Iżda f'sitwazzjoni ta' emerġenza kif imsemmija fl-artikolu 25B(5), l-awtorità kompetenti għandha tgharraf lill-banek ċentrali tas-sistema Ewropea ta' banek ċentrali u

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lill-Bank Ċentrali meta dik l-informazzjoni tkun rilevanti għat-tweqqi tal-hidmiet statutorji tagħhom, inkluża t-tmexxija ta' politka monetarja u l-provdiment ta' likwidità relatata, il-monitoraġġ ta' hlasijiet, sistemi ta' *clearing* u hlas assaldu, u l-harsien tal-istabbiltà tas-sistema finanzjarja:

Iżda wkoll meta l-informazzjoni tkun soġġetta għas-segretezza professjonali, l-awtorità kompetenti tista' tawtorizza l-iżvelar ta' ċertu informazzjoni lil dipartimenti oħra tal-gvern ta' amministrazzjonijiet tal-gvern ċentrali ta' Stati Membri oħra responsabbli għal-liġijiet fuq is-supervizjoni ta' istituzzjonijiet ta' kreditu unikament meta dan ikun meħtieġ bil-għan li jsir kontroll prudenti."

Emenda tal-
artikolu 25A tal-
Att prinċipali.

27. L-artikolu 25A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "taħt id-Direttiva.", għandhom jidhlu l-kliem "taħt id-Direttiva dwar Ftigiet Kapitali.";

(b) fil-paragrafu (v) tas-subartikolu (2) tiegħu, minflok il-kliem "skond l-artikolu 136(1) tad-Direttiva", għandhom jidhlu l-kliem "skond l-artikolu 16A";

(ċ) fil-paragrafu (b) tas-subartikolu (4) tiegħu, minflok il-kliem "skond l-artikolu 136(1) tad-Direttiva", għandhom jidhlu l-kliem "skond l-artikolu 16A";

(d) fis-subartikolu (6) tiegħu, minflok il-kliem "skond id-Direttiva.", għandhom jidhlu l-kliem "skond id-Direttiva dwar Ftigiet Kapitali.";

(e) is-subartikolu (7) tiegħu għandhu jithassar;

(f) is-subartikolu (8) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (7);

(g) fis-subartikolu (7) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "konformement ma' l-Artikoli 125 u 126 tad-Direttiva,", għandhom jidhlu l-kliem "konformement mal-Artikoli 125 u 126 tad-Direttiva dwar Ftigiet Kapitali,";

(h) is-subartikolu (9) tiegħu għandu jithassar;

(i) is-subartikolu (10) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (8); u

(j) minnufih wara s-subartikolu (8) tiegħu, kif enumerat mill-ġdid, għandhom jizdiedu dawn is-subartikoli ġodda li ġejjin:

"(9) Meta l-awtorità kompetenti tkun is-superviżur domestiku ta' istituzzjoni ta' kreditu principali hija għandha tikkomunika lill-awtoritajiet regolatorji barranin tal-Istat Membru ospitanti, fejn ikun hemm fergħa sinifikanti stabbilita, l-informazzjoni msemmija fis-subartikolu (2)(iv) u (v) u twettaq dawk il-ħidmiet imsemmija fl-artikolu 25B(1)(ċ) f'kooperazzjoni mal-awtoritajiet regolatorji barranin tal-Istat Membru ospitanti.

(10) (a) L-awtorità kompetenti, fir-rwol li għandha bħala superviżur konsolidatur, għandha tistabbilixxi kulleġġi ta' superviżuri, kif preskritt f'Regola Bankarja, biex jiffaċilitaw it-twettiq tal-ħidmiet imsemmija fl-Artikoli 129 u 130(1) tad-Direttiva dwar l-Attività Kapitali u bla ħsara għall-ħtiġiet ta' kunfidenzjalità ta' dan l-Att, u kompatibilità mal-liġi Komunitarja Ewropea, u għandha tiżgura li jkun hemm koordinament u koordinazzjoni xierqa mal-awtoritajiet regolatorji barranin ta' pajjiżi terzi rilevanti meta dan ikun xieraq.

(b) L-awtorità kompetenti, fir-rwol tagħha bħala superviżur konsolidatur, għandha tiżgura li jkun hemm kooperazzjoni mill-qrib bejn l-awtoritajiet regolatorji barranin kollha li jkunu qegħdin jipparteċipaw fil-kulleġġi ta' superviżuri. Il-ħtiġiet ta' kunfidenzjalità preskritti f'dan l-Att ma jipprevjenux l-iskambju ta' informazzjoni kunfidenzjali bejn il-kulleġġi ta' superviżuri. It-twaqqif u l-funzjonament ta' kulleġġi ta' superviżuri ma jaffettwax id-drittijiet u r-responsabbiltajiet tal-awtorità kompetenti taħt dan l-Att.

(11) Meta l-awtorità kompetenti ma tkunx superviżur konsolidatur u meta l-awtorità kompetenti tkun is-superviżur ta' istituzzjoni ta' kreditu b'fergħat sinifikanti fi Stati Membri oħra, din għandha twaqqaf u tippresjedi kulleġġ ta' superviżuri sabiex tiġi faċilitata l-kooperazzjoni skond dan l-artikolu u l-artikolu 25. It-twaqqif u l-funzjonament tal-kulleġġ ikunu bbażati fuq arrangamenti bil-miktub li jkunu saru wara konsultazzjoni mal-awtoritajiet regolatorji barranin involuti. L-awtorità kompetenti għandha tiddeciedi liema awtoritajiet regolatorji barranin jistgħu jipparteċipaw f'xi laqgħa jew attività tal-kulleġġ.

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(12) L-awtorità kompetenti għandha, meta tkun qegħda twestaq id-dmirijiet ġenerali tagħha, debitament tqis l-impatt potenzjali tad-deċiżjonijiet tagħha fuq l-istabbiltà tas-sistema finanzjarja fl-Istati Membri l-oħra kollha involuti u, partikolarment, f'sitwazzjonijiet ta' emerġenza, ibbażata fuq l-informazzjoni disponibbli f'dak il-waqt."

Enumerazzjoni mill-ġdid tal-artikolu 25B tal-Att prinċipali.

28. L-artikolu 25B tal-Att prinċipali għandu jiġi enumerat mill-ġdid bħala l-artikolu 25Ċ tiegħu.

Żjieda tal-artikolu ġdid 25B mal-Att prinċipali.

29. Minnufih wara l-artikolu 25A tal-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

"Meta l-awtorità kompetenti tkun superviżur konsolidatur.

25B. (1) B'żjieda mal-obbligi imposti bid-dispożizzjonijiet ta' dan l-Att, meta l-awtorità kompetenti tkun responsabbli għat-twettiq ta' superviżjoni fuq bażi konsolidata ta' istituzzjonijiet ta' kreditu prinċipali tal-UE u istituzzjonijiet ta' kreditu kontrollati minn kumpanniji *holding* finanzjarji prinċipali tal-UE, hija għandha twestaq dawn il-funzjonijiet li ġejjin:

(a) il-koordinazzjoni tal-ġbir u tixrid ta' informazzjoni rilevanti jew essenzjali f'sitwazzjonijiet ta' negozju mqabbd sew u f'sitwazzjonijiet ta' emerġenza;

(b) l-ippjanar u l-koordinazzjoni ta' attivitajiet superviżorji f'sitwazzjonijiet ta' negozju mqabbd sew, inklużi l-attivitajiet imsemmija fl-artikoli 16A, 17Ċ u 17D u f'xi Regola Bankarja, b'kooperazzjoni mal-awtoritajiet regolatorji barranin involuti;

(ċ) L-ippjanar u il-koordinazzjoni ta' attivitajiet supervizorji b'kooperazzjoni mal-awtoritajiet regolatorji barranin involuti, u jekk ikun mehtieg mal-Bank Ċentrali u ma' banek ċentrali oħra fi Stati Membri oħra, bi tnejn għal u matul sitwazzjonijiet ta' emerġenza, inklużi żviluppi kuntrarji f'istituzzjonijiet ta' kreditu jew fi swieq finanzjarji li jużaw, fejn ikun possibbli, kanali ta' komunikazzjoni definiti u li diġà jeżistu biex jiġi faċilitat l-immaniġġar ta' krizijiet.

(2) L-ippjanar u l-koordinazzjoni ta' attivitajiet supervizorji msemmija fis-subartikolu (1)(ċ) jinkludu l-miżuri eċċezzjonali msemmija fl-artikolu 25A(5), it-tnejn ta' valutazzjonijiet kongunti, l-implimentazzjoni ta' pjanijiet ta' kontinġenza u l-komunikazzjoni mal-pubbliku.

(3) Meta l-awtorità kompetenti tkun is-supervizur konsolidatur, l-awtorità regolatorja barranija tal-Istat Membru ospitanti tista' titlob lill-awtorità kompetenti, biex fergħa ta' istituzzjoni ta' kreditu tkun ikkunsidrata bħala waħda sinifikanti. L-awtorità kompetenti għandha toħroġ Regola Bankarja li tistabbilixxi r-raġunijiet għaliex il-fergħa għandha tkun ikkunsidrata bħala waħda sinifikanti.

(4) L-awtorità kompetenti fir-rwol tagħha bħala supervizur konsolidatur għandha, bla ħsara għall-artikolu 25, twissi, malajr kemm jista' jkun prattiku, lill-awtorità msemmija fis-subartikolu (7) u għandha tikkomunika kull informazzjoni li titqies essenzjali għat-twettiq tal-ħidmiet relattivi, meta jkun hemm xi sitwazzjoni ta' emerġenza, inklużi żviluppi kuntrarji fis-swieq finanzjarji, li potenzjalment jipperikolaw il-likwidità fis-suq u l-istabbiltà tas-sistema finanzjarja f'xi wieħed mill-Istati Membri fejn ikunu ġew awtorizzati l-entitajiet ta' grupp jew fejn ikun hemm stabbiliti fergħat sinifikanti.

(5) Jekk l-awtorità kompetenti ssir taf b'sitwazzjoni ta' emerġenza, din għandha, malajr kemm jista' jkun prattiku, twissi lill-awtoritajiet regolatorji barranin msemmija fl-Artikoli 125 u 126 tad-Direttiva dwar l-Attività Kapitali.

(6) Fejn ikun possibbli, l-awtorità kompetenti u l-banek ċentrali tas-sistema Ewropea ta' banek ċentrali għandhom jużaw kanali ta' komunikazzjoni definiti u li diġà jeżistu.

(7) Jekk l-awtorità kompetenti li tkun superviżur domestiku ta' istituzzjoni ta' kreditu prinċipali ssir taf b'sitwazzjoni ta' emerġenza f'xi istituzzjoni ta' kreditu kif imsemmija fis-subartikolu (4), hija għandha twissi, malajr kemm jista' jkun prattiku, lill-banek ċentrali tas-sistema Ewropea ta' banek ċentrali meta din l-informazzjoni tkun rilevanti għat-tweqqif tal-ħidmiet statutorji tagħhom inkluża t-tmexxija ta' politika monetarja u l-provdiment relatat ta' likwidità, is-superviżjoni ta' hlasijiet, sistemi ta' *clearing* u ta' hlas assaldu, u l-harsien tal-istabbiltà tas-sistema finanzjarja u, hekk kif jista' jkun il-każ, dawk id-dipartimenti l-oħra tal-gvern responsabbli għal-liġijiet fuq is-superviżjoni ta' istituzzjonijiet ta' kreditu. Żvelar bħal dak ikun jista' jsir biss meta dan ikun meħtieġ għal raġunijiet ta' kontroll prudenti."

Emenda tal-artikolu 25C kif enumerat mill-ġdid tal-Att prinċipali.

30. Fis-subartikolu (1) tal-artikolu 25C, kif enumerat mill-ġdid, tal-Att prinċipali, minflok il-kliem "F'każijiet speċifiċi l-awtorità kompetenti", għandhom jidhru l-kliem "Fil-każijiet speċifiċi msemmija fid-dispożizzjonijiet ta' dan l-Att u ta' Regoli Bankarji li jimplementaw id-Direttiva dwar l-Attività Kapitali, l-awtorità kompetenti".

Emenda tal-artikolu 26 tal-Att prinċipali.

31. Fis-subartikolu (1) tal-artikolu 26 tal-Att prinċipali, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru.

Emenda tal-artikolu 28 tal-Att prinċipali.

32. Fl-artikolu 28 tal-Att prinċipali, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru.

Emenda tal-artikolu 34 tal-Att prinċipali.

33. L-artikolu 34 tal-Att prinċipali għandu jigi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, il-kliem "u Regoli dwar Flus Elettronici", kull fejn dawn jinsabu, għandhom jithassru;

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(3) Meta uffiċjal ta' istituzzjoni ta' kreditu jkollu għalfejn jaħseb li operazzjoni jew operazzjoni proposta tista' tinvolvi *money laundering*, huwa obligat jimxi skond l-obbligi ta' rappurtar u obbligi oħrajn stabbiliti fir-regolamenti magħmulin taht l-artikolu 12 tal-Att kontra *Money Laundering*, u kull proċedura u gwida mahruġin taht dak l-Att, u dak l-iżvelar ma jkunx jikkostitwixxi ksur ta' kunfidenzjalità."; u

(c) fis-subartikolu (5) tiegħu, minflok il-kliem "li jew joħorġu flus elettronici jew iwettqu xi attività minn dawk imsemmija fl-Iskeda li tinsab ma' l-Att dwar Istituzzjonijiet Finanzjarji", għandhom jidhlu l-kliem "li jwettqu xi attività minn dawk imsemmija fl-Iskeda I li tinsab mal-Att dwar Istituzzjonijiet Finanzjarji,".

34. Is-subartikolu (3) tal-artikolu 35 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 35 tal-Att prinċipali.

(a) fil-paragrafu (b) tiegħu, minflok il-kliem "id-disposizzjonijiet ta' xi Regola Bankarja, Regola dwar Flus Elettronici, regolament", għandhom jidhlu l-kliem "id-disposizzjonijiet ta' xi Regola Bankarja, regolament";

(b) fil-paragrafu (e) tiegħu, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru; u

(c) fil-paragrafu (f) tiegħu, il-kliem "u Regoli dwar Flus Elettronici" għandhom jithassru.

35. L-Iskeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

Emenda tal-Iskeda li tinsab mal-Att prinċipali.

(a) minflok il-kliem "12. Servizzi ta' kustodja fis-sigurtà.", għandhom jidhlu l-kliem "12. Servizzi ta' kustodja fis-sigurtà;" u

(b) minnufih wara l-attività 12 għandha tizdied din l-attività ġdida li ġejja:

"13. Il-ħruġ ta' flus elettronici."

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Għanijiet u Raġunijiet

L-għan ewlieni ta' dan l-Abbozz hu biex jimplimenta d-dispożizzjonijiet tad-Direttiva 2009/111/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Settembru 2009 li jemenda d-Direttivi 2006/48/KE, 2006/49/KE u 2007/64/KE.

**A BILL
entitled**

AN ACT to amend the Banking Act, Cap. 371.

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:-

1. (1) The short title of this Act is the Banking (Amendment) Act, 2010 and this Act shall be read and construed as one with the Banking Act, hereinafter referred to as "the principal Act".

Short title and commencement
Cap. 371.

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

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

Amendment of article 2 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the definition " "bank" or "credit institution" ", there shall be substituted the following new definition:

" "bank" or "credit institution" means an undertaking, the business of which is to receive deposits or other repayable funds from the public and to grant credits for its own account;"

(ii) immediately after the definition "Capital Adequacy Directive" there shall be inserted the following

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new definition:

" "Capital Requirements Directive" means Council Directive 2006/48/EC of 14 June 2006, relating to the taking up and pursuit of the business of credit institutions (recast), as may be amended or updated from time to time, and includes any implementing measures that have been issued or may be issued thereunder;"

(iii) immediately after the definition "connected persons" there shall be inserted the following new definition:

" "consolidating supervisor" means the competent authority or the overseas regulatory authority, as the case may be, responsible for the exercise of supervision on a consolidated basis of EU parent credit institutions and credit institutions controlled by EU parent financial holding companies;"

(iv) the definitions "Directive", "electronic money", "electronic money institution" and "Electronic Money Rule" shall be deleted;

(v) immediately after the definition "EEA State" there shall be inserted the following new definition:

" "EU parent credit institution" means a parent credit institution in a Member State which is not a subsidiary of another credit institution authorised in any Member State, or of a financial holding company set up in any Member State:

For the purpose of this definition, "parent credit institution in a Member State" means a credit institution which has a credit institution or a financial institution as a subsidiary or which holds a participation in such an institution, and which is not itself a subsidiary of another credit institution authorised in the same Member State, or of a financial holding company set up in the same Member State;"

(vi) immediately after the new definition "EU parent credit institution" there shall be inserted the following new definition:

" "EU parent financial holding company" means a parent financial holding company in a Member

State which is not a subsidiary of a credit institution authorised in any Member State or of another financial holding company set up in any Member State:

For the purpose of this definition, "parent financial holding company in a Member State" means a financial holding company which is not itself a subsidiary of a credit institution authorised in the same Member State, or of a financial holding company set up in the same Member State;"; and

(vii) immediately after the definition "holding company" there shall be inserted the following new definitions:

" "home Member State" means the Member State in which a credit institution has been authorised in accordance with article 6 to 9 and 11 to 14 of the Capital Requirements Directive;

"host Member State" means the Member State in which a credit institution has a branch or in which it provides services;";

(b) in sub-article (2) thereof:

(i) in the first proviso, for the words "made thereunder:", there shall be substituted the words "made thereunder."; and

(ii) the second proviso shall be deleted;

(c) sub-article (3) thereof shall be deleted;

(d) sub-article (4) thereof shall be renumbered as sub-article (3);

(e) in sub-article (3) thereof, as renumbered, the words "to the exclusion of an electronic money institution," shall be deleted;

(f) sub-article (5) thereof shall be deleted;

(g) sub-articles (6) and (7) thereof shall be renumbered as sub-articles (4) and (5) respectively; and

(h) in sub-article (4) thereof, as renumbered, for the words "the Directive", there shall be substituted the words "the Capital Requirements Directive".

3. In paragraph (a) of sub-article (2) of article 3 of the principal Act, for the words "the requirements of Directive 2006/48/

Amendment of article 3 of the principal Act.

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EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions and the requirements of Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions.", there shall be substituted the words "the requirements of the Capital Requirements Directive and the Capital Adequacy Directive."

Amendment of article 4 of the principal Act.

4. Article 4 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "to carry out the functions prescribed by this Act and any regulations, Banking Rules, or Electronic Money Rules made thereunder and to ensure that credit institutions carrying on business in Malta comply with this Act, and any regulations, directives, Banking Rules and Electronic Money Rules issued thereunder", there shall be substituted the words "to carry out the functions prescribed by this Act and any regulations or Banking Rules made thereunder and to ensure that credit institutions carrying on business in Malta comply with this Act, and any regulations, directives and Banking Rules issued thereunder";

(b) in sub-article (2) thereof, wherever they occur, the words "and Electronic Money Rules" shall be deleted;

(c) for sub-article (3) thereof, there shall be substituted the following:

"(3) Banking Rules shall be binding on licence holders and others as may be specified therein.";

(d) in sub-article (4) thereof, the words "and Electronic Money Rules" shall be deleted; and

(e) in sub-article (5) thereof, the words "and Electronic Money Rules" shall be deleted.

Addition of new article 4A to the principal Act.

5. Immediately after article 4 of the principal Act, there shall be added the following new article:

"Supervisory practices.

4A. (1) The competent authority, in the exercise of its duties, shall take into account the convergence in respect of supervisory tools and supervisory practices in the application of this Act, and of the regulations and rules made thereunder.

(2) For the purpose of sub-article (1):

(a) the competent authority shall participate in the activities of the Committee of European Banking Supervisors;

(b) the competent authority shall follow the guidelines, recommendations, standards and other measures agreed by the Committee of European Banking Supervisors and shall state the reasons if they do not do so; and

(c) national mandates conferred on the competent authority shall not inhibit the performance of its duties under this Act or as a member of the Committee of European Banking Supervisors."

6. Article 5 of the principal Act shall be amended as follows: Amendment of article 5 of the principal Act.

(a) in sub-article (1) thereof, the words "or of issuing electronic money" shall be deleted;

(b) in sub-article (3) thereof, the words "or of issuing electronic money" shall be deleted;

(c) sub-articles (5) and (6) thereof shall be deleted; and

(d) sub-article (7) thereof shall be renumbered as sub-article (5).

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

(a) in sub-article (1) thereof, the words "or of issuing electronic money" shall be deleted; and

(b) in sub-article (2) thereof, for the words "as may be prescribed from time to time by Banking Rule and, or, Electronic Money Rule and", there shall be substituted the words "as may be prescribed from time to time by a Banking Rule and".

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

(a) in paragraph (a) of sub-article (1) thereof, for the words "(a) its initial capital amounts to not less than five million euro (5,000,000.00) or in the case of an electronic money institution, of one million euro (1,000,000.00):", there shall be substituted the words "(a) its initial capital amounts to not less than five million euro (5,000,000.00):"; and

(b) in sub-article (8) thereof, the words "and Electronic Money Rules" shall be deleted.

9. Article 7A of the principal Act shall be deleted.

Deletion of article 7A of the principal Act.

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Amendment of article 9 of the principal Act.

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

(a) in paragraphs (a) and (c) of sub-article (2) thereof, the words "or Electronic Money Rules" shall be deleted; and

(b) in sub-article (3) thereof, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 11 of the principal Act.

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

(a) sub-article (3) thereof shall be renumbered as sub-article (4); and

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

"(3) A credit institution licensed in Malta shall be prohibited from opening a branch, subsidiary or representative office in a third country where the secrecy laws or other regulations of that country prohibit the information flows deemed necessary for adequate consolidated supervision."

Addition of new article 11A to the principal Act.

12. Immediately after article 11 of the principal Act, there shall be inserted the following new article:

"Opening of branches having their head office outside the European Union.

11A. (1) The competent authority may not apply provisions which result in more favourable treatment to a branch of a credit institution having its head office outside the European Community than that accorded to branches of credit institutions having their head office within the European Community.

(2) The competent authority shall notify the European Commission and the European Banking Committee of all authorisations for branches granted to credit institutions having their head office outside the European Community."

Amendment of article 12 of the principal Act.

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

(a) in sub-article (1) thereof, for the words "a credit institution, to the exclusion of electronic money institution, with a current licence", there shall be substituted the words "a credit institution with a current licence"; and

(b) in sub-article (3) thereof, for the words "Every

credit institution, other than an electronic money institution, shall", there shall be substituted the words "Every credit institution shall".

14. In sub-paragraph (i) of paragraph (b) of sub-article (6) of article 13A of the principal Act, for the words "the Directive;", there shall be substituted the words "the Capital Requirements Directive;".

Amendment of article 13A of the principal Act.

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

Amendment of article 15 of the principal Act.

(a) in sub-article (1) thereof, for the words "A credit institution, to the exclusion of an electronic money institution shall not -", there shall be substituted the words "A credit institution shall not -"; and

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

16. In sub-article (1) of article 17 of the principal Act, for the words "A credit institution, to the exclusion of an electronic money institution, shall -", there shall be substituted the words "A credit institution shall -".

Amendment of article 17 of the principal Act.

17. In sub-article (1) of article 17A of the principal Act, for the words "Every credit institution, to the exclusion of an electronic money institution, shall", there shall be substituted the words "Every credit institution shall".

Amendment of article 17A of the principal Act.

18. Article 17B of the principal Act shall be amended as follows:

Amendment of article 17B of the principal Act.

(a) in sub-article (1) thereof, for the words "and adequate internal control mechanisms including sound administrative and accounting procedures.", there shall be substituted the words "and adequate internal control mechanisms including sound administrative and accounting procedures, and remuneration policies and practices that are consistent with and promote sound and effective risk management."; and

(b) in sub-article (2) thereof, the words "or Electronic Money Rule" shall be deleted.

19. In article 17C of the principal Act, for the words "All credit institutions, to the exclusion of an electronic money institutions, shall" there shall be substituted the words "All credit institutions shall".

Amendment of article 17C of the principal Act.

20. Sub-article (1) of article 17D of the principal Act shall be amended as follows:

Amendment of article 17D of the principal Act.

(a) in sub-article (1) thereof, for the words "or Banking Rules and Electronic Money Rules made thereunder and the

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technical criteria set out in Annex XI of the Directive," there shall be substituted the words "or Banking Rules made thereunder and the technical criteria set out in Annex XI of the Capital Requirements Directive,"; and

(b) in sub-article (2) thereof, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 19 of the principal Act.

21. In paragraph (c) of sub-article (1) of article 19 of the principal Act, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 19A of the principal Act.

22. In sub-article (2) of article 19A of the principal Act, for the words "a Banking and, or Electronic Money Rule as the case may be," there shall be substituted the words "a Banking Rule".

Amendment of article 20 of the principal Act.

23. In paragraph (c) of sub-article (3) of article 20 of the principal Act, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 22 of the principal Act.

24. In sub-article (5) of article 22 of the principal Act, wherever they appear, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 23 of the principal Act.

25. In sub-article (1) of article 23 of the principal Act, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 25 of the principal Act.

26. Article 25 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof, for the words "as defined in Articles 47 and 48(1) of the Directive," there shall be substituted the words "as defined in Articles 47 and 48(1) of the Capital Requirements Directive,"; and

(b) for sub-article (6) thereof, there shall be substituted the following:

"(6) The competent authority shall further, upon a request in writing, disclose to the Central Bank, central banks of the European system of the central banks, other overseas central banks, other bodies with a similar function in their capacity as monetary authorities when this information is relevant for the exercise of their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and settlement systems and the safeguarding of the stability of the financial system. The competent authority shall also, upon a request in writing and where appropriate, disclose to other authorities responsible for overseeing payment systems, any information in the possession of or accessible to the competent authority,

which is required for the discharge of the duties of the Central Bank and the other authorities mentioned above, under the law:

Provided that in an emergency situation as referred to in article 25B(5), the competent authority shall communicate information to the central banks of the European system of central banks and the Central Bank when this information is relevant for the exercise of their statutory tasks, including the conduct of monetary policy and related liquidity provision, the oversight of payments, clearing and settlement systems, and safeguarding the stability of the financial system:

Provided further that where the information is subject to professional secrecy, the competent authority may authorise the disclosure of certain information to other government departments of other Member States' central government administrations responsible for legislation on the supervision of credit institutions solely where necessary for reasons of prudential control."

27. Article 25A of the principal Act shall be amended as follows:

Amendment of article 25A of the principal Act.

(a) in sub-article (1) thereof, for the words "functions under the Directive.", there shall be substituted the words "functions under the Capital Requirements Directive.";

(b) in paragraph (v) of sub-article (2) thereof, for the words "in terms of Article 136(1) of the Directive", there shall be substituted the words "in terms of article 16A";

(c) in paragraph (b) of sub-article (4) thereof, for the words "in terms of Article 136(1) of the Directive", there shall be substituted the words "in terms of article 16A";

(d) in sub-article (6) thereof, for the words "in accordance with the Directive.", there shall be substituted the words "in accordance with the Capital Requirements Directive.";

(e) sub-article (7) thereof shall be deleted;

(f) sub-article (8) thereof shall be renumbered as sub-article (7);

(g) in sub-article (7) thereof, as renumbered, for the words "pursuant to Articles 125 and 126 of the Directive,", there shall be substituted the words "pursuant to Articles 125 and 126 of the Capital Requirements Directive,";

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- (h) sub-article (9) thereof shall be deleted;
- (i) sub-article (10) thereof shall be renumbered as subarticle (8); and
- (j) immediately after sub-article (8) thereof, as renumbered, there shall be inserted the following new sub-articles:

"(9) Where the competent authority is the home supervisor of a parent credit institution it shall communicate to the overseas regulatory authorities of the host Member State, where a significant branch is established, the information referred to in sub-article (2)(iv) and (v) and carry out the tasks referred to in article 25B(1)(c) in cooperation with the overseas regulatory authorities of the host Member State.

(10) (a) The competent authority, in its role as consolidating supervisor, shall establish colleges of supervisors, as prescribed in a Banking Rule, to facilitate the exercise of the tasks referred to in Articles 129 and 130(1) of the Capital Requirements Directive and subject to the confidentiality requirements of this Act, and compatibility with European Community law, and shall ensure appropriate coordination and cooperation with relevant third country overseas regulatory authorities where appropriate.

(b) The competent authority, in its role as consolidating supervisor, shall ensure that there is close co-operation between all the overseas regulatory authorities participating in the colleges of supervisors. The confidentiality requirements prescribed in this Act shall not prevent the exchange of confidential information within colleges of supervisors. The establishment and functioning of colleges of supervisors shall not affect the rights and responsibilities of the competent authority under this Act.

(11) Where the competent authority is not a consolidating supervisor and where the competent authority is the supervisor of a credit institution with significant branches in other Member States, it shall establish and chair a college of supervisors to facilitate the cooperation in terms of this article and article 25. The establishment and functioning of the college shall be based on written arrangements determined after consultation with the overseas regulatory authorities concerned. The

competent authority shall decide which overseas regulatory authorities participate in a meeting or in an activity of the college.

(12) The competent authority shall, in the exercise of its general duties, duly consider the potential impact of its decisions on the stability of the financial system in all other Member States concerned and, in particular, in emergency situations, based on the information available at the relevant time."

28. Article 25B of the principal Act shall be renumbered as article 25C thereof.

Renumbering of article 25B of the principal Act.

29. Immediately after article 25A of the principal Act, there shall be inserted the following new article:

Addition of new article 25B of the principal Act.

"Competent authority as consolidating supervisor.

25B. (1) In addition to the obligations imposed by the provisions of this Act, where the competent authority is responsible for the exercise of supervision on a consolidated basis of EU parent credit institutions and credit institutions controlled by EU parent financial holding companies, it shall carry out the following functions:

(a) co-ordination of the gathering and dissemination of relevant or essential information in going concern situations and emergency situations;

(b) planning and co-ordination of supervisory activities in going concern situations, including the activities referred to in articles 16A, 17C and 17D and in a Banking Rule, in cooperation with the overseas regulatory authorities involved;

(c) planning and co-ordination of supervisory activities in co-operation with the overseas regulatory authorities involved, and if necessary with the Central Bank and with other central banks in other Member States, in preparation for and during emergency situations, including adverse developments in credit institutions or in

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financial markets using, where possible, existing defined channels of communication for facilitating crisis management.

(2) The planning and coordination of supervisory activities referred to in sub-article (1)(c) includes exceptional measures referred to in article 25A(5), the preparation of joint assessments, the implementation of contingency plans and communication to the public.

(3) Where the competent authority is the consolidating supervisor, the overseas regulatory authority of the host Member State may make a request to the competent authority, for a branch of the credit institution to be considered as significant. The competent authority shall issue a Banking Rule determining the reasons for considering the branch as significant.

(4) The competent authority in its role as consolidating supervisor shall, subject to article 25, alert as soon as it is practicable the authority referred to in sub-article (7) and shall communicate all information that is essential for the pursuance of their tasks, where an emergency situation, including adverse developments in financial markets, arises, which potentially jeopardises the market liquidity and the stability of the financial system in any of the Member States where entities of a group have been authorised or where significant branches are established.

(5) If the competent authority becomes aware of an emergency situation, it shall alert as soon as it is practicable the overseas regulatory authorities referred to in Articles 125 and 126 of the Capital Requirements Directive.

(6) Where possible, the competent authority and the central banks of the European system of central banks shall use existing defined channels of communication.

(7) If the competent authority as home supervisor of a parent credit institution becomes aware of an emergency situation within a credit institution as referred to in sub-article (4), it shall alert as soon as practicable the central banks of the European system of central banks when this information is relevant for the exercise of their statutory tasks including the conduct of monetary policy and related liquidity provision, the oversight of payments, clearing and settlement systems, and safeguarding the stability of the financial system and, as the case may be, those other government departments responsible for legislation on the supervision of credit institutions. Such disclosures may only be made where necessary for reasons of prudential control."

30. In sub-article (1) of article 25C, as renumbered, of the principal Act, for the words "In specific cases the competent authority", there shall be substituted the words "In specific cases referred to in the provisions of this Act and Banking Rules implementing the Capital Requirements Directive, the competent authority".

Amendment of article 25C, as renumbered, of the principal Act.

31. In sub-article (1) of article 26 of the principal Act, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 26 of the principal Act.

32. In article 28 of the principal Act, the words "and Electronic Money Rules" shall be deleted.

Amendment of article 28 of the principal Act.

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

Amendment of article 34 of the principal Act.

(a) in sub-article (2) thereof, the words "and Electronic Money Rules", wherever they appear, shall be deleted;

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

"(3) Where an officer of a credit institution has reason to believe that a transaction or a proposed transaction could involve money laundering, he shall act in compliance with the reporting and other obligations set out in the regulations made under article 12 of the Prevention of Money Laundering Act and any procedures and guidance issued thereunder, and such disclosure shall not constitute a

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breach of confidentiality."; and

(c) in sub-article (5) thereof, for the words "which either carry out the issuing of electronic money or any of the activities referred to in the Schedule to the Financial Institutions Act," there shall be substituted the words "which carry out any of the activities referred to in Schedule I to the Financial Institutions Act,".

Amendment of article 35 of the principal Act.

34. Sub-article (3) of Article 35 of the principal Act shall be amended as follows:

(a) in paragraph (b) thereof, for the words "provisions of any Banking Rule, Electronic Money Rule, regulation", there shall be substituted the words "provisions of any Banking Rule, regulation";

(b) in paragraph (e) thereof, the words "and Electronic Money Rules" shall be deleted; and

(c) in paragraph (f) thereof, the words "and Electronic Money Rules" shall be deleted.

Amendment of the Schedule to the principal Act.

35. The Schedule to the principal Act shall be amended as follows:

(a) for the words "12. Safe custody services.", there shall be substituted the words "12. Safe custody services;"; and

(b) immediately after activity 12 there shall be inserted a new activity as follows:

"13. Issuing electronic money.".

Objects and Reasons

The main object of this Bill is to implement the provisions of Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC.