

Consultation on Proposed Legislative Changes to Transpose and Implement the Legislative Instruments within the AML Package

The AML Package marks a significant milestone in the development of the European Union's anti-money laundering and countering the funding of terrorism framework. The majority of its requirements will become applicable as of 10 July 2027. The transposition of Directive (EU) 2024/1640, the implementation of Regulation (EU) 2024/1620 and of Regulation (EU) 2024/1624, and the exercise of certain discretions allowed to Member States under the said regulations, require significant changes to be carried out by all the relevant stakeholders.

The legislative framework regulating the Financial Intelligence Analysis Unit (FIAU) and the obligations of subject persons is also set to be significantly impacted by these changes. The FIAU is drafting proposals for the legislative amendments it considers necessary to reflect the changes resulting from the AML Package. In addition, the FIAU has taken this opportunity to propose further amendments aimed at enhancing transparency and accountability in its own operations.

The proposals relate to the:

- Prevention of Money Laundering Act
- Prevention of Money Laundering and Funding of Terrorism Regulations
- Centralised Bank Account Register Regulations
- Use of Cash (Restriction) Regulations

The FIAU is launching a consultation process with all relevant stakeholders on the above-mentioned proposals.

The FIAU encourages all interested parties to submit feedback and suggestions by not later than 31 July 2026 via email on consultations@fiaumalta.org.

8 June 2026

**A BILL
entitled**

AN ACT to amend the Prevention of Money Laundering Act, Cap. 373.

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. The short title of this Act is the Prevention of Money Laundering (Amendment) Act, 202- and this Act shall be read and construed as one with the Prevention of Money Laundering Act, hereinafter referred to as "the principal Act".
2. In Article 2 of the principal Act, the definition of "European Supervisory Authorities" and of "Minister" shall be deleted.
3. Article 12 to Article 13C shall be deleted.
4. Part II of the principal Act shall be substituted with the following:

"Part II – The Financial Intelligence Analysis Unit

14. In this Part, unless the context otherwise requires:

"anti-money laundering and counter-funding of terrorism obligations" means the obligations arising from directly applicable European Union legislation for which the Unit is designated as the competent authority, from delegated regulations and guidelines issued under the said European Union legislation, from this Act and from regulations made under this Act, or from any binding procedures, guidance, instructions, directives, orders, legal requirements or directions issued by the Unit under this Act or regulations made thereunder;

"AMLA" means the Authority for Anti-Money Laundering and Countering the Financing of Terrorism established by means of Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024;

"AML/CFT supervisory college" means a permanent structure for cooperation and information sharing for the purposes of supervising a group or an obliged entity that operates in a host Member State or third country;

"Board" means the Board of Governors referred to in Article 18;

"Chairman" means the Chairman of the Board appointed under Article 20;

"competent authority" means any one of the authorities listed in Part A of Schedule One to the Prevention of Money Laundering and Funding of Terrorism Regulations;

"Deputy Chairman" means the Deputy Chairman of the Board appointed under Article 20;

"designated authority" means the Executive Police, the Attorney General and any Magistrate conducting inquiries relating to the "*in genere*" in terms of Article 546 of the Criminal Code;

"Directive (EU) 2024/1640" means Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849;

"Director" means the Director of the Unit appointed or recruited under Article 23;

"European Banking Authority" means the European Supervisory Authority (European Banking Authority), established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council;

"European Supervisory Authority" means the European Banking Authority, or the European Supervisory Authority (European Insurance and Occupational Pensions Authority) established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council or the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council;

"Europol" means the European Union Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016;

"EPPO" means the European Public Prosecution Office established through Council Regulation (EU) 2017/1939 of 12 October 2017;

"financial analysis" means the results of operational and strategic analysis that has already been carried out by the Unit in pursuance of its tasks and functions under Article 25(1)(e) and (i);

"financial information" means any type of information or data, such as data on financial assets, movement of funds or financial business relationships, which is already held by the Unit to prevent, detect, and effectively combat money laundering and terrorist financing;

"financial sector" means the sector within which there fall the obliged entities listed in Article 3, points (1) and (2) of Regulation (EU) 2024/1624;

"group" has the same meaning assigned to it by Regulation (EU) 2024/1624;

IDPC" means the Information and Data Protection Commissioner and shall have the same meaning as that assigned to it under the Data Protection Act;

"law enforcement information" means any type of information or data, including but not limited to information on investigations, freezing or seizure of assets or other investigative or provisional measures, and information on convictions and on confiscation and criminal records, which is already held by: (a) any designated authority in the context of preventing, detecting, investigating, or prosecuting criminal offences; and (b) public authorities or private entities in the context of preventing, detecting, investigating or prosecuting criminal offences, and which is available to designated authorities in line with the provisions of any other law applicable to them;

"non-financial sector" means the sector within which there fall the obliged entities listed in Article 3, point (3), of Regulation (EU) 2024/1624;

“obliged entity” means a natural or legal person listed in Article 3 of Regulation (EU) 2024/1624, subject to such clarifications as may be prescribed by regulations under this Act to identify those obliged entities in relation to which the Unit is to exercise its functions at law;

“OLAF” means the European Anti-Fraud Office established through Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999;

“parent undertaking” has the same meaning assigned to it by Regulation (EU) 2024/1624;

“partnership for information sharing” has the same meaning assigned to it by Regulation (EU) 2024/1624;

“personal data” shall have the same meaning as is assigned to it under Regulation (EU) 2016/679;

“Regulation (EU) 2016/679” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“Regulation (EU) 2024/1620” means Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010;

“Regulation (EU) 2024/1624 ” means Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"serious criminal offence" means the offences listed in Annex I to Regulation (EU) 2016/794, tax evasion, and any other offence under the National Interest (Enabling Powers) Act; and

"supervisory authority" means any one of the authorities listed in Part B of Schedule One to the Prevention of Money Laundering and Funding of Terrorism Regulations.

Chapter I – Establishment of the Financial Intelligence Analysis Unit

15. (1) There shall be a government agency, to be known as the Financial Intelligence Analysis Unit.

(2) The Unit shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of concluding memoranda of understanding or other agreements including with any foreign body, authority or agency as is referred to in Article 16(1)(h), of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the borrowing of money.

(3) The Unit shall enter into an agency performance agreement with the Minister which agreement shall determine the funding of the agency and, without prejudice to the generality of Article 16(1), any specific tasks within the scope of the functions of the Unit which are to be addressed and achieved by the Unit.

(4) The members of the Unit and all its employees shall abide by any Code of ethics applicable to public officers and shall, subject to any law to the contrary, have the same obligations thereunder:

Provided that the Unit may, with the concurrence of the Minister, draw up service values and a Code of Ethics to supplement any public service Code of Ethics in respect of the Unit.

16. (1) Subject to the other provisions of this Act and without prejudice to any other power or function conferred on it by this Act or by any other law, the Unit shall be responsible for the prevention, detection and combating money laundering and the funding of terrorism, and without prejudice to the generality of the aforesaid shall in particular have the following functions:

- (a) the intelligence analysis function referred to under Article 25 hereunder;
- (b) the supervisory function referred to under Article 41 hereunder;
- (c) the administrative enforcement function referred to under Article 48 hereunder;
- (d) to carry out outreach activities, including the promotion and provision of training for personnel employed with any obliged entity in respect of any matter, obligation or activity relevant to the prevention of money laundering or funding of terrorism;
- (e) to make information on money laundering and terrorist financing available to obliged entities, including:

- (i) the findings of any national or sectoral risk assessment carried out by the committee referred to under Article 77 of this Act;
 - (ii) the findings of the supranational risk assessment carried out by the European Commission pursuant to Article 7 of Directive (EU) 2024/1640 and any relevant recommendation by the European Commission related thereto;
 - (iii) relevant guidelines, recommendations, reports and opinions issued by AMLA in accordance with Articles 54 and 55 of Regulation (EU) 2024/1620;
 - (iv) information on third countries identified pursuant to Chapter III, Section 2 of Regulation (EU) 2024/1624;
 - (v) any other relevant guidance, reports or indicators produced by the Unit, supervisory authorities, AMLA, competent authorities or international organisations and standard setters.
- (f) to consult with any person, institution or organization as may be appropriate for the purpose of discharging any of its functions;
- (g) to advise and assist persons, whether physical or legal, to put in place and develop effective measures and programmes for the prevention of money laundering and funding of terrorism;
- (h) upon request or on its own motion and subject to such conditions and restrictions as it may determine, to cooperate and exchange information with such other bodies, authorities or agencies as set out under the provisions of this Act;
- (i) to report to the Commissioner of Police any activity which it suspects involves money laundering or the underlying criminal activity, or funding of terrorism and of which it may become aware during the discharge of any of its functions;
- (j) to monitor compliance with any restrictions on payments in cash which may be introduced from time to time under this Act;
- (k) to establish, manage and administer centralised automated mechanisms allowing for the retrieval of data and information on any person holding or controlling payment or bank accounts identified by IBAN, including virtual IBANs, securities accounts, crypto-assets accounts or any person making use of safe custody services offered by credit or financial institutions; and
- (l) to compile statistics and records, disseminate information, make recommendations, issue guidelines and advise the Minister on all matters and issues relevant to the prevention, detection, analysis, investigation, prosecution and punishment of money laundering or funding of terrorism offences.

(2) The Unit shall be operationally independent and autonomous, and shall exercise its functions, duties and powers free from any undue interference, influence, direction or control by any person:

Provided that the Unit shall, in the exercise of its functions, duties and powers, take into account such national strategies and policies as are set out by the Committee referred to under Article 77 hereunder.

(3) For the purpose of carrying out any of its functions under this Act or regulations issued thereunder, the Unit shall have the power to impose fees and charges, including fees or charges to cover costs incurred by Unit in engaging any expert as envisaged in Article 59.

(4) The Unit shall at least once a year prepare a report on its activities in general to the Minister and shall afford to the Minister facilities for obtaining information with respect to its property and its activities in general and furnish him with returns, accounts and other information with respect thereto.

17. The Unit, its Board, officers and employees shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function under this Act, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

18. (1) The Unit shall consist of a Board and a Director.

(2) The Board shall be responsible for the policy to be adopted by the Unit and to be executed and pursued by the Director and to ensure that the Director carries out that policy accordingly.

(3) The Director shall be responsible for the execution of the policy established by the Board and for carrying out all the functions of the Unit not attributed by this Act to the Board in accordance with the policy and subject to the general supervision of the Board.

(4) The Board may appoint any Deputy Director, or in their absence, any officer or other member of the staff of the Unit to act as director when the Director is absent, unable to act or on vacation or during any vacancy in the office of the Director.

19. (1) The Board shall consist of:

(a) the Commissioner of Police or a senior official selected by him to serve as a member of the Board in his stead from amongst the officials receiving a full-time employment salary with the Malta Police Force;

(b) the Commissioner for Revenue or a senior official selected by him to serve as a member of the Board in his stead from amongst the officials receiving a full-time employment salary with the revenue departments;

(c) three (3) members appointed by the Minister in the manner provided in sub-article (2);

(d) not more than two (2) other members, as may be requested by the Board, appointed by the Minister in the manner provided in sub-article (3):

Provided that the Commissioner of Police and the Commissioner for Revenue shall inform the Minister whether they are to sit on the Board or otherwise who they have selected as a member.

(2) The Minister shall appoint the three (3) members referred to in sub-article (1)(c) by selecting one (1) member from each of three (3) panels, and each panel shall have at least three (3) persons, nominated respectively by the Governor of the Central Bank of Malta, the Chairman of the Malta Financial Services Authority, and the Chairperson of the Malta Gaming Authority from amongst the officials receiving a full-time employment salary with their respective authority or entity.

(3) The Minister shall appoint each additional member as maybe requested by the Board in pursuance of the provisions of sub-article (1)(d) from a panel of not less than three persons nominated by the authority to be indicated by the Board from amongst the officials receiving a full-time employment salary of the respective authority or entity with respect to each additional member.

(4) A member of the Board selected in terms of paragraph (a) or paragraph (b) of sub-article (1) or appointed under sub-articles (2) or(3) shall hold his office for a period of five (5) years and may, on the expiration of his term of his office, be selected or appointed again to the Board, and all members of the Board shall receive such remuneration as the Minister may, from time to time, determine.

(5) The members of the Board shall discharge their duties in their own individual judgement and shall not be subject to the direction or control of any other person or authority.

(6) A person shall not be qualified to be appointed, selected, or to hold office as a member of the Board if he:

- (a) is legally incapacitated; or
- (b) has been declared bankrupt or has made a composition or scheme of arrangement with his creditors; or
- (c) has been convicted of an offence against this Act or of an offence listed in the First Schedule or in the Second Schedule or of an offence of money laundering against the provisions of the Dangerous Drugs Ordinance or of the Medical and Kindred Professions Ordinance; or
- (d) is required to be an officer receiving a full-time employment salary with a specific authority or entity, and he does not or no longer meets the said requirement; or
- (e) is a salaried official of or is otherwise employed with or in the service of an obliged entity or is in any other manner professionally connected to an obliged entity.

(7) A member of the Board may not be relieved of office by the Minister, or required to resign his office, other than after consultation with the official by whom the member was recommended, and only on the ground that the said member no longer meets any of the conditions set out in sub-article (6) hereabove, or of inability to perform the functions of his office, whether due to infirmity of mind or of body, or to any other cause, or of misbehaviour; and, for the purposes of this sub-article, repeated unjustified non-attendance of Board meetings may be deemed to amount to misbehaviour:

Provided that a member selected in terms of paragraph (a) or (b) of sub-article (1) may only be relieved of his office, or be required to resign the same, by the Commissioner of Police or the Commissioner for Revenue, as may be applicable, and only on the grounds referred to in this sub-article, and the Minister shall be informed of any such removal or resignation.

(8) A member of the Board may also resign from office by letter addressed to the Minister or, where he has been selected in terms of paragraph (a) or (b) of sub-article (1), by letter addressed to the Commissioner of Police or the Commissioner for Revenue, as may be applicable, and the Minister.

(9) Where any vacancy occurs in the composition of the members of the Board for any reason other than the lapse of the term of office, that vacancy shall, for the remainder of the term of office which has become vacant, be filled:

(a) by another member selected by the Commissioner of Police or the Commissioner for Revenue, or themselves, as may be applicable, where the vacancy relates to a member selected in accordance with paragraph (a) or (b) of sub-article (1); or

(b) by another member appointed by the Minister from among a panel of not less than three (3) persons nominated by the official who nominated the panel from among whom the member who vacated office had been appointed in accordance with paragraph (c) or (d) of sub-article (1), with the nominations being selected from amongst the officials receiving a full-time employment salary with the respective authority or entity.

(10) For the purposes of this article "revenue departments" shall have the same meaning attributed to it under the Commissioner for Revenue Act.

20. A Chairman and Deputy Chairman shall be appointed by the Prime Minister after consultation with the Minister from among the members of the Board. The Chairman shall be the Head of the Unit and the Deputy Chairman shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as Chairman or while he is on vacation or during any vacancy in the office of chairman.

21. (1) The Board shall meet within one month from its constitution and as often as may be necessary or expedient thereafter, but in no case less frequently than ten times in each year. The meetings of the Board shall be called by the Chairman on his own initiative or at the request of any two of the other members or at the request of the Director.

(2) The Board shall not act unless a *quorum* consisting of the Chairman or Deputy Chairman and not less than two other members is present.

(3) The meetings of the Board shall be chaired by the Chairman, or in his absence, by the Deputy Chairman.

(4) The decisions of the Board shall be adopted by a simple majority of the votes of the members present and voting and in the event of an equality of votes the member presiding at the meeting shall have and exercise a second or casting vote.

(5) The Director shall be entitled to attend the meetings of the Board and to take part in the discussions but shall have no vote. Saving the provisions of sub-article (2) the absence of the Director from any meeting shall not invalidate the proceedings of the meeting.

(6) Any vacancy among the members of the Board, and any participation therein by a person not entitled so to do, shall not invalidate the proceedings of the Board.

(7) Subject to the provisions of this Act, the Board may regulate its own procedure.

(8) All acts done by any person acting in good faith as a member of the Unit shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered.

22. In case of emergency, decisions shall be taken by at least two members of the Board one of whom shall be the Chairman or Deputy Chairman.

23. (1) The Director of the Unit shall be appointed by the Board, according to such procedures and on such terms and conditions as the Board may determine, following a public call for applications.

(2) The Board of Governors shall, in consultation with the Director, appoint one or more Deputy Directors to assist the Director in the performance of his duties and responsibilities.

(3) Without prejudice to what is set out under sub-article (1) hereabove, all officers and staff of the Unit shall be selected by the Director of the Unit according to such procedures and on such terms and conditions and in such numbers as the Board may determine.

(4) All officers and staff of the Unit shall be persons of high integrity and good conduct, appropriately skilled and shall maintain high professional standards, including standards of confidentiality, data protection and standards relative to addressing conflicts of interest.

(5) A person shall not be qualified to be appointed, or to hold office, as Director or Deputy Director:

(a) unless he is a person of undisputed integrity and good conduct;

(b) unless he has the necessary experience and expertise to be able to fulfil the functions of the office;

(c) unless he is eligible to acquire a high level of security clearance; and

(d) if he is subject to any of the disqualifications mentioned in paragraphs (a), (b), (c) and (e) of Article 19(6).

24. (1) The legal and judicial representation of the Unit shall vest in the Chairman and in his absence in the Deputy Chairman:

Provided that the Board may appoint any one or more of its other members or of the Unit's officers or employees to appear in the name and on behalf of the Unit in any judicial proceedings and in any act, contract, instrument or other document whatsoever.

(2) Any document purporting to be an instrument made or issued by the Unit and to be signed by the Chairman or by the Deputy Chairman on behalf of the Unit shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Unit.

Chapter II - The Intelligence Analysis Function of the Unit

25. (1) In the exercise of its intelligence analysis function, the Unit shall, in particular have the following functions:

(a) to collect, collate, process, analyse and disseminate information with a view to preventing, detecting and effectively combating money laundering and the funding of terrorism;

- (b) to receive reports of transactions or activities suspected, reasonably suspected or known to include, regardless of the amounts, the proceeds of criminal activity or related terrorist financing or criminal activity, made by any obliged entity in pursuance of Article 69 of Regulation (EU) 2024/1624;
- (c) to receive threshold-based reports of transactions of high-value goods and cash-related reports by obliged entities in pursuance of Article 72 and Article 78(4) second sub-paragraph of Regulation (EU) 2024/1624 respectively, as well as any other information relevant to money laundering, its predicate offences or terrorist financing, including information transmitted by any supervisory or competent authority including in pursuance of Article 9 of Regulation (EU) 2018/1672;
- (d) to supplement such reports with such additional information as may be available to it or as it may demand;
- (e) to analyse the reports received together with such additional information, as well as any other information which the Unit may obtain or come in possession of;
- (f) to draw up an analytical report and send it to the Commissioner of Police for further investigation if having considered the report received under paragraph (b) and any additional information, the Unit has reasonable grounds to suspect that the transaction or activity is suspicious and could involve money laundering or funding of terrorism or property that may have derived directly or indirectly from, or constitutes the proceeds of, criminal activity;
- (g) to send to the Commissioner of Police together with any analytical report sent in accordance with paragraph (f) or at any time thereafter, any information, document, analysis or other material in support of the report;
- (h) to instruct any obliged entity to take such steps as it may deem appropriate to facilitate any money laundering or funding of terrorism analysis in general or the analysis of any particular report received by the Unit under paragraph (b);
- (i) to collect data and information for the carrying out analyses to identify trends and typologies indicative of money laundering, its predicate offences or the funding of terrorism and, or to identify situations which may warrant an analysis as referred to under paragraph (e) hereabove;
- (j) upon request or on its own motion and subject to such conditions and restrictions as it may determine or as it may be subject to under this Act, to cooperate, collaborate and exchange information with:
 - (i) any foreign body, authority or agency which it considers to have functions equivalent or analogous to those mentioned in paragraphs (a) to (i) regardless of its nature or status;
 - (ii) any supervisory authority or any other authority or body having regulatory or supervisory functions outside Malta;
 - (iii) any other competent authority;

- (iv) any designated authority or any authority or body outside Malta carrying out a criminal investigation into money laundering, the underlying and, or associated criminal activity, or funding of terrorism;
 - (v) AMLA, including in response to any requests received pursuant to Article 6(3) of Regulation (EU) 2024/1620 as well as when initiating, conducting and coordinating joint analysis, together with any other third party participating in joint analysis teams supported by AMLA;
 - (vi) any European Union agency, body or authority having judicial or law enforcement powers as are referred to in (iv) above, or that is otherwise to support national judicial or law enforcement authorities as are referred to in (iv) above, or that has any other investigative functions.
- (k) to participate in terms of applicable law, in partnerships for information sharing set-up in accordance with Article 73 of Regulation (EU) 2024/1624; and
- (l) to gather information and compile statistics and records, including on its tasks and activities, and disseminate information, on all matters and issues relevant to the prevention, detection, analysis and combating of money laundering or funding of terrorism offences.

(2) The intelligence analysis function of the Unit shall be segregated from the other functions and operations of the Unit and shall be exercised by the Unit through a dedicated section or department within the Unit.

26. (1) In carrying out its intelligence analysis function under this Act, the Unit may exchange any information, with any foreign authority, body or agency considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove, that may be relevant for the processing or analysis of information or to investigations regarding financial transactions or activities related to money laundering or the underlying criminal activity, or funding of terrorism and the persons involved, regardless of the type of underlying criminal activity, and even where the underlying criminal activity is not known at the time of exchange:

Provided that the Unit may, in exceptional and urgent circumstances and subject to operational limitations, promptly exchange financial information or financial analysis relevant for the processing or analysis of information related to terrorism or organised crime associated with terrorism, with any authority, body or agency of a Member State considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove.

(2) Any disclosure of information referred to in sub-Article (1) hereabove shall be subject to the condition that the information or documents disclosed shall not be used for purposes other than those indicated by the Unit, that they shall not be disseminated to any other person, body, authority or agency, without the express prior consent of the Unit, and to any other condition or restriction on the use of exchanged information as the Unit may determine, including the prior conclusion, if it deems it so necessary, of any memorandum of understanding or other agreement to regulate any such exchange of information.

(3) The consent referred to in the proviso to sub-article (2) shall be provided by the Unit promptly, regardless of the type of underlying criminal activity and whether or not such criminal activity has been identified, and shall not be withheld unless in the opinion of the Unit such disclosure:

- (a) could lead to the impairment of a criminal investigation;

(b) would not be in accordance with the fundamental principles of Maltese law; or

(c) falls beyond the scope of the functions of the Unit.

(4) Without prejudice to the generality of the foregoing, where the Unit receives a report pursuant to its function under paragraph (b) of Article 25(1) hereabove concerning another Member State, it shall promptly forward the report, or all the relevant information to the authority, body or agency within that Member State considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove, and no prior consent as is referred to under sub-article (2) shall be required for the further use or dissemination of the said report or information where the report involves an obliged entity operating through the freedom to provide services but no other link to Malta.

(5) Without prejudice to sub-article (6) hereunder, the Unit shall respond, in a timely manner, to requests for information made by any foreign authority, body or agency considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove:

Provided that where the request for information is made by any authority, body or agency of a Member State considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1), the Unit shall respond to the request as soon as possible and in any case no later than five (5) working days after the receipt of the request if the Unit is either in possession of the requested information, or the requested information is held in a database or register which is directly accessible by it. In exceptional, duly justified cases, the timeframe to respond to the request may be extended up to a maximum of ten (10) working days. Where the Unit is unable to obtain the requested information, it shall inform the requesting body, authority, body or agency accordingly:

Provided further that by way of derogation from the first proviso to this sub-article, in exceptional, justified and urgent cases, the Unit shall, if requested by any authority, body or agency of a Member State considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1), provide information no later than one (1) working day after the receipt of the request where the information is already in its possession or is held in a database or registry directly accessible by the Unit. If the Unit is unable to respond within one (1) working day, or it cannot access the database or register directly, it shall provide a justification. Where the Unit deems that the request places a disproportionate burden on it, it shall provide a reply within no later than three (3) working days after the receipt of the request and immediately inform the requesting authority, body or agency of such postponement.

(6) Where a request is received pursuant to sub-article (4), the Unit may refuse to disclose any document or information:

(a) if in its opinion such disclosure would not be in accordance with fundamental principles of Maltese law;

(b) if in its opinion the foreign authority, body or agency does not have duties of secrecy and confidentiality that are at least equivalent to those of the Unit or does not provide effective measures to protect confidentiality and secrecy; or

(c) on the grounds of lack of reciprocity or repeated non-co-operation by the foreign authority, body or agency making the request:

Provided that where the request for information is made by an authority, body or agency of a Member State considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25 hereabove, the Unit may refuse to disclose any document or information only if in its opinion such disclosure would not be in accordance with fundamental principles of Maltese law.

(7) Where the Unit refuses to grant consent as set out under sub-article (3) or to disclose information in terms of sub-article (6), an explanation shall be provided.

(8) Where the Unit receives information, data or documents from a foreign authority, body or agency considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25 hereabove, the Unit shall comply with any restriction and condition on the use of such information, data or documents imposed by that foreign authority, body or agency.

27. (1) Without prejudice to the generality of Article 25(1)(j) hereabove and to any restriction that the Unit may be subject to, the Unit may participate in joint analytical operations, or otherwise extend any form of assistance or cooperation as it may deem relevant and necessary to one or more foreign authority, body or agency considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove, as well as any other third party which the Unit invites and, or agrees to have participating in joint analytical operations.

(2) For the purposes of sub-article (1), the Unit may request the setting up of a joint analytical operation with the assistance of AMLA where it is required to conduct demanding operational analyses with links to other Member States, or where concerted action with authorities, bodies or agencies of Member States considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) is otherwise justified.

(3) The Unit may disclose information in its possession which it identifies as relevant for the purposes of joint analytical operations. The provisions of Article 26 shall *mutatis mutandis* apply to information exchanged for the purposes of joint analytical operations, including with any participating third party.

28. (1) The Unit shall, in accordance with the applicable provisions of this Act, and without prejudice to Article 37(1) hereunder, cooperate with any designated authority and reply in a timely manner on a case-by-case basis, to reasoned requests made by such designated authorities for financial information and, or financial analysis, where such information is necessary for the prevention, detection, investigation, or prosecution of serious criminal offences:

Provided that the Unit may, of its own motion and even in the absence of any prior request from any such designated authorities, transmit any financial information or financial analysis in its possession which it considers to be of interest and relevance for the prevention, detection, investigation or prosecution of serious criminal offences to one or more of the designated authorities:

Provided further that the provisions of Article 37(2) hereunder shall *mutatis mutandis* apply in relation to any financial information or financial analysis disclosed by the Unit to any of the authorities referred to in terms of this sub-article.

(2) The Unit may refuse to disclose any financial information or financial analysis pursuant to sub-article (1) on the grounds as laid down under Article 65(2)(b) to (f), and it shall provide an explanation in writing for such a refusal.

(3) Any request received by the Unit pursuant to sub-article (1) shall be recorded by the Unit, which record shall include:

- (a) the name and contact details of the authority and of the officer or employee requesting the information;
- (b) the recipients of the results of the query or search in so far as possible;
- (c) the case reference number of the requesting authority in relation to which the information is requested;
- (d) the subject matter of the request; and
- (e) the manner in which the request was executed, including the method used for the dissemination of information or analysis requested, whenever such request has been acceded to.

(4) Records referred to in sub-article (3) shall be kept for a period of 5 years from the date of when the request was received and shall be used solely for the purpose of checking the lawfulness of the processing of personal data.

(5) The Unit shall, upon request by the IDPC, make available any record as referred to in sub-article (3).

(6) In addition, and without prejudice to the powers of the Unit under Article 37 hereunder, the Unit may request, and designated authorities shall disclose in a timely manner and, on a case-by-case basis, any law enforcement information necessary for the prevention, detection and combating of money laundering, underlying criminal activity and terrorist financing, unless the provision of such information is likely to jeopardise an ongoing investigation.

(7) Designated authorities shall inform the Unit on the use made of information provided by the Unit under this article and, where such authorities are vested with investigative powers, shall also report any outcomes of investigations carried out pursuant to the information provided. Such feedback shall be provided as soon as possible and, in any case, in an aggregated form at least on an annual basis, in such a way as to allow the Unit to improve its operational analysis function.

29. (1) Without prejudice to any restriction which the Unit maybe subject to, the Unit shall, upon receipt of duly justified requests made by Europol within the limits of its responsibility in the performance of its tasks and on a case-by-case basis, exchange any financial information and, or financial analysis as if the

request was received from a foreign authority, body or agency having functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove:

Provided that, in addition to the grounds as laid down under Article 65 (2)(b) to (f), the Unit may refuse to disclose any financial information or financial analysis if:

- (a) the provision of such information or analysis would be contrary to the essential interests of the security of Malta;
- (b) the provision of such information or analysis would jeopardise the safety of an individual; or
- (c) the provision of such information would disclose information relating to the organisations or specific intelligence activities in the field of national security.

(2) Where the Unit refuses to disclose information in terms of sub-article (1), an explanation shall be provided.

(3) The provisions of Article 28(3) to (6) hereabove shall *mutatis mutandis* apply in relation to the record keeping of requests for information received by the Unit from Europol pursuant to this article.

30. (1) Without prejudice to any restriction which the Unit may be subject to, the Unit shall respond in a timely manner to requests for information made by the EPPO and OLAF in accordance with Articles 81 and 83 of Regulation (EU) 2024/1624 respectively:

Provided that, in addition to the grounds as laid down under Article 65(2)(b) to (f), the Unit may refuse to disclose any information if:

- (a) the provision of such information or analysis would be contrary to the essential interests of the security of Malta;
- (b) the provision of such information or analysis would jeopardise the safety of an individual; or
- (c) the provision of such information would disclose information relating to the organisations or specific intelligence activities in the field of national security.

(2) The Unit may send reasoned requests for information to the EPPO and OLAF, where that information is necessary for the performance of the Unit's functions under Article 25(1) hereabove.

(3) The Unit may exchange the results of strategic analysis, including typologies, and risk indicators with the EPPO and OLAF, in accordance with Articles 81 and 83 of Regulation (EU) 2024/1624 respectively.

31. (1) Where the Unit knows or suspects that a transaction to be carried out by an obliged entity is related to money laundering, its predicate offences, or the funding of terrorism, or involves property that may have derived directly or indirectly from, or constitutes the proceeds of, criminal

activity, it may oppose the execution of the transaction and a notification of such opposition shall be made to the obliged entity concerned by any written means:

Provided that the opposition of the execution of the transaction shall be imposed by the Unit where it is considered necessary to preserve the availability of the funds concerned and perform its functions under paragraphs (a) to (i) of Article 25(1) hereabove.

(2) Where the Unit is informed by an obliged entity in line with Article 71(1) of Regulation (EU) 2024/1624 that a transaction to be carried out is suspected or known to be related to money laundering, its predicate offences, or the funding of terrorism, or to involve property that may have derived directly or indirectly from, or constitutes the proceeds of, criminal activity, the notification of the opposition referred to in sub-article (1) shall be made to the obliged entity by not later than three (3) working days following the day on which the information was received by the Unit, and the obliged entity shall within such period not carry out the transaction in question:

Provided that where the obliged entity does not, upon the lapse of the (3) three working days referred to in this sub-article, receive a notification of opposition of the transaction from the Unit, the obliged entity concerned may proceed with the execution of the transaction after having assessed the risks of proceeding with the said transaction.

(3) Where the Unit opposes the execution of the transaction on the basis of its analytical work, regardless of whether prior information was received from the concerned obliged entity, the notification of such opposition shall be made by the Unit to the obliged entity as soon as possible.

(4) The opposition by the Unit may be imposed upon a request by a foreign body, authority or agency which is considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove. Where the Unit receives such request, it shall acknowledge its receipt and subsequently notify such foreign body, authority or agency of the decision as to whether the execution of the transaction subject to the request has been opposed or otherwise.

(5) The opposition by the Unit shall suspend the execution of the transaction for a period of five (5) working days following the day of the notification by the Unit referred to in sub-article (1), unless the Unit shall, by any written means, remove the said suspension.

(6) The Unit may, at its discretion, extend the period referred to in sub-article (5) by a maximum of a further five (5) working days where this is considered to be necessary by the Unit and any extension shall be notified in writing to the obliged entity before the lapse of the previous suspension period.

(7) The obligation not to execute a transaction suspended in terms of this article shall prevail over any legal or contractual obligation to which an obliged entity may be subject.

(8) Where a notification of opposition has been made to the obliged entity in accordance with sub-article (1), the obliged entity concerned may proceed with the execution of the transaction upon the lapse of the period referred to in sub-article (5) or any extension thereof, as the case may be, unless in the meantime an attachment order has been served on the obliged entity.

32. (1) Where, on the basis of information in its possession, including upon a request by a foreign body, authority or agency of a Member State considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove, the Unit knows or suspects that an account or a business relationship is related to money laundering, its predicate

offences, or the funding of terrorism, or involves property that may have derived directly or indirectly from, or constitutes the proceeds of, criminal activity, the Unit may order the suspension of the use of that account or the suspension of the business relationship and a notification of such suspension order shall be made to the obliged entity concerned by any written means:

Provided that the suspension order referred to in this sub-article shall only be imposed by the Unit where it is considered necessary to preserve the availability of the funds concerned and perform its functions under paragraphs (a) to (i) of Article 25(1) hereabove.

(2) The obliged entity in receipt of the suspension order shall be required to suspend the use of the concerned account, or the business relationship, for a period of five (5) working days following the day of the notification by the Unit referred to in sub-article (1), unless the Unit shall, by any written means, lift the suspension order prior to the lapse of the said five (5) working days.

(3) The obligation to suspend the use of an account or the business relationship in terms of this article shall prevail over any legal or contractual obligation to which an obliged entity may be subject.

(4) Where the Unit receives a request from a foreign body, authority or agency referred to in sub-article (1), it shall acknowledge receipt of that request and shall subsequently notify such foreign body, authority or agency of the decision as to whether the request has been opposed or otherwise.

33. (1) When the Unit receives a report as is referred to in Article 25(1)(b) hereabove or when from information in its possession, including upon a request by a body, authority or agency of a Member State which is considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove, the Unit suspects that any obliged entity may have been used for any transaction or activity suspected to involve money laundering or funding of terrorism or that property which is being held by an obliged entity may have derived directly or indirectly from, or constitutes the proceeds of, criminal activity or from an act or acts of participation in criminal activity, the Unit may require the obliged entity:

(a) to monitor for a specified period the transactions or activities being carried out through one or more accounts or business relationships held for, or established with, any person suspected of the said offences, or through one or more accounts or business relationships suspected to have been used in the commission of any of the said offences or which could provide information about the offences or the circumstances thereof, whether before, during or after the commission of the offences, and

(b) not to execute any transactions or activities that meet criteria set by the Unit and that are to be carried out or undertaken through accounts and business relationships as are referred to in paragraph (a), before informing the Unit.

(2) The provisions of Article 31 shall *mutatis mutandis* apply to any transaction that is to be carried out and which is notified to the Unit pursuant to an order issued in terms of sub-article (1)(b) hereabove.

(3) The obliged entity shall communicate to the Unit the information resulting from the monitoring referred to in sub-article (1)(a) and the Unit may use the information received in terms of this article for the purpose of carrying out any of its functions under this Act.

(4) Where a monitoring order has been made or applied for, whosoever, knowing or suspecting that the analysis is taking place, discloses that an analysis is being undertaken or makes any other disclosures likely to prejudice the said analysis shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding eleven thousand and five hundred euro (€11,500) or to imprisonment not exceeding twelve months, or to both such fine and imprisonment:

Provided that in proceedings for an offence under this sub-article, it shall be a defence for the accused to prove that he did not know or suspect that the disclosure was likely to prejudice the analysis.

(5) The provisions of Article 37(2) shall *mutatis mutandis* apply where any information is demanded by the Unit under this article.

34. (1) When the Unit receives a report as is referred to in Article 25(1)(b) hereabove or when from information in its possession the Unit suspects that any obliged entity may have been used for any transaction suspected to involve money laundering, funding of terrorism or property that may have derived directly or indirectly from, or constitutes the proceeds of, criminal activity, the Unit may demand from the obliged entity making the report, as well as from any other obliged entity, the police, any Government Ministry, department, agency or other public authority or any other person, physical or legal, and from any supervisory authority, any additional information that it deems useful for the purpose of integrating and analysing the report or information in its possession.

(2) Notwithstanding anything contained in any other law, the Unit may likewise demand from any person, authority or entity, as is referred to in sub-article (1), any information it deems relevant and useful for the purpose of pursuing its functions under Article 25(1) hereabove.

(3) Notwithstanding anything contained in the Professional Secrecy Act and any obligation of secrecy or confidentiality under any other law, the obliged entity or any other person, physical or legal, and any authority or entity from whom information is demanded by the Unit in pursuance of the provisions of sub-articles (1) and (2) shall communicate the information requested to the Unit and for the purposes of Article 257 of the Criminal Code any such disclosure shall be deemed to be a disclosure of information to a public authority compelled by law:

Provided that nothing in this sub-article shall imply any obligation on the Attorney General to communicate to the Unit any information which in any way relates to or is connected with or came into his possession as a result of the exercise by him of any powers referred to in Article 91(3) of the Constitution or any obligation on any person to communicate to the Unit any information which would in legal proceedings be protected from disclosure by Article 642(1) of the Criminal Code or by Article 588(1) of the Code of Organization and Civil Procedure:

Provided further that, where justified on the basis of the higher risks of money laundering, its predicate offences or terrorist financing associated with certain types of transactions, the Unit may decide that the exemption included within the first proviso with respect to any obliged entity falling within the scope Article 642(1) of the Criminal Code and Article 588(1) of the Code of Organization and Civil Procedure would not apply to those types of transactions, and, as appropriate, impose additional reporting obligations on the said obliged entities.

(4) Without prejudice to Article 69 of Regulation (EU) 2024/1624 with respect to information demanded by the Unit from obliged entities, any information which the Unit demands in pursuance of sub-articles (1) and (2) shall be provided at no cost to the Unit and in a timely manner within such time period as the Unit may direct, or as may be established by regulations made under this Act.

(5) Without prejudice to the generality of the foregoing, the Unit shall, in the exercise of its intelligence analysis function, be granted direct and immediate access to such financial information and administrative information as may be set out in regulations under this Act.

35. (1) Where, following an analysis of a report received by the Unit under Article 25(1)(b) hereabove and of any other information relevant to that report, the Unit is of the opinion that a reasonable suspicion of money laundering or funding of terrorism or a reasonable suspicion that property may have derived directly or indirectly from, or constitutes the proceeds of criminal activity subsists, an analytical report drawn up as is referred to under Article 25(1)(e) shall be transmitted to the Police for further investigation.

(2) The provisions of sub-article (1) shall also apply *mutatis mutandis* to any knowledge or suspicion of money laundering or the underlying criminal activity, or funding of terrorism, which the Unit may have gathered or formed from information in its possession without having received any report as is referred to under sub-article (1).

(3) Where the Unit transmits information to the Police in pursuance of the provisions of sub-articles (1) and (2) and an obliged entity over which another authority or agency has supervisory or regulatory functions is involved, the Unit shall inform the said authority or agency of actions taken.

(4) Where the Unit transmits information to the Police in pursuance of sub-articles (1) and (2) it shall thereafter transmit to the Police any further relevant information in respect of the knowledge or suspicion communicated to the Police as aforesaid.

(5) The Police shall inform the Unit on the use made of information provided by the Unit under this article and on the outcome of any investigations carried out pursuant to the information provided. Such feedback shall be provided as soon as possible and in any case, in an aggregated form, at least on an annual basis, in such a way as to allow the Unit to improve its operational analysis function.

(6) Where the Unit is of the opinion that there is a reasonable suspicion that property may have derived directly or indirectly from, or constitutes the proceeds of criminal activity which falls within the competence of the EPPO and, or OLAF, it shall, in addition to the transmission of any information or report to the Police as afore-stated, transmit any relevant information thereon to the said offices. The transmission of information to the EPPO shall take place through the European Delegated Prosecutors for Malta.

(7) The provisions of Article 37(2) shall *mutatis mutandis* apply with respect to any information or documentation disclosed by the Unit in terms of this article.

36. (1) The Commissioner of Police shall detail a police officer not below the rank of Inspector to act as a liaison officer to liaise with the Unit.

(2) Notwithstanding anything to the contrary in any other law the police liaison officer detailed as aforesaid shall be bound to keep secret and confidential any information that may come to his knowledge as a result of his duties as a liaison officer with the Unit and shall not disclose such information to any person other than a member of the Unit or any of its staff in the course of the exercise of his functions as a liaison officer with the Unit.

Provided that where the Unit has submitted a report to the Police in accordance with the provisions of this Act the Unit may, without prejudice to the provisions of Article 35(4), authorise the police liaison officer to disclose to the Police, or to any other competent authority identified by the Unit as having an interest in the investigation of the report, any information relevant to the said report that may have come or may come to the knowledge of the police liaison officer in the course of his assignment with the Unit.

(3) The police liaison officer shall, subject to complying with any internal requirements of the police force, make available to the Unit or to any member of its staff any information at the disposal of the police or which is part of police records to the extent that such information is relevant to the exercise of the functions of the Unit.

(4) The police liaison officer shall assist the Unit in the analysis and processing of reports received by the Unit under Article 25(1)(b) hereabove and of information and intelligence data collected by the Unit in the exercise of its functions and shall advise the Unit on investigative techniques and on all law enforcement issues.

37. (1) Notwithstanding the obligation under Article 65, the Unit may also disclose any information or document referred to in Article 65(1) to any authority in or outside Malta carrying out a criminal investigation into any act or omission committed in Malta and which constitutes, or if committed outside Malta would in corresponding circumstances constitute:

- (a) any of the offences referred to in Article 27(2)(a)(1) of the Dangerous Drugs Ordinance; or
- (b) any of the offences referred to in Article 120A(2)(a)(1) of the Medical and Kindred Profession Ordinance; or
- (c) any offence of money laundering within the meaning of this Act; or
- (d) any offence of funding of terrorism:

Provided that when disclosing any information or document in the circumstances referred to in this sub-article, the Unit may also disclose any information or document related to the underlying criminal activity.

(2) Notwithstanding any other provision of this Act or any other law, any information or document disclosed by the Unit in terms of sub-article (1) shall be considered as secret and shall:

- (a) be used only for the purposes of the investigation being carried out and no other use thereof shall be made nor shall it be disclosed or disseminated to any other person or authority without the prior express consent of the Unit:

Provided such further use, disclosure or dissemination is strictly necessary for the purpose of the investigation being carried out and the provisions of this sub-article shall also apply to such further use, disclosure or dissemination;

- (b) be considered as intelligence for the purposes of assisting the investigation being carried out, and shall not be considered as evidence nor used as such in any proceedings, whether judicial or otherwise, which may be instituted as a result of any such investigation;
- (c) not be provided under oath;
- (d) be recorded, held and archived separately from the acts of the investigation or any process verbal and shall be sealed in such manner so as to ensure its confidentiality and secrecy;
- (e) not form part of any published report or findings resulting from the investigation; and
- (f) under no circumstance be made public.

38. The Unit shall apply and make use of appropriate, protected and secure channels, mechanisms and technologies, to communicate, cooperate, collect and exchange information in pursuance of its intelligence analysis functions:

Provided that the Unit shall ensure that cooperation and exchange of information with any authority, body or agency considered to have functions equivalent or analogous to those of the Unit under paragraphs (a) to (i) of Article 25(1) hereabove, and which has access to FIU.Net, as well as AMLA for the purposes of conducting joint analytical operations, shall take place through FIU.net.

39. (1) The Unit shall appoint a fundamental rights officer whose responsibility shall be to ensure that the intelligence analysis function of the Unit fully respects, protects and promotes fundamental rights.

(2) The fundamental rights officer shall in particular have the following tasks:

- (a) to advise the officers within the intelligence analysis function of the Unit on any activity carried out by the said function without impeding or delaying those activities;
- (b) to promote and monitor the compliance of the Unit's intelligence analysis function with the fundamental rights referred to in sub-article (1), including by providing non-binding opinions; and
- (c) to inform the Director of any possible violations of fundamental rights referred to in sub-article (1), that may arise in the course of the activities of the intelligence analysis function of the Unit:

Provided that in carrying out the tasks listed under paragraphs (a) to (c), the fundamental rights officer shall not receive any instructions from the Unit.

40. (1) The Unit shall, at the request of the obliged entity or on its own motion, at least on an annual basis, give to the obliged entity which makes a report to the Unit as provided for under Article 69 of Regulation (EU) 2024/1624, such feedback as the Unit deems appropriate, including at least on:

- (i) the quality of the information provided;
- (ii) the timeliness of reporting;
- (iii) the description of the suspicion;
- (iv) the documentation provided at submission stage;
- (v) any other matter which the Unit may consider to be of interest to the obliged entity to regulate its affairs and to assist it in carrying out its duties under applicable law, including this Act and any regulation made thereunder:

Provided that any feedback provided by the Unit in accordance with this sub-article shall not be understood as encompassing each report submitted by obliged entities and may be provided to obliged entities individually, or to groups or categories of obliged entities taking into consideration the overall number of suspicious transactions reported.

(2) Feedback pursuant to sub-article (1) shall be made available to the supervisory and enforcement functions of the Unit, in order to allow them to carry out their functions on a risk sensitive basis.

(3) The Unit shall report on an annual basis to AMLA on the provision of feedback to obliged entities pursuant to sub-article (1), together with statistics on the number of suspicious transaction reports submitted by the categories of obliged entities.

(4) The Unit shall provide feedback to the relevant competent authority, at least on an annual basis, on the effectiveness of and follow-up to the information transmitted pursuant to Article 9 of Regulation (EU) 2018/1672.

(5) The obligation of the Unit to provide feedback in accordance with this article shall not jeopardise any ongoing analytical work carried out by the Unit, or any subsequent investigation or administrative action following a report transmitted by the Unit in pursuance of paragraph (e) of article 25(1) hereabove, and shall not affect the application of confidentiality and data protection requirements.

Chapter III – The Supervisory Function of the Unit

41. (1) In the exercise of its supervisory function, the Unit shall be responsible for the anti-money laundering and counter-funding of terrorism supervision of obliged entities, and without prejudice to the generality of the aforesaid shall, in particular have the following functions:

- (a) to identify, understand, assess and monitor the risk of money laundering and funding of terrorism to which obliged entities and the sectors within which they operate are exposed to;
- (b) to monitor and supervise compliance by obliged entities with their anti-money laundering and counter-funding of terrorism obligations;
- (c) to draw up supervisory reports on the findings of supervisory engagements and to identify findings or other information which in its opinion indicate:
 - (i) potential non-compliance by an obliged entity with its anti-money laundering and counter-funding of terrorism obligations;
 - (ii) potential contribution thereto by officers of the obliged entity;

- (iii) a situation where the obliged entity is being exposed to higher money laundering or funding of terrorism risks that merit the taking of expedite measures;
- (d) to follow-up and ensure that any corrective action agreed to by the obliged entity in cases that are not escalated to the enforcement function of the Unit is effectively implemented;
- (e) to receive notifications from obliged entities as may be prescribed by regulations under this Act;
- (f) to co-operate, collaborate, and coordinate with regards to administrative enforcement actions, with:
 - (i) any counterpart authority having supervisory and/or enforcement functions in the area of anti-money laundering and counter-funding of terrorism obligations, and with AMLA;
 - (ii) any supervisory authority or analogous foreign authority responsible for monitoring compliance by the obliged entity with obligations other than anti-money laundering and counter the financing of terrorism ones;
 - (iii) any other competent authority or designated authority;
 - (iv) any supranational authority including AMLA, any or all European Supranational Authorities, and the European Central Bank;
 - (v) any other authority, body or entity that contributes to ensuring the stability and integrity of the financial system; and
- (g) to compile statistics and records on all aspects related to its supervisory actions and engagements.

42. (1) The Unit shall be responsible to monitor obliged entities' compliance with their anti-money laundering and counter-funding of terrorism obligations.

(2) The Unit shall carry out its responsibilities under sub-article (1) on a risk sensitive basis and, in so doing, the Unit may:

- (a) authorise any of its officers, employees or agents, or any expert engaged under Article 59, on producing evidence of his authority, to require any obliged entity to provide him forthwith with such information or documentation as may be required in order to monitor compliance with anti-money laundering and counter-funding of terrorism obligations and to answer any questions as the Unit may reasonably require for the performance of its functions under sub-article (1), and such officer, employee, agent or expert may demand access to any data, information or documentation, whether or however stored or held, that the Unit considers relevant to monitor compliance, and may take copies or extracts of such data, information or documentation whether digital or otherwise;
- (b) by notice in writing served on an obliged entity require that obliged entity to produce, within the time and at the place as may be specified in that notice, any documents as may

be so specified in the notice provided such documents are reasonably required by the Unit for the performance of its functions under this Act;

(c) carry out all the necessary examinations, be they on-site or off-site, announced or unannounced, thematic checks and any other inquiries, assessments and analyses on obliged entities with the aim of monitoring compliance with their anti-money laundering and counter-funding of terrorism obligations; and

(d) make notes, take copies or recordings, whether digital or otherwise, of any data, information or documentation, obtained or accessed by the Unit, or of any answers to questions posed by the Unit in the exercise of its powers under this sub-article.

(3) An obliged entity in receipt of a request, notice or order referred to under sub-article (2) shall comply therewith and provide or, depending on the circumstances of the case, give access to the information and documentation requested.

(4) It shall be the *onus* of the obliged entity to demonstrate compliance with any of its anti-money laundering and counter-funding of terrorism obligations.

(5) Where the obliged entity has engaged a third party service provider to carry out any of its anti-money laundering and counter-funding of terrorism obligations, sub-article (1) to sub-article (3) shall *mutatis mutandis* apply with regards to any such service provider.

(6) For the purposes of pursuing its responsibilities under sub-article (1) on a risk-sensitive basis the Unit shall:

(a) ensure that it has a clear understanding of the money laundering and funding of terrorism risks to which Malta is exposed;

(b) take any necessary action and have access to any information or documentation that is necessary to assess and determine the money laundering and funding of terrorism risk profile of obliged entities;

(c) ensure that the risk profile of obliged entities is reviewed on a regular basis and when there are significant developments in the management and operations of obliged entities, and kept up to date;

(d) ensure that the frequency and intensity of on-site, off-site and thematic supervision is determined on the basis of:

- (i) the risk profile of obliged entities, as assessed and determined by the Unit; and
- (ii) the risks of money laundering and funding of terrorism to which Malta is exposed;

Provided that for the purpose of sub-article (6)(d), the Unit shall draw up annual supervisory programmes, which shall take into account the timing and resources needed

to react promptly in the event of objective and significant indications of breaches of anti-money laundering obligations.

(e) decide on those cases where the specific risks inherent in a sector are clear and understood and individual documented risk assessments pursuant to Article 10 of Regulation (EU) 2024/1624 are not required;

(f) verify the adequacy and implementation of the internal policies, procedures and controls of obliged entities pursuant to Chapter II of Regulation (EU) 2024/1624 and of the human resources allocated to the performance of the tasks required under that Regulation; and

(g) when carrying out on-site and off-site supervision, or thematic investigation, take into account the degree of discretion afforded to obliged entities to adopt a risk-based approach to the implementation of their anti-money laundering and counter-funding of terrorism obligations.

(7) Where the data, information or documentation required, sought to be accessed or demanded under sub-article (2) are not provided, the Unit may require the obliged entity to state, in writing, why such documents or access could not be provided.

(8) The Unit shall also exercise its supervisory function with regards to cross-border activities, be it on the basis of freedom of establishment or freedom of services as may be provided for in regulations made under this Act.

(9) Subject to the provisions of Article 43, a supervisory authority is, for the purposes of sub-article (2)(a), considered to be an agent of the Unit.

43. (1) Without prejudice to the special provisions of any other law applicable to them, supervisory authorities shall extend all assistance and co-operation to the Unit in the fulfilment of its responsibilities under this Act.

(2) In pursuance of its responsibilities under the provisions of Article 42, the Unit may request a supervisory authority to do all or any of the following and the supervisory authority shall not unreasonably withhold its assistance:

(a) to provide the Unit with such information of which the supervisory authority may become aware of in the course of its supervisory functions and which indicates that an obliged entity falling under the competence of the supervisory authority may not be in compliance with its anti-money laundering and counter-funding of terrorism obligations;

(b) to carry out, on behalf of or jointly with the Unit, on-site or off-site examinations on obliged entities falling under the competence of the supervisory authority with the aim of establishing that person's compliance with its anti-money laundering and counter-funding of terrorism obligations and to report to the Unit accordingly.

(3) The Unit may authorise any of its officers or employees to accompany the supervisory authority in any on-site examination as may be required by the Unit under sub article (1)(b) and

any such officer or employee shall be entitled, on producing, if requested, evidence of his authority, to enter any premises of the obliged entity on whom an examination is being undertaken.

44. (1) Notwithstanding anything contained in any other law, the Unit may demand from any obliged entity, any supervisory authority and from any other person or entity, any information it deems relevant and useful for the purpose of pursuing its functions under Article 41.

(2) Notwithstanding anything contained in the Professional Secrecy Act and any obligation of secrecy or confidentiality under any other law any person or entity from whom information is demanded by the Unit in pursuance of the provisions of sub-article (1) shall communicate the information requested to the Authority and for the purposes of Article 257 of the Criminal Code any such disclosure shall be deemed to be a disclosure of information to a public authority compelled by law:

Provided that nothing in this sub-article shall imply any obligation on the Attorney General to communicate to the Unit any information which in any way relates to or is connected with or came into his possession as a result of the exercise by him of any powers referred to in Article 91(3) of the Constitution or any obligation on any person to communicate to the Unit any information which would in legal proceedings be protected from disclosure by Article 642(1) of the Criminal Code or by Article 588(1) of the Code of Organization and Civil Procedure.

(3) Any information which the Unit demands in pursuance of sub-article (1) shall be provided in a timely manner and within such time period as the Unit may direct.

45. (1) There shall be a committee, known as the Supervisory Committee, which shall be responsible to:

- (a) consider whether, following an examination carried out on an obliged entity, there are any findings that may be indicative of a contravention of any anti-money laundering and counter-funding of terrorism obligations;
- (b) consider whether any of the findings referred to in (a) above may be indicative of one or more serious, repeated or systematic contravention of anti-money laundering and counter-funding of terrorism obligations and, or of one or more persons being responsible or having contributed thereto as provided for under regulations made under this Act;
- (c) consider whether at any point in time a situation may potentially present such higher risks of money laundering or the funding of terrorism as to require the imposition of expedite measures;
- (d) determine the corrective actions that are to be otherwise proposed to an obliged entity where there are indications of one or more contraventions of anti-money laundering and counter-funding of terrorism obligations, none of which fall under (b) above;
- (e) determine whether any corrective action referred to in (d) above has been carried out to the satisfaction of the Committee; and
- (f) Any other function as may be assigned to it by the Board of Governors.

(2) The Supervisory Committee shall be composed of three (3) members, these being:

- (a) The Deputy Director responsible for the supervisory function of the Unit or, where the said officer is not available, the most senior officer entrusted with the supervisory function of the Unit;
- (b) Another senior officer from the supervisory function; and
- (c) A senior officer forming part of the Unit's in-house legal counsel:

and each such member shall have a vote, with the officer referred to in (a) above having a casting vote when chairing meetings of the Committee as set out under sub-article (5) hereunder:

Provided that where the Committee is carrying out its function under sub-article (1)(d), it is possible for the third member of the Committee to be another senior officer from the section carrying out the supervisory function of the Unit instead of an officer from the Unit's in-house legal counsel.

(3) The Supervisory Committee shall meet as necessary during the year but is to hold at least a meeting once every month and different meetings thereof may take place simultaneously.

(4) Meetings of the Supervisory Committee shall be chaired by officer referred to in sub-article (2)(a) above and no meeting shall be held unless all members are present.

(5) The Director shall designate one or more of the officers from the supervisory function of the Unit, who is not a member of the Supervisory Committee, to act as secretary to the Committee under such terms and conditions as he may deem appropriate.

(6) It shall be the duty of the officer designated under sub-Article (5) above to make the necessary preparations for the meetings of the Supervisory Committee and to keep minutes of those meetings. For the avoidance of any doubt, it is hereby being clarified that any such officer shall not be a member of the Committee nor exercise any voting rights.

(7) The Board of Governors shall adopt terms of reference for the Supervisory Committee, which terms of reference shall be public, whereas the said Committee shall regulate its own procedures.

46. Where the Supervisory Committee considers that there are indications of serious, repeated or systematic contraventions of anti-money laundering and counter-funding of terrorism obligations, and/or of one or more person being responsible or having contributed thereto as provided for under regulations made under this Act, and/or of higher risk situations requiring the imposition of expedite measures, the matter together with all relevant information and documentation shall be referred to the administrative enforcement function of the Unit to initiate the necessary procedures for a determination to be made as to whether the obliged entity and/or any senior management officer thereof, has effectively committed such a contravention, and for any enforcement action it may deem necessary.

47. Without prejudice to any provision of this Act regulating the disclosure of specific information or the disclosure of information and documentation in specific situations, the Unit may also disclose any information or documentation obtained in the course of carrying out its functions under this Chapter of the Act:

- (a) when the sharing of information is either required by any directly applicable legislation of the European Union or is otherwise required to ensure cooperation with AMLA, the European Supervisory Authorities, the European Central Bank and with any other authority, body or entity that contributes to ensuring the stability and integrity of the financial system at the national or European level;

- (b) to designated authorities and the provisions of sub-articles (1) and (2) of Article 28 shall *mutatis mutandis* apply thereto.

Chapter IV – The Administrative Enforcement Function

48. (1) The Unit shall be responsible for taking administrative enforcement decisions and actions, and without prejudice to the generality of the foregoing, it shall:

(a) consider any data, information and/or documentation resulting from its supervisory engagements or from other sources which indicate that:

- (i) the obliged entity is exposed to higher risks of money laundering and, or funding of terrorism which may warrant the taking of expedite measures; and, or
- (ii) the obliged entity may have contravened its anti-money laundering or counter-funding of terrorism obligations; and, or
- (iii) one or more of the obliged entity's officers or employees are responsible or have contributed thereto as provided for under regulations made under this Act;

And determine whether there this is the case;

(b) impose the applicable administrative measure and, or administrative penalty pursuant to and in line with the provisions of this Act and of regulations made thereunder;

(c) defend any proceedings relative to the enforcement function of the Unit, including any proceedings instituted in accordance with Article 51;

(d) to take any action to enforce the administrative measures and/or penalties imposed by the Unit, including the terms of any settlement agreement, and to recover any amounts resulting from any enforcement actions that may become due to the Unit;

(e) to follow-up and ensure that any corrective action imposed on or agreed to with the obliged entity is being effectively implemented in line with such requirements and within such timelines as may be imposed by the Unit;

(f) to publish, in accordance with Article 56, information on administrative penalties and other measures, including any settlement agreements;

(g) to co-operate, collaborate, and coordinate with regards to administrative enforcement actions, with:

- (i) any counterpart authority having supervisory and/or enforcement functions in the area of anti-money laundering and counter-funding of terrorism obligations, and with AMLA;
- (ii) any supervisory authority or foreign authority responsible for monitoring compliance by the obliged entity with obligations other than anti-money laundering and counter the financing of terrorism ones;
- (iii) any other competent authority or designated authority;

(iv) any supranational authority including AMLA, any or all European Supranational Authorities, and the European Central Bank;

(v) any authority, body or entity that contributes to ensuring the stability and integrity of the financial system; and

(h) to compile statistics and records on all aspects related to its enforcement actions.

(2) The administrative enforcement function of the Unit shall be segregated from the other functions and operations of the Unit and shall be exercised by the Unit through a dedicated section and the Committee established under Article 50 hereunder.

49. (1) The Unit shall, in the exercise of its administrative enforcement function:

(a) exercise its powers in line with this Act, any regulations made thereunder and having regard to the principles of natural justice;

(b) adhere to such policies as are established by the Board of Governors from time to time for the imposition of administrative penalties and, or administrative measures, including for the conclusion of settlement agreements; and

(c) ensure that the administrative penalty and, or administrative measure imposed is proportionate, effective and dissuasive.

(2) In the exercising its administrative enforcement function, the Unit may exercise any or all of the powers set out under Article 42(2) and Article 44 hereabove and, without prejudice to the generality of the foregoing, it may in particular:

(a) demand any data, information or documentation from the obliged entity or from anyone else whom the Unit believes holds information relevant for the proper determination of the administrative penalty and, or administrative measure; and/or

(b) require the reporting of data, information or documentation from the obliged entity or from anyone else whom the Unit believes holds information to its administrative enforcement function n such frequency as it may stipulate.

(3) Without prejudice to the generality of any other provisions regulating the exchange of information by the Unit, the Unit shall in particular:

(a) co-operate, collaborate and coordinate with any other domestic supervisory authority, including any authority as is referred to in Article 61(4), where the Unit considers that the seriousness of the breach requires the intervention thereof; and, or

(b) co-operate, collaborate and coordinate, in cases involving groups or cross-border activities, with any foreign or supranational authority as is referred to in Article 48(1)(g)(ii) and (iv) above, including through any AML/CFT Colleges in which the Unit participates; and, or

- (c) notify AMLA and any of the authorities referred to in Article 48(1)(g), including any of its counterpart authorities where the obliged entity carries out cross-border activity, of any administrative penalty and, or administrative measure that it may impose, including through the conclusion of any settlement agreement, and any appeal therefrom including the outcome of the same; and,or
- (d) assist AMLA with enforcement-related decisions as provided for under Article 22(9) and Article 26(1) of Regulation (EU) 2024/1620.

50. (1) There shall be established a committee, to be known as the Compliance Monitoring Committee, which shall be responsible for the following administrative enforcement functions:

- (a) Assessing, and reviewing the data, information and documentation referred to in Article 48(1)(a) above and make the necessary determination as is referred to therein, following due consideration of all the information made available to it as set out in Article 46 hereabove and through any oral or written submissions made by the obliged entity concerned.
- (b) Imposing such administrative measures and/or administrative penalties on any obliged entity who it determines has breached its anti-money laundering and counter-funding of terrorism obligations, or on any person as is referred to in regulations made under this Act who may have contributed thereto through wilful misconduct or gross negligence.
- (c) Impose such expedite measures as may be necessary in cases of higher money laundering and, or funding of terrorism risks.
- (d) Determining whether an obliged entity is to be offered the possibility to enter into a settlement agreement with the Unit.
- (e) Determining whether any on-going enforcement action arising from the imposition of a directive or through an agreement with the obliged entity can be terminated.
- (f) Determining whether a determination made in terms of paragraph (a) hereabove is to result in a recommendation to any other authority responsible for granting any form of authorisation for the exercise of the obliged entity's activities or profession or for approving a person to be appointed to a given function or position within the obliged entity.
- (g) Determining whether the circumstances resulting in the terms of a settlement agreement not being adhered to justify the taking of action by the Unit to enforce the said terms.
- (h) Taking such other decisions or actions as it may consider as complementary or ancillary to the decisions referred to in (a) to (g) above.
- (i) Any other function as may be assigned to it by the Board of Governors.

(2) The Compliance Monitoring Committee shall exercise its functions in an impartial and independent manner and, to this end, no officer from the supervisory function of the Unit or who otherwise forms part of the Supervisory Committee referred to under Article 45 hereabove shall be a member thereof.

(3) The Compliance Monitoring Committee shall be composed of five (5) members, these being:

- (a) The Director and Deputy Director of the Unit;
- (b) The most senior officer within the section or department of the Unit entrusted with the administrative enforcement function thereof, together with another senior management officer from the said function;
- (c) The most senior officer acting as the Unit's in-house general counsel or, in his absence, another senior management officer from the said office;

(d) Another senior officer from the administrative enforcement function of the Unit;

and each such member shall have a vote, with the Director or the Deputy Director having a casting vote when chairing meetings of the Committee as set out under sub-article (5) hereunder.

(4) The Compliance Monitoring Committee shall meet as necessary during the year but is to hold at least a meeting once every month.

(5) Meetings of the Compliance Monitoring Committee shall be chaired by the Director or, in his absence, the Deputy Director and no meeting shall be held unless there are present three (3) officers, these being an officer from each of the categories referred to in paragraphs (a) to (c) of sub-article (3) hereabove.

(6) The Director shall designate one of the officers responsible for the enforcement function of the Unit, who is not a member of the Compliance Monitoring Committee, to act as secretary to the Committee under such terms and conditions as he may deem appropriate.

(7) It shall be the duty of the officer designated under sub-article (6) above to make the necessary preparations for the meetings of the Compliance Monitoring Committee and to keep minutes of those meetings. For the avoidance of any doubt, it is hereby being clarified that any such officer shall not be a member of the Committee nor exercise any voting rights.

(8) The Board of Governors shall adopt terms of reference for the Compliance Monitoring Committee whereas the said Committee shall regulate its own procedures taking into account principles of good governance, fairness and equity:

Provided that the Committee's procedures are to take into account the principles of natural justice and are in particular to provide for a chance for any obliged entity and/or other person who may be subject of a decision by the Compliance Monitoring Committee to make verbal and written representations in front of the Committee within a reasonable period of time, to be represented and assisted by a person of its own trust, and for access to information and documentation as may be necessary for the said obliged entity and/or person to make an effective use of the said right.

51. (1) Whenever any person on whom the Unit has imposed an administrative penalty in terms of rules and regulations made under Article 58(5) feels aggrieved by the same, whether imposed in respect of one or more contraventions, the said person may appeal such administrative penalty both on points of law and fact. In the determination of such an appeal, the Court of Appeal shall have the power to fully review, and to confirm, annul or vary the decision of the Unit.

(2) The appeal as referred to in sub-article (1) shall lie to the Court of Appeal (Inferior Jurisdiction) constituted in terms of article 41(9) of the Code of Organization and Civil Procedure.

(3) An appeal to the Court of Appeal (Inferior Jurisdiction) in terms of sub-article (1) shall be filed in the registry of the said Court within twenty days from the date when the imposition of the administrative penalty is notified to the person, and, saving the provisions of this article, such an

appeal shall be regulated by the applicable provisions of the Code of Organization and Civil Procedure relating to appeals.

(4) The Court of Appeal (Inferior Jurisdiction) shall, without delay, set down the appeal for hearing at an early date, which date shall in no case be later than three (3) months from the date of the filing of the appeal.

(5) The Court of Appeal (Inferior Jurisdiction) shall hear the appeal which shall be decided within eighteen (18) months from the date fixed for the original hearing of the appeal, and no adjournment beyond the said eighteen (18) months shall be granted except for an exceptional reason to be recorded by the court, and such adjourned date shall not be later than that justified by any such reason.

(6) Whenever any person on whom the Unit has imposed an administrative measure or to whom the Unit has addressed a directive issued in terms of Article 58 hereunder feels aggrieved by the same, the said person may appeal such administrative measure or directive in line with the procedure set out hereabove:

Provided that where the appellant fails to appear for the first hearing or does not satisfy the court that it has a *prima facie* case, in law or in fact, for the action, the Court shall, after examining the claim, decide the case and deliver judgement without proceeding to trial.

(7) For the purposes of safeguarding the confidentiality of information and documents relating to the proceedings, the appeal before the Court of Appeal (Inferior Jurisdiction) filed in terms of this article shall be heard *in camera*, with the acts of any such appeal, including any documents and statements related thereto, to be sealed and held in the Court's chambers, with access thereto being limited to the parties to the proceedings and the advocates representing them in the appeal proceedings.

(8) All judgements of the Court of Appeal (Inferior Jurisdiction) delivered in terms of this article shall be public so however that any such judgement shall not include any reference to any third party, including any customer of the obliged entity.

52. (1) An administrative penalty, served on the person against whom it is imposed by means of a notice in writing, which is not appealed in accordance with the provisions of Article 51 and which is not paid within twenty days from the date of notification, shall be recoverable as a civil debt, and the notice in writing shall, upon the service of a copy thereof by means of a judicial act on the person indicated in the notice, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

(2) An administrative penalty shall not be final and due pending the lapse of the term set out in Article 51(3) hereabove, or, where an appeal has been filed, until such time as the Court of Appeal (Inferior Jurisdiction) decides the same.

(3) Actions for the payment of administrative penalties shall be barred by the lapse of five (5) years from the date of service of the notice in writing referred to in sub-article (1).

(4) Any judgment of the Court of Appeal (Inferior Jurisdiction) confirming, in whole or in part, an administrative penalty, or otherwise declaring any other amount as being due to the Unit, shall constitute

an executive title as any other judgment of a court and the Unit may proceed to recover any amount so due to it in accordance with the applicable provisions of the Code of Organization and Civil Procedure.

53. (1) An administrative measure, served on the person against whom it is imposed by means of a notice in writing shall only become effective upon either the lapse of twenty days from the date of its notification or, where an appeal therefrom is filed, upon delivery of a judgement by the Court of Appeal (Inferior Jurisdiction) upholding the same:

Provided that an administrative measure imposed by the Unit as an expedite measure shall be effective from date of notification thereof and shall only be suspended where the obliged entity appeals the same and upon the Court of Appeal (Inferior Jurisdiction) ordering as much following an express demand of the obliged entity to that effect.

54. (1) Service or notification of an administrative penalty or measure shall take place at the latest address registered by an obliged entity with the Unit and where, following a third attempt to do so by registered mail, it proves impossible to have said notice served or notified, the Unit shall proceed to publish a notice in the Government Gazette to the effect that it is seeking to notify the individual or entity concerned and who is therefore to collect the said notice from the offices of the Unit within fifteen (15) days of publication of the notice in the Government Gazette

(2) Where the notice remains uncollected following the lapse of the fifteen (15) days, it shall be deemed that notification has taken place and any timeframes set out in this Act dependent on notification or service of the administrative penalty shall start to run.

(3) Where an administrative penalty or measure is to be served on or notified to an officer of an obliged entity, service or notification shall take place at the address registered with the Malta Business Registry or, where this is not available, such other address as may have been registered with the Unit, and sub-article (1) and sub-article (2) hereabove shall *mutatis mutandis* apply thereto.

55. (1) Whenever the Unit has entered into a settlement agreement, and any party thereto has not adhered to the terms thereof, the other party may institute an action in front of the Civil Court First Hall to enforce the terms of the said agreement and any other condition relative thereto as may be stipulated in the rules and regulations referred to under Article 78(6) hereunder.

(2) Any such action shall be filed and governed by Article 167 to Article 170 of the Code of Organisation and Civil Procedure:

Provided that where leave to defend is granted in line with Article 170 of the Code of Organisation and Civil Procedure or an appeal is otherwise filed from any decision of the Civil Court First Hall, the provisions of Article 52(3) to (4) hereabove shall *mutatis mutandis* be applicable:

Provided further that Article 52(7) to (8) shall equally be applicable to any action under this article or any appeal therefrom.

56. (1) Any administrative penalty imposed by the Unit in terms of rules and regulations made under Article 78(5), and which exceeds fifty thousand euro (€50,000), shall be subject to publication on the official website of the Unit, together with any other administrative measure imposed by the Unit in conjunction with that administrative penalty and the publication shall take place within five (5) working days from the date of notification of the administrative penalty to the person on whom it is imposed.

(2) The Unit shall also publish on its website on an anonymous basis the following administrative measures and penalties imposed by the Unit in terms of rules and regulations made under Article 78(5):

- (a) administrative penalties that do not exceed fifty thousand euro (€50,000); and
- (b) administrative measures imposed by the Unit, except those envisaged under sub-article (1).

(3) Where an administrative penalty and/or administrative measure is appealed from in terms of Article 51, the Unit shall, without undue delay but not later than ten (10) working days from the Unit being formally notified of the appeal application, update the publication with a statement that an appeal has been filed against the Unit's decision, and, not later than ten (10) working days from delivery of the judgement by the Court of Appeal (Inferior Jurisdiction), with a further statement as to whether the Court of Appeal (Inferior Jurisdiction) has altered or revoked, in whole or in part, the administrative penalty and, or administrative measure in question together with a link to the said judgement:

(4) Where following the decision of the Court of Appeal (Inferior Jurisdiction) the administrative penalty imposed by the Unit is:

- (a) reduced to an amount which does not exceed fifty thousand euro (€50,000) or is otherwise revoked in its entirety but there are still administrative measures applicable, the publication shall, in addition to any update thereto as is referred to under sub-article (3) hereabove, be rendered anonymous.
- (b) revoked in its entirety and there are no other administrative measures applicable, the Unit shall remove the publication from its website.

(5) The Unit shall, in addition to the publications referred to under sub-article (1) and sub-article (2) hereabove but separately therefrom, publish on its official website information on any settlement agreement it has entered into, which publication shall be anonymous in those cases where the amount payable upon signature of the agreement does not exceed fifty thousand Euro (€50,000):

Provided that where proceedings are instituted to enforce the terms of any such settlement, the Unit shall, without undue delay but not later than ten (10) working days either from when the Unit is notified of this action or, where it is the plaintiff to any such action, from when the other party to the settlement is formally notified of the institution of any such proceedings, update the publication with a statement that said proceedings have been instituted, and, not later than ten (10) working days from resolution of any such action, with a further statement as to the outcome of the said proceedings:

Provided further that where any action as is referred to in the immediately preceding proviso results in any amount being declared due to the Unit and the said amount, when taken together with any amount that may have been paid upon signature of the settlement agreement, exceeds fifty thousand euro (€50,000), the Unit shall also include in the information published the name of the other party to the settlement agreement where this had been originally omitted.

(6) Where the Unit has imposed an administrative measure, or has otherwise entered into a settlement agreement, providing for one or more corrective actions and it determines to close off the same, the Unit shall update the publication on its website with a statement to that effect.

(7) Notwithstanding the provisions of sub-articles (1) and (2), where the Unit considers that the publication referred to in the said sub-articles may jeopardise the stability of financial markets or may jeopardise any on-going supervisory, analytical or investigative work, or it considers it to be

disproportionate, the Unit may, in accordance with policies and procedures established by the Board of Governors in terms of sub-article (8), decide to delay the publication, or to publish the same on an anonymous basis, or not to publish it.

(8) The Board of Governors referred to in Article 18 shall establish and publish policies to further regulate the publication of administrative measures and penalties as well as of any settlement agreement entered into by the Unit, which policies shall as a minimum provide for the publication of a description of the conventions and of the administrative penalties and, or penalties imposed.

(9) Any publication shall remain on the website of the Unit's website for a period of five (5) years from its publication or latest update thereof.

57. The terms of reference referred to under Article 50(8) and policies referred to under Article 49(1)(b), and Article 56(8) shall be made public and shall be published on the Unit's website.

Chapter V – Common Provisions

58. The Unit may, in order to combat money laundering and the funding of terrorism, to ensure compliance by obliged entities with their anti-money laundering and counter-funding of terrorism obligations, and to prevent the financial and other systems from being used for criminal purposes, issue directives in writing requiring any obliged entity to do or to refrain from doing any act, and such directives shall be complied with within the time and in the manner stipulated therein.

59. (1) The Unit may, whenever it deems so necessary or expedient:

- (a) engage one or more persons, whom it considers to be in possession of suitable expertise, to assist it in carrying out specific tasks requiring such expertise, and, for this purpose, the Unit may impose such conditions as it considers necessary; and/or
- (b) direct an obliged entity on whom an administrative measure has been imposed to engage, at the obliged entity's expense, one or more persons, whom the obliged entity considers to be in possession of suitable expertise, to assist the obliged entity, and to oversee, monitor and report to the Unit on any corrective actions undertaken in terms of the said administrative measure, with the engagement to be subject to such terms and conditions as the Unit may direct, including its prior approval of the person to be so engaged where the Unit deems it necessary.

(2) Any person that is engaged by the Unit, whether during or after his engagement, shall treat any information and documents acquired in the performance of his duties as confidential, and shall not disclose any information or document relating to the affairs of the Unit or of any person, acquired in the performance of his duties, otherwise than as provided in this Act.

60. (1) (a) Any processing of personal data conducted by the Unit shall fully comply with the provisions of Regulation (EU) 2016/679 and the Data Protection Act, including the regulations made thereunder.

(b) Personal data shall be processed by the Unit solely for the purposes of the prevention of money laundering and the funding of terrorism in accordance with Regulation (EU) 2016/679 and the Data Protection Act.

(2) The Unit may process personal data for a purpose other than that for which it was collected where such other purpose is compatible, in accordance with Article 6(4) of Regulation (EU) 2016/679, with the

original purpose for which the personal data was collected, including where such further processing is necessary and proportionate for the performance of any of its functions or for the exercise of any other legal obligation or function in the public interest as assigned to the Unit by law.

(3) (a) The Unit may process personal data for such period of time and in accordance with policies as may be established by the Unit for this purpose.

(b) Without prejudice to any time limits provided for by any law for storing or erasing data, the Unit shall establish appropriate time limits for the erasure of personal data or for a periodic review of the need for the storage of personal data.

(c) In establishing appropriate time limits for the storage and erasure of personal data, the Unit shall take into consideration the obligations of the Unit and the purpose for which the data has been collected, after which the data shall be securely erased or anonymised.

(4) Without prejudice to sub-articles (5) to (8), the Unit may restrict the rights and obligations set out in Articles 12 to 22 and Article 34 of Regulation (EU) 2016/679, as well as Article 5 of Regulation (EU) 2016/679 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22 of Regulation (EU) 2016/679, where such restriction is necessary and proportionate to safeguard against:

- (a) any hindrance to the Unit in the performance of its functions and, or the exercise of its powers at law;
- (b) any hindrance to any process, procedure, analysis, inquiry, assessment, or settlement being undertaken by the Unit in the performance of its functions and, or the exercise of its powers at law;
- (c) any hindrance to the achievement by the Unit of an objective which is in the public interest;
- (d) any hindrance to the imposition or recovery of any penalties, fees or charges due to the Unit in accordance with the provisions of this Act or any other applicable law;
- (e) the unlawful disclosure of any information that has been acquired by the Unit in the discharge of its functions; or
- (f) any hindrance or prejudice with respect to the establishment, exercise or defence of a legal claim and, or legal proceedings, including any anticipated legal claim or proceedings, to which a data subject is or may be a party, and which are or may be instituted under any law, whether before any competent court, tribunal or body having judicial or quasi-judicial powers:

Provided that where the Unit anticipates a legal claim and, or legal proceedings, the Unit shall be responsible for and be able to demonstrate that based on factual and specific circumstances, such legal claim and, or legal proceedings are reasonably likely to arise.

Provided that before applying any restriction, the Unit shall conduct a necessity and proportionate assessment and shall be able to demonstrate that the application of the restriction is necessary and proportionate.

(5) The data protection officer appointed by the Unit shall be consulted, properly and in a timely manner, with respect to any such restriction as referred to in sub-article (4) both prior to and throughout the duration of such restriction.

(6) Where a restriction as referred to in sub-article (4) applies, the Unit shall notify the data subject, in writing, of the rights and obligations being restricted, the reasons for such restriction, and his right to lodge a data protection complaint with the IDPC:

Provided that the provisions of this sub-article shall not apply where such notification would prejudice the safeguarding of the relevant objective set out in sub-article (3).

(7) The Unit shall periodically review the decision applying a restriction as referred to in sub-article (4) and assess the necessity and proportionality thereof to ensure that the justification for the restriction is still valid:

Provided that where the reason for the restriction no longer applies, the Unit shall lift the restriction without undue delay.

(8) The Unit shall keep a record of any such restriction as referred to in sub-article (4) and the reasons for such restriction and it shall, whenever so required by the IDPC, furnish the said IDPC with a copy of such record.

(9) Words and expressions used in this article which are also used in the Regulation (EU) 2016/679, but which are not defined in this Act, shall have the same meaning as in the Regulation (EU) 2016/679.

(10) To the extent that is strictly necessary for the purpose of the Act and any regulations issued thereunder, the Unit may process special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and personal data relating to criminal convictions and offences referred to in Article 10 of Regulation (EU) 2016/679.

Provided that for the purposes of this sub-article, the Unit shall have appropriate safeguards in place for the rights and freedoms of the data subject, in addition to the following safeguards:

- (a) processing of such data shall be performed in line with internal policies and procedures setting out conditions and circumstances in which such data may be processed by the Unit, including safeguards to avoid unauthorised or unjustified processing;
- (b) any officer or employee tasked with processing such data shall receive the necessary training including on ethical handling of big data sets; and
- (c) technical and organisational measures shall be applied to ensure the security of the data to high technological standards.

(11) In the exercise of its functions, the Unit may consult with the Information and Data Protection Commissioner appointed under the Data Protection Act for the purpose of ensuring compliance with this article.

61. (1) Without prejudice to any restriction that the Unit may be subject to, the Unit may, upon request or on its own motion, co-operate and exchange information with any supervisory authority or any other authority or body having regulatory or supervisory functions outside Malta, including any supranational authority, when the Unit is of the view that such co-operation and exchange of information would assist in monitoring compliance by obliged entities or other persons undertaking equivalent activities outside Malta, with anti-money laundering and counter-funding of terrorism laws or other laws specific to their activities or services, or in ensuring that the financial sector and other relevant sectors or professions are not used for criminal purposes, or to safeguard their integrity.

(2) The exchange of information as provided for under this article shall be subject to:

- (a) a guarantee by the authority or body receiving such information that it has adequate rules and procedures in place governing the confidentiality and security of information;
- (b) the condition that information or documents exchanged shall be used by the receiving authority or body only for the purpose of pursuing its functions at law;
- (c) the condition that the exchanged information shall not be used for purposes other than those referred to in paragraph (b), nor shall it be disseminated to any other person, body, authority or agency without the express prior consent of the Unit:

Provided that in the case of any exchanged information that originates from the Unit's supervisory and administrative enforcement function, any purpose for which the information is provided shall also be considered to include the use thereof in any proceedings, judicial or otherwise, necessary for confirming, defending and/or enforcing a decision taken, in whole or in part, by the receiving authority or body on the basis of the information or documents provided by the Unit;

- (d) the provisions of Chapter V of Regulation (EU) 2016/679 where any exchanged information transmitted to a supervisory authority established in a country other than a Member State contains personal data and there is no adequacy decision as to the data protection safeguards applicable in the said country or the Unit is otherwise unable to determine that equivalent data protection safeguards are applicable in the said country; and
- (e) any other condition or restriction that the Unit may determine, including the prior conclusion, if it deems so necessary, of any memorandum of understanding or other agreement to regulate any such exchange of information.

(3) Where an agreement is entered into between the Unit and a supervisory authority established in a country other than a Member State, the Unit shall notify the agreement to AMLA within one month of its signature.

(4) For the purposes of sub-article (1) the term supervisory authority shall also include any authority, body or committee responsible for the authorisation, licensing, registration, or regulation of, or the granting, suspension or revocation of a warrant to obliged entities.

(5) Where the Unit exchanges any information as provided under this article the authority or body receiving such information shall provide the Unit upon request and in a timely manner with information

on the use made of the exchanged information and any outcome of any inspection or any other action undertaken on the basis of that information.

62. (1) Without prejudice to the generality of the provisions of the Act, where the Unit is in possession of documentation or information which it considers to be of interest and relevance to any competent authority in the pursuance of its functions, the Unit may, subject to any conditions and restrictions that the Unit may impose, transmit such documentation or information to the relevant competent authority:

Provided that the transmission of information shall be subject to:

(a) a guarantee by the competent authority receiving such information that it has adequate rules and procedures in place governing the confidentiality and security of information;

(b) the condition that information or documents exchanged shall be used by the receiving competent authority only for the purposes of pursuing its functions at law;

(c) the condition that the transmitted information shall not be used for purposes other than those referred to in paragraph (b) above, nor shall it be disseminated to any other person, body, authority or agency without the express prior consent of the Authority; and

(d) any other condition or restriction that the Unit may determine, including the prior conclusion, if it deems so necessary, of any memorandum of understanding or other agreement to regulate any such transmission of information.

(2) Where the Unit provides information to a competent authority as provided for in sub-article (1), that competent authority shall inform the Unit, upon request and in a timely manner, on the use made of the information provided by the Unit and any outcome of any action undertaken on the basis of that information:

Provided that for the purpose of this sub-article the term competent authority shall not include the Security Service.

63. (1) The different sections and functions of the Unit shall co-operate and co-ordinate with each other and, subject to such conditions and restrictions as may be imposed or as may be applicable under this Act, shall exchange information with each other for the purpose of the exercise of the Unit's functions under this Act.

(2) Without prejudice to the generality of sub-article (1), the Unit in its intelligence analysis function shall, spontaneously or upon request, provide to its supervisory and enforcement functions such information as may be relevant for the purposes of carrying out their respective functions, including but not limited to:

(a) the quality and quantity of reports on transactions or activities submitted by any obliged entity in pursuance of Article 69(1), the first subparagraph, point (a) of Regulation [\(EU\) 2024/1624](#);

(b) the quality and timeliness of responses provided by obliged entities to requests made by the Unit in pursuance of Article 34 of this Act; and

(c) relevant results of strategic analyses carried out by the Unit in pursuance of its tasks and functions under Article 25(1)(j), as well any relevant information on money laundering, the underlying criminal activity and funding of terrorism trends and methods.

(3) When, in the course of carrying out its intelligence analysis function, the Unit is in possession of information indicating potential breaches by obliged entities of Regulations (EU) 2024/1624 or of Regulation (EU) 2023/1113, it shall inform the supervisory function of the Unit.

(4) Except where strictly necessary for the purposes of sub-article (3), information provided by the intelligence analysis function of the Unit pursuant to sub-articles (2) and (3) shall not include any information on specific natural or legal persons, nor any cases involving natural or legal persons subject to an ongoing analysis or investigation, or which may lead to the identification of natural or legal persons.

(5) Without prejudice to the generality of sub-article (1), the Unit in its supervisory function shall at least share the following information with the intelligence analysis function:

- (a) the list of obliged entities that are supervised by the Unit and any changes to those lists;
- (b) any relevant findings indicating serious weaknesses in the reporting systems of obliged entities;
- (c) the results of the risk assessments performed by the supervisory function of the Unit, in aggregated form.

64. (1) The Unit shall cooperate in good faith with AMLA, and it shall provide it with any information which is necessary for AMLA to carry out its duties under Directive (EU) 2024/1640, Regulation (EU) 2023/1113, Regulation (EU) 2024/1624 and Regulation (EU) 2024/1620.

(2) The Unit shall assist AMLA in identifying and considering the specificities of the Maltese legal framework, in particular where AMLA is applying EU law transposed into Maltese law.

65. (1) The Unit, or any official or employee of the Unit or of an agent of the Unit, whether still in service of the Unit or not, shall treat any information and documentation acquired in the performance of their duties or the exercise of their functions under this Act or any other law as confidential, and shall not disclose any information or document relating to the affairs of the Unit or of any person, which they have acquired in the performance of their duties or the exercise of their functions under this Act except:

- (a) when authorised to do so under any of the provisions of this Act or of any other law assigning specific duties or functions to the Unit;
- (b) for the purpose of the performance of their duties or the exercise of their functions under this Act;
- (c) for the purpose of the investigation or prosecution of any of the offences set out under:
 - (i) Articles 33(4) and 66 of this Act;
 - (ii) Regulation 26 of the Prevention of Money Laundering and Funding of Terrorism Regulations; and
 - (iii) Regulation 3 of the Use of Cash (Restriction) Regulations.

(d) to any competent court, tribunal or similar adjudicating authority in any proceedings instituted by or against the Unit in accordance with the provisions of Article 51 or for the purposes of or in relation to the enforcement of any penalty or administrative measures imposed by the Unit, including any settlement agreement entered into;

(e) disclosures to international or European bodies tasked with evaluating adherence to anti-money laundering and counter-funding of terrorism international standards or European Union

law applicable to the Unit, where such disclosures are necessary for the purpose of such evaluations and as long as any such disclosure does not prejudice any analysis or investigation and does not lead to the identification of any specific person, unless this is strictly necessary; and

(f) in the form of an aggregation of data or other statistical information, which in the opinion of the Unit does not lead to the identification of any specific person and which does not prejudice any analysis or investigation.

(2) Without prejudice to the provisions of Article 26, the Unit shall not be obliged to provide any information or disclose any documents, and may refuse to do so if:

- (a) such information or document was received by the Unit in carrying out its functions under Article 25(a) to (j); or
- (b) there are reasonable grounds to consider that such disclosure could impede an inquiry, investigation or other proceedings in course in Malta; or
- (c) providing such information or disclosing such document may, in the opinion of the Unit, prejudice any analysis or investigation or indicate whether any analysis or investigation is being or has been undertaken or otherwise; or
- (d) due to exceptional circumstances, such disclosure would be clearly disproportionate to the legitimate interests of Malta or of a natural or legal person; or
- (e) such disclosure would not be in accordance with fundamental principles of Maltese law; or
- (f) such disclosure would be irrelevant with regards to the purpose for which it has been requested:

Provided that any refusal under this sub-article shall be clearly explained to the body or authority requesting the disclosure of the document or information.

(3) For the avoidance of any doubt and without prejudice to the any other provisions of this Act, any information provided, communicated or otherwise exchanged by the Unit under any part of this Act, regulations made thereunder or any other law shall be of an intelligence character and, other than in the circumstances referred to in Article 62(2)(c) and Article 65(1)(c) and (d) hereabove, may not be used as evidence or, without the consent of the Unit, be used for purposes other than for which it was provided or disclosed to third parties.

66. (1) Any official or employee of the Unit, or of an agent of the Unit, or of an expert engaged by the Unit, or of a supervisory, competent or designated authority who, in any circumstances other than those provided for under this Act, discloses to the person concerned or to a third party that an analysis is being carried out by the Unit, or that information has been transmitted to the Unit by an obliged entity, or that the Unit has transmitted information to the police for investigation, shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding one hundred and fifteen thousand euro (Euro 115,000) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Any officer or employee of the Unit, or of an agent of the Unit, or any officer or employee of any expert appointed by the Unit, whether still in the service of the Unit or not, who, in any circumstance discloses to a third party any information or documents acquired in the performance of his duties, or the exercise of his functions under this Act or any information or document relating to the affairs of the Unit, other than as provided in this article, shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding one hundred thousand euro (€100,000) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) Notwithstanding the provisions of any other law, any person, other than the persons referred to under sub-article (3) hereabove, who comes into possession of any documentation of the Unit or discloses or makes use of any information or documentation of the Unit, in breach of the confidentiality to which that information or documentation is subject to in terms of this Act, shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding seventy five thousand euro (€75,000) euro or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Chapter V – Miscellaneous

67. (1) The Unit may alert obliged entities of information relevant for the performance of customer due diligence obligations pursuant to Chapter III of Regulation (EU) 2024/1624. This information may include:

- (a) types of transactions or activities that present a significant risk of money laundering, its predicate offences or terrorist financing; and
- (b) specific persons or geographic areas that present a significant risk of money laundering, its predicate offences or terrorist financing.

(2) The alert issued by the Unit under sub-article (1) shall be applicable for a period specified by the Unit, which shall not exceed six months.

(3) The Unit shall provide obliged entities with strategic information about typologies, risk indicators and trends in money laundering and terrorist financing at least on an annual basis.

68. The revenue of the Unit shall consist of:

- (a) fees charged by and payable to the Unit in respect of its supervisory functions and other services rendered by it;
- (b) rents, interests and other income accruing from property, deposits and other assets of the Unit;
- (c) any monies advanced to it by the Minister;
- (d) any other money receivable or received by the Unit.

69. (1) The Unit may:

- (a) hold accounts with any bank;
- (b) invest any of its liquid assets in short and medium term first class securities as approved by the Board;

(c) acquire, purchase, lease or dispose of any movable or immovable property required for the conduct of its business or for any purposes ancillary or incidental to the performance of its functions under this Act.

(2) For the purpose of carrying out any of its functions under this Act, the Unit may, with the approval in writing of the Minister, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister may in writing approve.

70. The Minister may make advances to the Unit of such sums as the Minister may consider to be required by the Unit for carrying out any of its functions under this Act and may make such advances on such terms and conditions as the Minister may deem appropriate. Any such advances may be made by the Minister out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advances.

71. (1) The Director shall, not later than six weeks before the end of each financial year, submit to the Board estimates of the income and expenditure of the Unit for the following financial year:

Provided that the estimates for the first financial year of the Unit shall be prepared and adopted within such time as the Minister may by notice in writing to the Unit specify.

(2) In the preparation of such estimates the Unit shall endeavour to ensure that the total revenues of the Unit are at least sufficient to meet all sums properly chargeable to its Income and Expenditure Account, including but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Board may direct.

(4) Before the end of each financial year the Board shall consider and adopt, with or without amendments as the case maybe, the estimates submitted to it for the following financial year.

(5) If in respect of any financial year it is found that the amount approved by the Board is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Director may cause supplementary estimates to be prepared and sent forthwith to the Board for adoption and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to supplementary estimates.

72. Any of the Unit's unspent income shall be put to a reserve fund which shall be used for such purposes as the Unit may deem to be required to meet the objects of the Unit, including the repayment of any liabilities.

73. The financial year of the Unit shall begin on the first day of January and end on the thirty-first day of December:

Provided that the first financial year shall begin at the date of commencement of this article and shall end on the thirty-first day of December of the following year.

74. The Unit shall keep proper books of account in such manner as the Minister may from time to time direct. Such accounts shall be audited by auditors appointed by the Board with the concurrence of the Minister from among persons qualified to be appointed as auditors of a company under the law for the time being in force in Malta, as if the Unit were such a company, and shall moreover be subject to audit by the Auditor General

75. (1) The Unit shall, as soon as may be but not later than five months after the close of each financial year, transmit to the Minister:

(a) a copy of the annual accounts certified by the auditors;

(b) a report on the operations of the Unit during the year, including information on:

- i. the categories of obliged entities and the number of obliged entities per category;
- ii. reports received by the Unit pursuant to its function under Article 25(1)(b);
- iii. follow-ups provided by the Unit to submitted suspicious transaction and activity reports under this Act;
- iv. disclosures received by the Unit from supervisory authorities and the authorities responsible for the beneficial ownership registers;
- v. transmissions of information or documentation by the Unit and follow up given thereto;
- vi. requests submitted to, and received by the Unit in pursuance of Article 26;
- vii. requests submitted to and received from competent and designated authorities;
- viii. the powers with which the Unit in its supervisory function are entrusted and tasked, and the coordination mechanism that the Unit participates in;
- ix. supervisory activities carried out;
- x. human resources allocated by the Unit;
- xi. data on cross-border physical transfers of cash transmitted by the relevant competent authority to the Unit;

Provided that the report referred to in this sub-article shall also include information on the trends and typologies identified in the information transmitted to competent authorities:

Provided further that the information contained in the report shall not permit the identification of any natural or legal person.

(2) The report referred to in sub-article (1) shall be laid on the Table of the House by the Minister not later than six weeks after its receipt, or where the House is during the period not in session not later than the second week after the House resumes its meetings.

76. The Unit shall be exempted from any liability for the payment of income tax and duty on documents and transfers under any law for the time being in force.

Part III – The National Coordinating Committee

77. (1) The Minister may, by regulations made under this Act, establish a committee that shall be referred to as the National Co-ordinating Committee on Combating Money Laundering and Funding of Terrorism.

(2) The committee established under sub-article (1) shall carry out risk assessments at the national level, draw up a national strategy and policies to combat money laundering, the funding of terrorism and the financing of the proliferation of weapons of mass destruction, and co-ordinate any action to be taken to develop, implement and review the national strategy and policies, including the co-ordination of national risk assessments and the actions to be taken to address any threats, vulnerabilities and risks identified.

(3) The committee established under sub-article (1) shall be composed of the Permanent Secretary of the Ministry responsible for finance, the Permanent Secretary of the Ministry responsible for home affairs, the Permanent Secretary of the Ministry responsible for justice, the Governor of the Central Bank of Malta, the Commissioner for Revenue, the Chairman of the Malta Financial Services Authority, the Chairperson of the Malta Gaming Authority, the Commissioner of Police, the Attorney General, the Chairman of the Unit and the Chairperson of the Asset Recovery Bureau or their deputies.

(4) The committee may, whenever it deems so necessary or expedient, engage one or more persons, whom it considers to be in possession of suitable expertise, to assist it in carrying out specific tasks requiring such expertise.

(5) The Chairperson of the committee shall be the Permanent Secretary of the Ministry responsible for finance.

(6) The remuneration payable, if any, to any member of the committee shall be determined by the Minister.

Part IV - Powers of the Minister

78. (1) The Minister may, acting on the advice of the Unit, make rules or regulations generally with a view to combating money laundering and funding of terrorism or for the better carrying out of the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may by such rules or regulations require credit institutions, financial institutions and other undertakings and professions operating within the financial sector and other relevant sectors, to implement measures, procedures, systems and controls to prevent money laundering and the

funding of terrorism, including identification, risk management, record-keeping, training and reporting.

(2) The Minister may by regulations extend the provisions of this Act in whole or in part and of any regulations made there under to categories of undertakings and to professions which engage in activities which, in the opinion of the Minister, are particularly likely to be used for money laundering purposes or funding of terrorism.

(3) The Minister, acting on the advice of the Unit, may make regulations to transpose, implement and give effect to the provisions and requirements of directives, regulations and legislative instruments of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been or may be issued thereunder.

(4) The Minister may by regulation amend, alter or add to the list of offences specified in the Second Schedule to this Act or to the list of directly applicable European Union legislation specified in the Third Schedule to this Act:

Provided that the Minister is to consult the Minister responsible for justice whenever an amendment, alternation or addition is to be carried out with regards to the Second Schedule to this Act.

(5) The Minister may make rules or regulations to provide for criminal punishments, administrative penalties and other administrative measures that may be imposed in respect of any contravention, breach or failure to comply with anti-money laundering and counter-funding of terrorism obligations:

Provided that:

- (a) criminal punishments so imposed shall not exceed a fine (multa) of one million euro (€1,000,000) or imprisonment for a term not exceeding five years, or both such fine and imprisonment as set out in the rules or regulations concerned; and
- (b) administrative penalties so imposed shall not exceed:
 - (i) five million euro (€5,000,000); or
 - (ii) twice the amount of the benefit derived from the contravention, where this can be determined; or
 - (iii) ten per centum (10%) of the total annual turnover according to the latest approved available financial statements.

(6) The Minister may also make rules or regulations providing for the entering into of settlement agreements by the Unit in respect of any contravention referred to under sub-article (5) hereabove committed by an obliged entity.

(7) The Minister shall prescribe by means of regulations the powers to be conferred on the committee referred to under Article 77 and the procedures it is to follow for the proper carrying out of its functions.

(8) The Minister shall, acting on the advice of the committee referred to in Article 77, designate, by order in the Gazette, those public functions in Malta and those held within international organisations accredited in Malta, which are to be considered as prominent public functions for

the purpose of any regulations issued under this Act, and the list of any such functions shall be reviewed and updated from time to time:

Provided that any order issued in terms of this sub-article shall be made available to the European Commission upon publication in the Gazette.

(9) The Minister may prescribe by regulations any other matter required to be prescribed by this Act.”

DRAFT - FOR CONSULTATION

Prevention of Money Laundering and Funding of Terrorism Regulations, 2027

IN exercise of the powers conferred by article 76 of the Prevention of Money Laundering Act, the Minister for Finance has made the following regulations:-

1. (1) The title of these regulations is the Prevention of Money Laundering and Funding of Terrorism Regulations, 2027.

(2) These regulations shall come into force on the 10th July, 2027.

(3) The objective of these regulations is to implement the provisions of Directive (EU) 2024/1640 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

2. (1) In these regulations, unless the context otherwise requires:

"Act" means the Prevention of Money Laundering Act;

"competent authority" means any of the authorities, agencies, and bodies referred to under Part A of Schedule One thereof;

"supervisory authority" means any of the authorities, agencies, and bodies referred to under Part B of Schedule One thereof.

(2) Words and phrases used in these regulations shall have the same meaning as assigned to them under Regulation (EU) 2024/1624 or under the Act.

3. (1) For the purpose of determining whether a natural or legal person is an obliged entity as provided for under Regulation (EU) 2024/1624 in relation to which it is to exercise its functions, the Unit shall have regard to the following:

(a) in the case of a credit institution as defined under point (5) of Article 2(1) of Regulation (EU) 2024/1624 whether the person or institution is:

- (i) licensed, or required to be licensed, under the provisions of the Banking Act to carry out any business of banking which, for the avoidance of any doubt, shall include any of the additional activities listed in the First Schedule to the Banking Act; and, or
- (ii) a branch carrying out the business of banking in Malta but whose head office is situated outside Malta;

(b) in the case of a financial institution as defined under point (6) of Article 2(1) of Regulation (EU) 2024/1624 whether:

- (i) In relation to paragraph (a) thereof but limitedly to activities listed in points (2) to (12), (14) and (15) of Annex I to Directive 2013/36/EU of the European Parliament and of the Council (32), including the activities of currency exchange offices (bureaux de change), whether the person or institution is

licensed or required to be licensed to carry out any of the activities listed in the schedules of the Financial Institutions Act;

- (ii) In relation to paragraph (b) thereof but excluding the reference to insurance holding companies and mixed-activity insurance holding companies, whether the person or institution is authorised or required to be authorised to carry out any business of long-term insurance business, other than any business or reinsurance, under the Insurance Business Act, or whether any long term insurance business other than business of reinsurance is being carried out by a person or institution in accordance with the Insurance Business (Captive Insurance Undertakings and Captive Reinsurance Undertakings) Regulations, by a cell company in accordance with the provisions of the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations or by an incorporated cell company and an incorporated cell in accordance with the provisions of the Companies Act (Incorporated Cell Companies Carrying on Business of Insurance) Regulations;
- (iii) In relation to paragraph (c) thereof, whether the person or institution is enrolled or required to be enrolled under the provisions of the Insurance Distribution Act to carry out any insurance intermediary activities related to long-term insurance business but excluding a natural person who is registered or enrolled and acts on behalf of a tied insurance any person or institution enrolled as a tied insurance intermediary that does not collect premiums, or other amounts intended for the policyholder or the beneficiary;
- (iv) In relation to paragraph (d) thereof, whether the person or institution is licensed or required to be licensed to carry out any of the investment services listed under the First Schedule to the Investment Services Act, exception being made for collective portfolio management under point (4) and the services under point (5) and point (10);
- (v) In relation to paragraph (e) thereof, whether the person or institution is a collective investment scheme marketing its units or shares, licensed, recognised or notified, or required to be licensed, recognised or notified, under the provisions of the Investment Services Act, and any person or institution providing collective portfolio management services thereto:

Provided that a retirement scheme as provided for under the Retirement Pensions Act together with any person or institution that is licensed or required to be licensed to provide portfolio management services thereto shall equally be considered as an obliged entity for the purposes of the said paragraph (e);
- (vi) In relation to paragraph (f) thereof, whether the person or institution is authorised or required to be authorised under the provisions of the Financial Markets Act;

- (vii) In relation to paragraph (g) thereof, whether the person or institution falls to be considered as a creditor in terms of the Consumer Credit Regulations and, or the Credit Agreements for Consumers relating to Residential Immovable Property Regulations;
- (viii) In relation to paragraph (h) thereof, whether the person or institution falls to be considered a credit intermediary in terms of the Consumer Credit Regulations and, or is registered or required to be registered as a credit intermediary under the Credit Agreements for Consumers relating to Residential Immovable Property Regulations when they are holding funds, with the exception of any credit intermediary carrying out activities under the responsibility of one or more creditors or credit intermediaries;
- (ix) In relation to paragraph (i) thereof, whether the person or institution is authorised or required to be authorised to provide crypto-asset services in or from Malta;
- (x) In relation to paragraph (j) thereof, a branch carrying out the activities of a financial institution in Malta but whose head office is situated outside Malta.

(c) In the case of trust or company service providers as are referred to in paragraph (c) of Article 3(3) thereof:

- (i) any person authorised or required to be authorised to provide trustee or other fiduciary services in terms of the Trusts and Trustees Act, other than a person acting as trustees in terms of article 43A of the said Act;
- (ii) any person registered or authorised, or required to be registered or authorised, to provide company services in terms of the Company Services Act including any person referred to in paragraph (a) acting as a company service provider, whether notified or required to be notified in accordance with the Company Service Providers Act;
- (iii) any person who arranges, by way of business, for another person to act as a trustee of an express trust or a similar legal arrangement;
- (iv) any person who arranges, by way of business, for another person to act as a fiduciary shareholder for another person other than a company listed on regulated market that is subject to disclosure requirements in conformity with the Financial Markets Act or subject to equivalent international standards

(d) in the case of estate agents as are referred to in paragraph (d) of Article 3(3) thereof, any person licensed or required to be licensed as a property broker or as a real estate agent under the Property Market Agency Act:

Provided that where two (2) or more real estate agents or two (2) or more property brokers are authorised in accordance with the Property Market Agency Act to carry out their

activity through a partnership as defined under the said Act, for the purposes of these regulations the real estate agent shall be deemed to be the partnership;

(e) in the case of a provider of gambling services as is referred to in paragraph (g) of Article 3(3) thereof, any person authorised or required to be authorised to provide the said services under the Gaming Act;

(f) in the case of crowdfunding service providers as are referred to in paragraph (h) of Article 3(3) thereof, any person or institution authorised or required to be authorised to provide the said services under the Crowdfunding Service Providers Act;

(g) in the case of financial mixed activity holding companies, financial holding companies, a mixed financial holding company, insurance holding companies and mixed-activity insurance holding companies, and non-financial mixed activity holding companies, whether the commercial partnership in question is registered in Malta; and

(h) in the case of any obliged entity not expressly referred to hereabove, whether the person or institution is resident, registered or otherwise established in Malta and meets any of the conditions necessary to exercise the professions in question and, or deliver the services in question in or from Malta.

(2) The Unit may, in relation to any other obliged entity that is not otherwise referred hereabove, set criteria that can be used to determine whether a person or institution is an obliged entity or otherwise.

4. The Unit shall:

(a) be the competent authority for the purpose of the regulations and delegated regulations listed in Schedule Two hereto, subject to such conditions or limitations as may result from the said schedule.

(b) establish whether any guidelines issued or recognised as applicable in terms of any of the regulations referred to in (a) hereabove, are to be binding onto obliged entities in their entirety or otherwise.

5. The Unit, in consultation with the applicable supervisory authority, may consider whether any of the exemptions under Article 4 to Article 6 of Regulation (EU) 2024/1620 find application and, should it consider this to be the case, act in line with Article 7 of Regulation (EU) 2024/1620.

Provisions related to the Intelligence Analysis Function of the Unit

6. (1) The Unit shall, for the purposes of Article 34(5) of the Act, have immediate and direct access to such data, information and documentation as are listed in Schedule Three hereof.

(2) For the purposes of sub-regulation (1) hereabove, immediate and direct access shall mean:

(a) the retrieval of the said data, information and documentation by the Unit without any immediate steps where this is stored in an IT database, register or data retrieval system, or:

(b) whoever holds the said data, information or documentation provides the same to the Unit

- (i) expeditiously and within such time period as may be directed by the Unit; and
- (ii) without any interference with the requested data or the information.

Provisions related to the Supervisory Function of the Unit

7. (1) The Unit shall be responsible to receive the following notifications:

(a) any notification relative to the cross-border operations of obliged entities as required under article 8 of Regulation (EU) 2024/1624;

(b) any notification relative to the removal of the compliance officer as required under article 11(2) of Regulation (EU) 2024/1624;

(c) any notification relative to outsourcing arrangements as required under article 18(1) of Regulation (EU) 2024/1624 where any such notification is not already required to be submitted to a supervisory authority under whose remit the obliged entity falls; and

(d) any notification relative to partnerships for information sharing as required under article 75(2) of Regulation (EU) 2024/1624:

Provided that in the case of partnerships for information, the Unit shall also assess to what extent the conditions for the establishment of any such partnerships are met.

(2) Obligated entities shall submit any of the above-mentioned notifications through such channels and in such format as the Unit may lay down, taking into account any guidelines that may be issued by AMLA.

8. (1) In addition to supervising the obliged entities referred to in regulation 3 hereabove, the Unit shall also monitor compliance with anti-money laundering and counter-funding of terrorism obligations by any other obliged entity exercising its freedom to provide services in Malta, be it through an infrastructure or remotely, upon having obtained any necessary authorisation in terms of local legislation.

(2) Where sub-regulation (1) hereabove finds application, the Unit shall notify without undue delay the supervisor of the Member State where the head office of the obliged entity is located

that it shall be monitoring the obliged entity's compliance with its the anti-money laundering and counter-funding of terrorism obligations limitedly to the activities carried out in Malta.

(3) The provisions of articles 44, 45 and 46 of the Act shall apply *mutatis mutandis* with respect to supervision carried out by the Unit in terms of this regulation.

9. The Unit, in conjunction with the relevant supervisory authority, may require obliged entities, other than those referred to under regulation 3 hereabove, that:

(a) issue electronic money, or provide payment services, or qualify as crypto-asset service providers, and

(b) have their head office situated in another Member State, and

(c) either carry out activities in Malta through agents, distributors or other types of infrastructure under the freedom to provide services; or are established in Malta in forms other than a subsidiary or a branch, and

(d) meet any other criteria as may be set out in European Commission Delegated Regulations;

to appoint a central contact point in Malta to ensure, on behalf of the appointing entity, compliance with anti-money laundering and counter-funding of terrorism obligations and facilitate the monitoring of such compliance, including by providing the Unit and any other supervisory authority with information and documents upon request.

10. (1) In situations where it may be possible for the Unit to exercise its powers under regulation 9 hereabove, the Unit shall monitor any such obliged entity for compliance with its anti-money laundering and counter-funding of terrorism obligations:

Provided that sub-regulation (1) shall not apply when either the criteria for the appointment of central contact points as established in European Commission Delegated Regulations are not met or the obliged entity is subject to direct supervision by AMLA.

(2) Where the Unit considers that the criteria for the appointment of a central contact point are not met, it shall notify the supervisor of the Member State where the head office of the obliged entity is located that supervision of the activities referred to in sub-article (1) are to be carried out by that supervisor.

(3) Where an obliged entity as is referred to under paragraph (a) of regulation 9 hereabove, has its head office situated in Malta and carries out activities in another Member State as aforesaid, the Unit shall be responsible to monitor such activities and supervise their compliance with anti-money laundering and counter-funding of terrorism obligations where:

(a) the criteria for the appointment of central contact points as established in European Commission Delegated Regulations are not met; and

(b) it is notified by the supervisor of the Member State where such activities are taking place that, considering the limited infrastructure of the obliged entity in that Member State, supervision of such activities is to be carried out by the Unit.

(4) The Unit shall, within two (2) weeks of receiving any notification as is referred to in paragraph (b) of sub-regulation 3 hereabove, notify the obliged entity that it will supervise the activities taking place in that other Member State and shall subsequently notify any changes to its supervision.

(5) In the cases referred to in sub-article (3) of this article, the Unit shall regularly provide to the supervisor of the host Member State, information on the measures in place within the obliged entity and compliance or lack thereof of that entity with applicable requirements, including those in place in the host Member State and shall promptly inform that supervisor of any identified serious, repeated or systematic breaches and the administrative measures and, or administrative penalties that are planned to be imposed or imposed by the Unit on that obliged entity to remedy the said breaches.

(6) The provisions of articles 44, 45 and 46 shall apply *mutatis mutandis* with respect to supervision carried out by the Unit in terms of this article.

11. (1) Where the Unit receives a notification from an obliged entity pursuant to its function under regulation 7(1)(a), the Unit shall, within three (3) months of receiving that notification, inform the supervisor of the host Member State of the activities that the obliged entity intends to carry out in the host Member State:

Provided that the Unit shall inform the supervisor of the host Member State immediately upon receiving notification by the obliged entity that activities in the host Member State have commenced:

Provided further that any subsequent changes notified to the Unit shall be notified to the supervisor of the host Member State without undue delay and in any case within one (1) month of receiving it.

(2) For the purposes of this regulation, the Unit shall share with the supervisor of the host Member State information on the activities effectively carried out by the obliged entity in the territory of the host Member State that is obtained by the Unit in the conduct of its supervisory function:

Provided that the information referred to in this sub-article shall be exchanged at least on an annual basis:

Provided further that, where the information is provided in an aggregated form, the Unit shall promptly respond to any request for additional information by the supervisor of the host Member State.

12. (1) In the case of obliged entities that are part of a group, the Unit shall cooperate to the greatest extent possible with the relevant supervisory authorities and with AMLA when acting as a supervisor for a selected obliged entity.

(2) Except when AMLA acts as supervisor for a selected obliged entity, where the obliged entity has its registered office or head office located in Malta, the Unit shall supervise the effective implementation of the group-wide policies, procedures and controls referred to in Chapter II, Section 2, of Regulation (EU) 2024/1624.

(3) Where an obliged entity whose registered office or head office is located in Malta, has branches or majority-owned subsidiaries established in a country other than a Member State, and the legislation of that country does not permit the implementation of the policies, procedures and controls required under

Article 16 of Regulation (EU) 2024/1624, the Unit shall assess the additional measures taken by the obliged entity pursuant to Article 17(2) of Regulation (EU) 2024/1624.

Provided that where the additional measures are not adequate, the Unit shall, in collaboration with any relevant supervisory authority and AMLA, exercise additional supervisory actions, including requiring the obliged entity not to enter into any business relationship, to terminate existing ones or not to undertake transactions, or to close down its operations in the third country.

(4) Where the Unit is in possession of information in accordance with sub-regulation (3), it shall inform the relevant supervisory authorities of the other Member States and AMLA, and shall seek to cooperate and coordinate its actions with such relevant supervisory authorities and AMLA, as necessary,

(5) For the purposes of this regulation and without prejudice to the cooperation and exchange of information in the context of AML/CFT colleges referred to under regulation 13 hereunder, the Unit shall, upon request or on its own motion, provide to a supervisor of another Member State any information in its possession that could significantly influence the assessment of the inherent or residual risk exposure of an obliged entity in another Member State that forms part of a group, including:

- (a) Identification of the group's legal, governance and organisational structure, covering all subsidiaries and branches;
- (b) Relevant information on the beneficial owners and senior management, including outcomes of fit and proper checks carried out by the relevant supervisory authority;
- (c) Policies, procedures and controls in place within the group;
- (d) Customer due diligence information, including customer files and records of transactions;
- (a) Adverse developments in relation to the parent undertaking, subsidiaries or branches, which could seriously affect other parts of the group;
- (b) Administrative penalties and administrative measures that the Unit intends to impose.

Provided that the Unit shall, at the request of the other supervisor, conduct inquiries on behalf of the said supervisor or otherwise facilitate the conduct of the said inquiries.

13. (1) Without prejudice to the generality of Article 43(1) of the Act, the Unit in its supervisory function shall participate in dedicated AML/CFT Supervisory Colleges established for the purpose of exchanging information, providing mutual assistance or coordinating the supervisory approach to a group or obliged entity, including, where relevant, the taking of appropriate and proportionate measures to address serious breaches of Regulation (EU) 2024/1624 and Regulation (EU) 2023/1113 that are detected at the level of the group or of the obliged entity, or across establishments set up by the group or obliged entity in the jurisdiction of a supervisor taking part in the AML/CFT Supervisory College.

(2) Where a third-country entity subject to AML/CFT requirements in the non-financial sector has set up establishments in at least three Member States, including Malta, and the non-financial supervisor in charge of the parent undertaking of the group or of the head office does not set up an AML/CFT Supervisory College, the Unit may, in cooperation with at least one other non-financial supervisor,

submit an opinion in favour of setting up the AML/CFT Supervisory College, having regard to the ML/TF risks to which the obliged entity or group is exposed and the scale of its cross-border activities.

Provided that the opinion referred to in this sub-article shall be addressed to:

- (a) the non-financial supervisor in charge of the parent undertaking of a group or of the head office of an obliged entity, and in the case of a self-regulatory body, to the public authority in charge of overseeing that self-regulatory body;
- (b) AMLA;
- (c) all other non-financial supervisors:

Provided further that where, after an opinion submitted pursuant to this sub-article, the non-financial supervisor in charge of the parent undertaking of a group or of the head office of the obliged entity still considers that it is not necessary to set up an AML/CFT Supervisory College, the Unit may, in cooperation with at least one other non-financial supervisor, decide to set up the college, in which case it shall apply the provisions of sub-regulations (5) to (8) hereof.

(3) Except when AMLA acts as a supervisor for a selected obliged entity pursuant to Regulation (EU) 2024/1620, where the parent undertaking of a group in the financial sector is in Malta or has its head

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office located in Malta, the Unit in its supervisory function shall set up a dedicated AML/CFT Supervisory College in any of the following situations:

(a) where an obliged entity in the financial sector, including groups thereof, has set up establishments in at least two different Member States other than Malta;

(b) where a third-country credit institution or financial institution has set up establishments in at least three Member States.

(4) Where either the parent undertaking of a group in the non-financial sector is in Malta or has its head office located in Malta, the Unit in its supervisory function may set up a dedicated AML/CFT Supervisory College in any of the following situations:

(a) where an obliged entity in the non-financial sector, including groups thereof, has set up establishments in at least two different Member States other than Malta;

(b) where a third-country entity subject to AML/CFT requirements in the non-financial sector has set up establishments in at least three Member States.

Provided that sub-regulation (4) shall also apply to structures which share common ownership, management or compliance control, including networks or partnerships to which group-wide requirements apply pursuant to Article 16 of Regulation (EU) 2024/1624.

(5) Where an obliged entity has set up establishments in at least two third countries, the Unit may set up an AML/CFT Supervisory College subject to a written agreement with the counterparts in those third countries detailing the conditions and procedures for the cooperation and exchange of information.

(6) For the purposes of sub-regulations (3) and (4) hereabove, the Unit shall identify:

(a) all financial sector obliged entities that are authorised in Malta, or in the case of non-financial sector, those obliged entities that have their head office in Malta, and that have establishments in other Member States or third countries;

(b) all establishments set up by those obliged entities in other Member States or third countries; and

(c) establishments set up in Malta by obliged entities from other Member States or third countries.

(7) Where the Unit sets up an AML/CFT Supervisory College pursuant to sub-regulations (3) or (4) of this regulation, it shall ensure that the relevant supervisors in charge of the obliged entity's establishments or certain infrastructures in host Member States are invited to participate in the college as permanent members.

Provided that the Unit shall also participate in the AML/CFT Supervisory College as a permanent member.

(8) Without prejudice to the discretion of AMLA to participate in the meetings of the AML/CFT supervisory colleges as an observer, the Unit may invite additional observers in meetings of the AML/CFT supervisory college where it is deemed necessary by the permanent members of the college, provided

that co-operation, confidentiality and data protection requirements are duly observed. For the purpose of this sub-article (8), observers may include:

- (a) supervisors of the Member State where the obliged entity is carrying out activities under the freedom to provide services, provided that they are not permanent members;
- (b) counterpart supervisors in third countries where the obliged entity operates branches and subsidiaries or where the entity which has set up establishments in the Union is located;
- (c) prudential supervisors, including the European Central Bank acting in accordance with Council Regulation (EU) 1024/2013;
- (d) European Supervisory Authorities;
- (e) Financial Intelligence Units.

Provided that the Unit shall only permit the participation of the observers referred to in paragraph (b) of this sub-article where the following conditions are met and confirmed by virtue of an assessment carried out by the Unit and endorsed by the permanent members of the college:

- (a) the counterparts of the third country submit a request for participation and the members of the college agree with their participation, or the members of the college agree to invite those third-country counterparts;
- (b) Union data protection rules concerning data transfers are complied with;
- (c) the counterparts of the third country sign a written agreement detailing the conditions and procedures of the cooperation and exchange of information, and share within the college the relevant information they possess for the supervision of the credit institutions or financial institutions or of the group;
- (d) the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 67 and is used solely for the purposes of performing the supervisory tasks of the participating financial supervisors or of the counterparts in that those third countries.

(9) The Unit shall ensure that the activities of the AML/CFT Supervisory College shall be proportionate to the level of money laundering and terrorist financing risks to which the obliged entity or group is exposed, and the scale of its cross-border operations.

14. (1) In the case of obliged entities that are not part of a group and whose supervision is shared between the Unit and a supervisor in another Member State, the Unit shall cooperate to the greatest extent possible with and provide assistance to the supervisor of that other Member State.

(2) For the purposes of this article and without prejudice to the cooperation and exchange of information in the context of AML/CFT colleges referred to hereabove, the Unit shall, upon request or on its own motion, provide to a supervisor of another Member State:

- (a) Information required for the exercise of the other supervisor's supervisory tasks;

- b. Information on any adverse developments in relation to the obliged entity, its establishments or types of infrastructure, which could seriously affect the obliged entity's compliance with applicable requirements;
- c. Information on administrative penalties or administrative measures that are planned to be taken or applied.

Provided that the Unit shall, at the request of the other supervisor, conduct inquiries on behalf of the said supervisor or otherwise facilitate the conduct of the said inquiries.

(3) The provisions of this article shall also apply with respect to those obliged entities that are established in a single Member State whose activities in Malta are carried out under the freedom to provide services without any infrastructure and are supervised by the Unit pursuant to article 39A.

Provisions related to the Administrative Function of the Unit

15. (1) Administrative penalties and, or administrative measures shall be imposed by the Unit, without recourse to a court hearing but in accordance with the policies established by the Board of Governors as referred to in the Act.

(2) In determining the proportionality of administrative penalties and, or administrative measures to the case, the Unit shall consider all relevant circumstances, including where applicable:

- (a) the nature, gravity and the duration of the contravention;
- (b) the number of instances the contravention was repeated;
- (c) the degree of responsibility of the individual or legal person held responsible;
- (d) The nature and size of the activities carried out by the obliged entity;
- (e) the financial strength of the individual or legal person held responsible, including in light of its total turnover or annual income;
- (f) the benefit derived from the breach by the individual or legal person held responsible, insofar as it can be determined;
- (g) the losses to third parties caused by the breach, insofar as they can be determined;
- (h) the level of cooperation of the natural or legal person held responsible with the Unit;
- (i) previous contraventions of the individual or legal person held responsible; and
- (j) any other factors as may be set out in the policies referred to under Article 51(1)(b).

(3) Where the imposition of an administrative measure may affect the compliance of an obliged entity with any prudential regulation it may be subject to, the Unit shall consult with the applicable supervisory authority or with any other supranational or foreign authority responsible for monitoring compliance therewith prior to making any final determination as to the amount of the administrative penalty to be imposed.

(4) Administrative penalties may be imposed by the Unit either as a one-time fixed penalty or as a daily cumulative penalty.

16. (1) Any obliged entity who contravenes any of its anti-money laundering and counter-funding of terrorism obligations shall be liable to an administrative penalty of not less than one thousand euro (€1,000) and not more than forty-six thousand five hundred euro (€46,500) in respect of every separate failure to comply with or contravention of any such obligation.

(2) Notwithstanding the provisions of sub-regulation (1), an obliged entity shall:

(a) with respect to minor contraventions and where the circumstances so warrant, be liable to an administrative penalty below the minimum established by these regulations but not less than two hundred and fifty euro (€250);

(b) with respect to serious, repeated or systematic contraventions, be liable to an administrative penalty as follows:

(i) in the case of an obliged entity forming part of the non-financial sector, an administrative penalty of not more than one million euro (€1,000,000) or, where the benefit derived from that contravention can be quantified, not more than twice the amount of the benefit so derived, whichever may be higher; or

(ii) in the case of an obliged entity forming part of the financial sector and is a natural person, an administrative penalty of not more than five million euro (€5,000,000); or

(iii) in the case of an obliged entity forming part of the financial sector but is not a natural person, an administrative penalty of not more than ten million euro (€10,000,000) and, where such amount is deemed not to be effective and dissuasive in view of the serious, systematic and repeated nature of the contraventions, an administrative penalty of not more than ten per centum (10%) of the total annual turnover according to the latest available approved annual financial statements:

Provided that where the obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated accounts, the relevant total annual turnover shall be the total annual turnover resulting from the latest available consolidated accounts approved by the ultimate parent undertaking.

(3) Where a contravention in accordance with sub-regulation (1) is committed by an obliged entity being a body or other association of persons, be it corporate or unincorporate, in addition to any administrative penalty imposed on the obliged entity, an administrative penalty of not less than one thousand euro (€1,000) and not more than two hundred and fifty thousand euro (€250,000) may be imposed on any individual who at the time of the contravention was:

(a) holding the position of a director or holding similar functions and responsibilities within such body or association of persons or purporting to act in any such capacity;

(b) an officer of such body or association of persons holding a senior executive management function;

(c) appointed as a compliance officer in accordance with Article 11(2) of Regulation (EU) 2024/1624,

and who through an act or omission, whether intentional or due to gross negligence, including through the lack of proper oversight of subordinates, caused or contributed to the commission of any such contravention.

(4) (1) Where the Unit imposes an administrative penalty by way of a daily cumulative penalty, the cumulative amount thereof shall not exceed the amounts set out in regulation 16 (2)(b) and it shall not be less than the equivalent of two hundred and fifty euro (€250) on a daily basis.

17. (1) The Unit may, together with an administrative measure, impose a periodic pecuniary penalty to ensure compliance with the said measure, with the amount thereof not exceeding:

- (a) where the obliged entity is a legal person, 3% of the legal person's daily turnover in the preceding business year; and
- (b) where the obliged entity is a natural person, 2% of the average daily income in the preceding calendar year.

(2) The Unit may impose a periodic penalty payment upon having determined that the obliged entity has failed to comply with the terms of the administrative measure, with the said penalty being applicable for a maximum period of six (6) months, which can may be extended by the Unit for an additional six (6) months.

18. (1) Where the Unit determines that an obliged entity has contravened its anti-money laundering and counter-funding of terrorism obligations, the Unit shall have the power to impose, in conjunction with or instead of an administrative penalty, one or more of the following administrative measures:

- (a) a reprimand in writing to admonish the subject person;
- (b) an order requiring a subject person to cease and desist from operating in a non-compliant manner;
- (c) an order requiring a subject person to comply with its anti-money laundering or funding of terrorism obligations, including taking such actions as may be necessary to remedy and, or correct the situation within such time-frames and subject to such conditions as may be determined by the Unit;
- (d) an order requiring a subject person to:
 - (i) cease from carrying out transactions or operations within the context of a business relationship;
 - (ii) terminate a business relationship within a stipulated timeframe;
 - (iii) cease from offering any particular product or service, be it temporarily or perpetually, and be it with respect to particular categories or otherwise;
- (e) require changes to its governance structure, including changing their compliance manager and/or compliance officer:

Provided that such administrative measures shall be without prejudice to the powers of the Unit under Article 60 of the Act.

(2) The Unit shall also impose administrative measures whenever it determines that there is a higher risk situation that can only be mitigated through the imposition of expedite measures, including where it determines that an obliged entity's internal policies, procedures or controls:

- (a) are likely to result in breaches of anti-money laundering or funding of terrorism obligations;
- or

(b) are not commensurate with the risks of money laundering, its predicate offences or terrorist financing to which the obliged entity is exposed.

(3) The provisions of regulation 17 shall apply *mutatis mutandis* to the imposition of administrative measures under this regulation.

19. When the Unit exercises its powers under regulations 16 to 18 it:

(a) shall inform in a timely manner the relevant supervisory authority or any other authority, body or committee responsible for the authorisation, licensing, registration or regulation of, or the granting of a warrant to the subject person or individual concerned and shall provide all relevant information on the contraventions committed as it deems necessary;

(b) may also recommend to any relevant supervisory authority or any other authority, body or committee responsible for the authorisation, licensing, registration or regulation of, or the granting of a warrant to, the subject person or individual concerned, the taking of regulatory or other measures, pertaining to the said authority, body or committee under applicable law, against such subject person or individual concerned as referred to in regulation 16(5) including:

(i) the restriction, limitation, suspension, withdrawal or cancellation of any such licence, registration, warrant or any other form of authorisation allowing the subject person to carry out one or more specific activities; and, or

(ii) the suspension or preclusion of any individual as is referred to in regulation 16(5) from exercising the functions in respect of which he is authorised within that obliged entity or any other obliged entity.

20. (1) In the course of determining the imposition of an administrative penalty on an obliged entity or any other individual, the Unit may, in its own discretion but in accordance with the policies referred to in Article 13(2) of the Act, propose or agree, to a request, to enter into a settlement agreement with the subject person or individual concerned.

(2) The Unit shall not enter into a settlement agreement where:

(a) the Unit believes that doing so would not be in the public interest in accordance with any policies and procedures as may be established by the Board of Governors; or

(b) two (2) years have not yet lapsed from the conclusion of any corrective or remedial actions undertaken by the obliged entity or individual concerned as part of a prior settlement agreement:

Provided that the Unit may apply this restriction either in general or in relation to the different categories of actions that may be undertaken in accordance with Article 44 of the Act but in any case it shall not enter into more than two (2) settlement agreements with the same subject person within a period of two (2) years:

Provided further that where the subject person forms part of a group, the said limitation shall take into account any settlement agreement entered into with any other subject person within the group.

(3) A settlement agreement shall be in writing, signed and shall be binding on the Unit and the obliged entity or individual concerned. The said settlement agreement shall establish the terms and conditions of the agreement and shall include:

- (a) a description of the contraventions identified by the Unit and the unconditional agreement therewith by the subject person or individual concerned;
- (b) a description of any corrective or remedial actions which the Unit may deem necessary to restore compliance, where applicable;
- (c) an undertaking by the obliged entity or individual concerned to implement the corrective or remedial actions required by the Unit, within such time-frames and subject to such conditions as may be set by or otherwise agreed with the Unit;
- (d) the administrative penalty which the Unit was intent on imposing on the obliged entity or individual concerned, and the amount by which the said administrative penalty is reduced on condition that the obliged entity or individual concerned complies with the terms and conditions of the settlement agreement;
- (e) an undertaking by the obliged entity or individual concerned to pay the reduced administrative penalty in accordance with the terms established in the settlement agreement;
- (f) a waiver by the obliged entity or individual concerned of any right to appeal, review or to otherwise challenge the determination and conclusions of the Unit; and
- (g) a declaration by the obliged entity or individual concerned that the amount by which the administrative penalty is reduced shall become due and payable to the Unit, upon the Unit's determination that any corrective or remedial actions as are referred to in paragraph (c) have not been completed as envisaged by the settlement agreement.

(4) The amount of the administrative penalty conditionally reduced in accordance with sub-regulation (3)(d) shall be extinguished upon determination by the Unit that any corrective or remedial actions required by the settlement agreement have been carried out.

(5) In the event that a settlement agreement is not entered into due to lack of interest or lack of cooperation by the obliged entity or individual concerned or within such time as may be set out by the Unit, the Unit shall proceed with the imposition of the administrative penalty in the full amount it was intent on imposing and the imposition of such other measures as it is empowered by law to impose and as it may deem necessary.

(6) A settlement agreement shall be considered to be completed when the said agreement is signed by both parties and the obliged entity or individual concerned has paid the full amount of the reduced administrative penalty in accordance with the terms and conditions established in the agreement, failing which, the Unit shall proceed with the imposition of the administrative penalty in the full amount it was intent on imposing and the imposition of such other measures as it is empowered by law to impose and as it may deem necessary.

(7) In the event that, following the conclusion of a settlement agreement, the Unit determines that the obliged entity or the individual concerned failed, without reasonable justification, to comply with the

terms of the settlement agreement or with any corrective or remedial action as required by the agreement:

(a) the obliged entity or the individual concerned shall, following a notice in writing from the Unit, forfeit any concession or other benefit arising from the agreement, and the amount by which the administrative penalty had been reduced shall become due and payable to the Unit;

(b) the Unit, may by notice in writing served on the subject person or on the person concerned, take such other measures as the Unit is empowered by law to take, and as may be deemed necessary in the circumstances, including issuing directives in writing requiring the obliged entity or any other person concerned to do or to refrain from doing any act, including such prohibitions, restrictions and limitations under such conditions as may be specified in the directives; and

(c) the Unit may institute an action before the Civil Court, First Hall as provided for in the Act, to recover from the obliged entity or individual concerned the amount by which the administrative penalty had been reduced in terms of the settlement agreement, and to enforce the completion of the corrective or remedial actions that the Unit had imposed through the settlement agreement.

(8) Regulation 19(a) hereabove shall apply *mutatis mutandis* to this regulation.

21. (1) In the event that a determination is made that an establishment referred to in regulation 10 has contravened its anti-money laundering and counter-funding of terrorism obligations, the Unit shall:

(a) inform the Home Member State authorities of the breaches identified and of the request made under (b) hereunder;

(b) request the obliged entity to comply with its obligations at law; and

(c) inform the Home Member State as to whether the obliged entity has complied with its obligations.

(2) Where the contravention identified by the Unit is a serious, repeated or systematic one, the Unit may take such measures as it considers necessary to address any such contravention:

Provided the any such actin shall be proportionate and appropriate to the nature of the contraventions identified and shall only be in force for such time as is necessary for the said contravention to be addressed.

(3) Where the Unit is informed that an obliged entity has contravened any obligation through an establishment or infrastructure network, it shall impose any administrative penalty and, or administrative measure as it may consider necessary and inform its counterpart authorities in the Host Member State accordingly.

General

22. The Unit shall lay down such procedures as it may consider necessary for the registration of obliged entities with it:

Provided that an obliged entity that is subject to authorisation shall register with the Unit within fifteen (15) days of being issued with the same, whereas any obliged entity that is not subject to authorisation shall so register within fifteen (15) days of commencing any activity or business on a professional basis.

23. In fulfilment of its supervisory and, or enforcement functions under the Act, the Unit may require obliged entities to submit periodical reports on the measures and procedures they maintain and apply to ensure compliance with Regulation (EU) 2023/1113 and Regulation (EU) 2024/1624, and any other information or documents as the Unit may consider necessary.

24. Where an obliged entity is required to provide information to the Unit under the Act, these regulations and any procedures or guidance issued thereunder, the Unit may demand that the information is produced electronically and may establish the channels and, or the format within which the information is to be provided.

25. The Unit, with the concurrence of the relevant supervisory authority, may issue procedures and guidance as may be required for the carrying into effect of obliged entities' anti-money laundering and countering the funding of terrorism obligations.

Criminal Offences

26. A customer, or any person purporting to act on his behalf, who makes a false declaration or a false representation or who produces false documentation for the purposes of Regulation (EU) 2023/1113 and/or Regulation (EU) 2024/1624 shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding fifty thousand euro (€50,000) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

27. An obliged entity, a supervisory authority, any official or employee of an obliged entity or a supervisory authority, or any person from whom the Unit has demanded information pursuant to Article 34 of the Act, or any other person who has transmitted information to the Unit, who discloses to the person concerned or to a third party, other than as provided for in this regulation, the fact that information has been demanded by the Unit or that information has been or may be transmitted to the Unit, or that an analysis or an investigation has been, is being, or may be carried out, shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding one hundred and fifteen thousand euro (€115,000) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

28. The Prevention of Money Laundering and Funding of Terrorism Regulations, 2017 are hereby revoked, and the revocation thereof shall not in any way:

- (a) affect the previous operation of the regulations so revoked by these regulations or anything done or suffered under those regulations;
- (b) affect the institution, continuation or enforcement of any inquiry, investigation or legal proceedings under the regulations so revoked or the imposition of any penalty or punishment under the provisions of those regulations.

Schedule One

Part A

The following authorities shall be considered as competent authorities:

- (a) Any supervisory authority;
- (b) the Commissioner for Tax and Customs;
- (c) the Commissioner for Voluntary Organisations;
- (d) the Asset Recovery Bureau;
- (e) the Security Service;
- (f) the Sanctions Monitoring Board; and
- (g) the Internal Audit and Investigations Directorate.

Part B

The following authorities shall be considered as supervisory authorities:

- (a) the Central Bank of Malta;
- (b) the Malta Financial Services Authority;
- (c) the Malta Business Registry;
- (d) the Malta Gaming Authority;
- (e) the Accountancy Board;
- (f) the Trade Licensing Unit limitedly to its licensing function in relation to [-]; and
- (g) the Property Market Agency.

Schedule Two

Part A

Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849 (recast) with the exception of Chapter IV thereof.

Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing with the exception of:

- (a) any provisions related to targeted financial sanctions; and
- (b) Article 11 in so far as the 2nd paragraph of sub-article (2) thereof is concerned; and
- (c) Article 18(1) in so far as there are existing notification requirements of any such outsourcing to any one supervisory authority; and
- (d) Article 18(7).

Any Commission delegated legislation issued under the said instruments, subject to the same limitation as set out hereabove.

Part B

[Guidelines]

Schedule Three

The Unit shall, in accordance with regulation 6 hereabove, have direct and immediate access to the following financial information:

- (a) information contained in the Central Account Register established in terms of the Centralised Account Register Regulations;
- (b) information from obliged entities, including information on transfers of funds and transfers of crypto assets as defined under Article 3(9) and (10) of Regulation (EU) 2023/1113;
- (c) information on mortgages and loans;
- (d) information contained in the national currency and currency exchange databases; and
- (e) information on securities.

The Unit shall, in accordance with regulation 6 hereabove, have direct and immediate access to the following administrative information:

- (a) fiscal data, including data held by tax and revenue authorities as well as data obtained in accordance with Article 8(3a) of EU directive 2011/16 of the European Council of 15 February 2011;
- (b) information on public procurement procedures for goods or services, or concessions;
- (c) information from BARIS as referred to in the Centralised Bank Account Register Regulations, as well as from national real estate registers or electronic data retrieval systems and land and cadastral registers;
- (d) information contained in national citizenship and population registers of natural persons;
- (e) information contained in national passports and visas registers;
- (f) information contained in cross-border travel database;
- (g) information contained in commercial databases, including business and company registers and databases of politically exposed persons;
- (h) information contained in national motor vehicles, aircraft and watercraft registers;
- (i) information contained in national social security registers;
- (j) customs data, including cross-border physical transfers of cash;
- (k) information contained in national weapons and arms registers;
- (l) information contained in national beneficial ownership registers;
- (m) data available through the interconnection of central registers via the European Central Platform;

- (n) information contained in registers of non-profit organisations;
- (o) information held by national supervisory authorities and by the other functions of the Unit;
- (p) databases storing data on CO² emission trading established pursuant to Regulation (EU) 389/2013;
- (q) information on annual financial statements by companies;
- (r) national migration and immigration registers;
- (s) information held by commercial courts;
- (t) information held in insolvency databases and by insolvency practitioners; and
- (u) information on funds and other assets frozen or immobilised pursuant to targeted financial sanctions.

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The Centralised Account Register Regulations, 2027

IN exercise of the powers conferred by article 76 of the Prevention of Money Laundering Act, the Minister for Finance has made the following regulations:-

1. (1) The title of these regulations is the Centralised Account Register Regulations, 2027.

(2) The scope of these regulations is to implement:

(a) the provisions of Directive (EU) 2024/1640 relative to centralised automated mechanisms allowing for the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts, or bank accounts identified by IBAN, including virtual IBANs, securities accounts, crypto-assets accounts or making use of safe custody services provided by credit or financial institutions; and

(b) the provisions of Directive (EU) 2024/1654 of the European Parliament and of the Council of 31 May 2024 relative to the measures to facilitate access to and use of bank account information by competent authorities.

(3) These regulations shall come into force on 10th July 2027.

2. (1) In these regulations, unless the context otherwise requires:

"BARIS" means the bank account registers interconnection system established under point (6) of Article 16 of Directive (EU) 2024/1640;

"credit institution" shall have the same meaning as assigned to it in point (5) of Article 2(1) of Regulation (EU) 2024/1624 as further clarified under the Prevention of Money Laundering and Funding of Terrorism Regulations and, for the purposes of these regulations, shall also include the Central Bank of Malta;

"customer account holder" means a natural or legal person who seeks to form, or who has formed a business relationship, or seeks to carry out an occasional transaction with an obliged entity;

"financial institution" shall have the same meaning as assigned to it in point (6) of Article 2(1) of Regulation (EU) 2024/1624 as further clarified under the Prevention of Money Laundering and Funding of Terrorism Regulations;

"payment account" shall have the same meaning as assigned to it in point (5) of Article 2 of Regulation (EU) 260/2012;

"register" means the centralised automated mechanism referred to in Article 16(1)(k) of the Act;

"Regulation (EU) 260/2012" means Regulation (EU) 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009;

"Regulation (EU) 2023/1113" means Regulation (EU) 2023/1113 of the European Parliament and of the Council of 31 May 2023 on information accompanying transfers of funds and certain crypto-assets and amending Directive (EU) 2015/849;

"safe custody" means the holding of tangible assets on behalf of customers; and

"securities account" shall have the same meaning as assigned to it in point (10) of Article 2 of Directive (EU) 2024/1640 and shall also include any position maintained by a customer with a financial institution in relation to the customer's portfolio of securities.

(2) All words and phrases not defined within these regulations shall have the same meaning as prescribed in Regulation (EU) 2024/1624, the Act and the Prevention of Money Laundering and Funding of Terrorism Regulations.

3. (1) Where a credit or financial institution provides a payment accounts, or bank account identified by IBAN, including virtual IBAN, a securities account or a crypto-assets account, or where a credit or financial institution provides safe custody services, the credit or financial institution shall, for the purposes of these regulations, maintain an electronic record of such data and information as may be prescribed by the Unit which shall as a minimum include the following:

(a) for the customer account holders and any person purporting to act on behalf of a customer account holder: the name, complemented by either the other identification data required under Article 22(1) of Regulation (EU) 2024/1624 or a unique identification number as well as, where applicable, the dates on which the person purporting to act on behalf of the customer started and ceased to have the power to act on behalf of the customer:

Provided that for natural persons the name shall comprise of all names and surnames, and for legal persons, entities, arrangements or other bodies or organisations with legal capacity, the name under which they are registered;

Provided further that in case of a virtual IBAN, the customer account holder shall be the holder of the account to which payments addressed to the virtual IBAN are automatically directed;

(b) for beneficial owners of customer-account holders: the name, complemented by either the other identification data required under Article 22(1) of Regulation (EU) 2024/1624 or a unique identification number as well as the dates on which the natural person became and, where applicable, ceased to be the beneficial owner of the customer account holder;

Provided that for natural persons the name shall comprise of all names and surnames, and for legal persons, entities, arrangements or other bodies or organisations with legal capacity, the name under which they are registered;

(c) for bank accounts or payment accounts: the IBAN number, or where the payment account is not identified by an IBAN number, the unique account identifier, and the date of account opening and, where applicable, the date of account closing;

Provided that where the account in question is one to which payments made via a virtual IBAN are redirected to, the virtual IBANs associated with the said account and the details listed in paragraph (d) hereunder;

(d) for virtual IBANs issued by a credit institution or a financial institution: the virtual IBAN number, the data referred to in (a) and (b) above for the person to whom it is issued, the unique account identifier of the account to which payments addressed to the virtual IBAN are automatically redirected, and the dates of account opening and closing;

(e) for securities accounts: the unique identifier of the account, and the dates of account opening and closing;

(f) for crypto-asset accounts: the unique identifier of the account, and the dates of account opening and closing;

(g) for safe-deposit boxes: the name of the lessee complemented by either the other identification data required under Article 22(1) of Regulation (EU) 2024/1624, or a unique identification number and the date on which the lease started and, where applicable, the date on which it ended; and

(h) any other data or information on bank or payment accounts, securities accounts, crypto-assets accounts or safe custody services provided by credit or financial institutions as the Unit may set out from time to time in procedures issued under regulation 5.

(2) Credit and financial institutions shall ensure that any data that they may be required to hold in terms of sub-regulation (1) is at all times adequate, accurate and up to date, and the electronic record thereof shall be updated immediately upon the credit or financial institution being informed or otherwise becoming aware that any of the data or information required to be held has changed.

(3) Chapter VII of Regulation (EU) 2024/1620 shall be equally applicable to the retention of the data and information that credit and financial institutions may be required to hold in terms of sub-regulation (1).

4. (1) The Unit shall establish, manage and administer a register wherein there shall be retained data and information obtained by credit and financial institutions in terms of regulation 3(1), which data and information is to allow for the timely identification of any person or persons holding or controlling any such accounts or assets held under safe custody, or who may have held or controlled any such accounts or assets.

(2) The register shall contain an electronic record of the data and information that credit and financial institutions are required to hold in terms of regulation 3(1), which data and information is to be made available by credit and financial institutions in such format and with such frequency as may be prescribed by the Unit, which shall, where available, be reflective of the frequency set in implementing acts adopted by the European Commission in terms of Article 16(4) of Directive (EU) 2024/1640, with credit and financial institutions to retain such records as may be necessary to show that they have fulfilled any such obligations for a period of five (5) years from the date on which data and information was submitted or was required to be submitted, whichever is the earlier.

(3) The Unit shall make the minimum data and information referred to in regulation 3(1)(a) to (g) and reported in the register in terms of sub-regulation (2), also available through BARIS.

(4) In carrying out the functions referred to in sub-regulation (1), the Unit shall have regard to the highest technological standards and shall ensure that any of its officers or employees responsible for its management and administration are of high integrity and receive proper and regular training as to the confidentiality and data protection obligations applicable to the register.

(5) Any data or information contained in the register shall be held for five (5) years following the closure of the account or the termination of the safe custody service as may be applicable, upon the expiry of which the data and information so held shall be deleted:

Provided that the period of five (5) years may be further extended, up to a maximum retention period of ten (10) years, where such extension would be considered necessary for the purposes of the prevention, detection, analysis, investigation or prosecution of money laundering, associated predicate offences, funding of terrorism or any other serious criminal offence:

Provided further that the data and information retention periods under this sub-regulation shall equally apply to such data and information made available through BARIS.

(6) Article 62 of the Act shall be equally applicable to any personal data processed by the Unit for the purposes of managing and administering the said register.

5. The Unit may issue directives, binding procedures, and guidance as may be necessary for the purpose of prescribing anything required under these regulations and to ensure the proper functioning of the register, with any such procedures being binding on credit and financial institutions.

6. (1) The data and information held in the register and BARIS shall be directly accessible in an immediate and unfiltered manner, in line with procedures set out by the Unit, by the following authorities:

- (a) the Unit;
- (b) national authorities conducting criminal investigations into or prosecutions of money laundering, associated predicate offences, funding of terrorism or any other serious criminal offence, including when supporting investigations concerning any of the said offences;
- (c) the Asset Recovery Bureau;
- (d) the Commissioner for Revenue;
- (e) the Sanctions Monitoring Board;
- (f) the Security Service: and
- (g) AMLA when acting as or performing any of its functions and powers under Article 6(1) and Article 40 of Regulation (EU) 2024/1620 and Article 32 of Directive (EU) 2024/1640.

(2) Each of the authorities listed in sub-regulation (1) shall access, search and make use of the data and information contained in the register and BARIS on a case-by-case basis and to the extent that this may be necessary for the prevention, detection, investigation or prosecution of money laundering, associated predicate offences funding of terrorism or any other serious criminal offence, and for the avoidance of any doubt this shall include supporting investigations concerning any such offence, including the identification, tracing and freezing of the assets related to such investigation:

Provided that the above shall be without prejudice to any access to data and information held in the register that the Unit may require for the proper carrying out of its functions under regulation 4(1).

(3) In addition to the access referred to in sub-regulation (2), the data and information contained in the register may also be used to produce such aggregate or statistical data as may be required by the authorities referred to hereabove for the same purposes as are referred to in sub-regulation (2).

(4) The data and information contained in the register may also be accessed and made use of:

(a) by the Financial Intelligence Analysis Unit to reply to justified requests for information received from a competent authority not listed in sub-regulation (1); and

(b) by any of the authorities listed in sub-regulation (1) to reply to justified requests for information received from foreign or supranational bodies having similar functions after they have ascertained that the requesting body applies confidentiality and data protection requirements equivalent to those applicable to them:

Provided that the authorities referred to in paragraphs (a) and (b) shall disclose to the register the requesting body to which any such data and information shall be disclosed:

Provided further that the authorities referred to in (a) and (b) may provide for specific procedures for the receipt of any request of information and may impose such conditions and restrictions as they may consider necessary when replying to any such request for information.

(5) Each of the authorities listed in sub-regulation (1) shall designate one or more of their officers or employees that are to have access to and carry out searches in the register and BARIS, with each designated officer or employee being granted the said rights only upon undergoing such registration or accreditation process as may be established by the Unit.

(6) The authorities listed in sub-regulation (1) shall implement the necessary safeguards to ensure that data and information held in the register and BARIS is accessed, made use of and processed only when this is strictly required for the purposes set out in this regulation.

(7) In meeting their obligation under sub-regulation (6), and having due regard to the sensitivity of the data and information involved, the authorities listed in sub-regulation (1) shall, as a minimum:

(a) ensure that they, any officer or employee designated in terms of sub-regulation (5) are appropriately skilled, are of high integrity and maintain high professional standards of confidentiality and adherence with the applicable data protection requirements, including through monitoring compliance with the said standards;

(b) provide any officer or employee designated in terms of sub-regulation (5), or any officer or employee able to request any such employee to carry out searches in the register or BARIS, with the necessary training on how to handle data and information accessible through the register in line with data protection requirements;

(c) establish internal policies and procedures setting out the conditions and circumstances in which data and information is to be obtained from the register or BARIS, including safeguards to avoid unauthorized or unjustified access thereto, and monitoring the application of the same;

(d) apply technical and organisational measures to ensure the security of the data to high technological standards; and

(e) ensure that the Unit is promptly informed whenever an officer or employee is no longer to be considered as a designated employee in terms of sub-regulation (5).

(8) Where any of the authorities becomes aware that the data or information held in the register and BARIS is not correct or is otherwise not up to date, the authority concerned shall immediately inform the Unit.

(9) Each authority listed in sub-regulation (1) shall hold statistical data on the number of searches carried out through the register and BARIS and shall make the same available to the Unit or to the European Commission upon request or in line with such procedures as may be established.

7. (1) The Unit shall establish such procedures as it may deem proper to monitor and regulate the access and the carrying out of searches for data and information contained in the register and BARIS, which procedures shall include the retention of the following information logs with respect to each search:

- (a) the case reference number;
- (b) the date and time of the query or search;
- (c) the type of data used to launch the query or search;
- (d) the unique identifier of the results;
- (e) the name of the authority consulting the registry or BARIS;
- (f) the unique user identifier of the designated officer or employee referred to in regulation 6(5) and, where applicable, of the official who ordered the query or search and, as far as possible, the unique user identifier of the recipient of the results of the query or search.

(2) The information referred to in sub-regulation (1)(a) to (f) shall be:

- (a) held only to monitor confidentiality and data protection requirements, including checking the admissibility of a request and the lawfulness of data processing, and for ensuring data security;
- (b) accessible only to the data protection officer of the Unit, who shall check the same on a regular basis, and, upon request, to the Information and Data Protection Commissioner; and
- (c) protected by appropriate measures against unauthorised access and shall be erased five (5) years after its creation, unless it is required for monitoring procedures that are ongoing.

(3) Any data or information obtained through the register and BARIS shall be kept confidential by the authorities and by their officers, employees or agents, past and present, and any use thereof other than for the purposes set out in regulation 6 shall be considered to be an unauthorised disclosure of the same.

(4) In the event that the authorities listed in regulation 6(1) become aware of any unauthorised or unjustified access to, or use of, the register and BARIS, they shall promptly inform the Unit and provide

it with any information in relation to any such unauthorised or unjustified access or use as may be requested by the Unit.

(5) The Unit may, where it considers that any of the authorities are not implementing the necessary safeguards to prevent unauthorised or unjustified access to, or use of, the register and BARIS and of the data and information contained therein, or are otherwise failing to comply with any of their obligations under these regulations, restrict, suspend or terminate the authority's access and only reinstate the same again once the authority has implemented the necessary measures to prevent the same from occurring again.

8. For the avoidance of any doubt, the Unit shall exercise its powers under Chapter III and Chapter IV of Part II of the Act to ensure that credit and financial institutions adhere to their obligations under these regulations and regulations 15 to 20 of the Prevention of Money Laundering and Funding of Terrorism Regulations shall equally be applicable in relation to any breach of these regulations.

9. The Centralised Bank Account Register Regulations are hereby revoked, and the revocation thereof shall not in any way:

(a) affect the previous operation of the regulations so revoked by these regulations or anything done or suffered under those regulations;

(b) affect the institution, continuation or enforcement of any inquiry, investigation or legal proceedings under the regulations so revoked or the imposition of any penalty or punishment under the provisions of those regulations.

Use of Cash (Restriction) Regulations, 2027

IN exercise of the powers conferred by article 76 of the Prevention of Money Laundering Act, the Minister for Finance has made the following regulations:-

1. (1) The title of these regulations is the Use of Cash (Restriction) Regulations.
- (2) The objective of these regulations is to implement the relevant provisions of Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, concerning the restriction of cash payments in exchange for goods or services, with a view to combating money laundering and other criminal activity.
- (3) These regulations shall come into force on the 10th July, 2018.
2. Unless otherwise provided, all words and phrases within these regulations shall have the same meaning as prescribed in Regulation (EU) 2024/1624, the Prevention of Money Laundering Act and the Prevention of Money Laundering and Funding of Terrorism Regulations.

Part A – Breaches of the Restriction on the Use of Cash

3. (1) For the purposes of Article 80 of Regulation (EU) 2024/1624:

"goods" shall be construed as also including immovable property;

"immovable property" means and includes all things, rights and actions which are immovable by their nature or by reason of the object to which they refer in accordance with articles 308 and 310 of the Civil Code; and

"linked transaction" means two or more transactions which are carried out by the same parties of whom one is at least the same trader, in a single operation or in several operations having the same or similar linked purpose or purposes, and which are carried out within a period of twelve (12) months.

(2) Any trader who contravenes the provisions of sub-article (1) of Article 80 of Regulation (EU) 2024/1624 shall be guilty of an offence and liable, on conviction, to a fine (*multa*) of not less than forty per centum (40%) of the sum, accepted or made in cash in excess of ten thousand euro (€10,000), or its equivalent in any other currency:

Provided that where the trader so found guilty is the director, manager, or any other officer exercising executive functions in a company or other undertaking, or body of persons, the said trader shall, for the purpose of this regulation, be deemed to be vested with the legal representation of the same company or other undertaking, or body of persons, which shall accordingly be liable *in solidum* with the person found guilty for the payment of the said fine (*multa*).

(3) The fine (*multa*) referred to in sub-regulation (2) shall be considered as a civil debt owed and payable to the Unit in respect of which the Unit shall have an executive title.

4. (1) The Court of Magistrates, in its criminal jurisdiction, shall be the competent court to take cognisance of offences against these regulations.

(2) Notwithstanding the provisions of the Criminal Code, the Attorney General shall have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates in respect of criminal proceedings under these regulations.

(3) In any criminal proceedings under these regulations, any officer of the Unit may, notwithstanding the provisions of any other law, produce evidence in Court:

Provided that the said officer may state the facts constituting the offence before giving evidence.

(4) Notwithstanding the provisions of the Criminal Code, criminal proceedings for an offence against these regulations shall be barred by prescription by the lapse of five (5) years.

5. (1) Without prejudice to any other liability, whether criminal or civil, and to any related proceedings under any other law, a trader who acts in contravention of sub-article (1) of Article 80 of Regulation (EU) 2024/1624 may, as an alternative to criminal proceedings, and with the consent of the Attorney General, prior to being charged in court, agree to the payment of an administrative penalty to be imposed by the Unit as follows:

(a) where the sum accepted or made in cash amounts to not more than fifty thousand euro (€50,000), an administrative penalty of ten *per centum* (10%) of the sum accepted or made in cash in excess of ten thousand euro (€10,000), or its equivalent in any other currency, shall be imposed:

Provided that such administrative penalty shall not be less than one thousand euro (€1,000); and

(b) where the sum accepted or made in cash amounts to more than fifty thousand euro (€50,000) but does not exceed one hundred thousand euro (€100,000), an administrative penalty of twenty-five *per centum* (25%) of the sum accepted or made in cash in excess of ten thousand euro and (€10,000), or its equivalent in any other currency, shall be imposed.

(2) The administrative settlement referred to in sub-regulation (1) shall not be concluded unless the agreement entered into with the Unit is accompanied by the payment to the Unit of the administrative penalty or the provision of sufficient security for its payment.

(3) Upon payment of the administrative penalty, the offender's criminal liability under these regulations, in relation to the offence in respect of which the settlement has been entered into, shall be extinguished.

(4) An administrative settlement as stipulated in sub-regulation (1) shall not be entered into by a trader:

(a) when the sum of the payment accepted or received in cash, exceeds one hundred thousand euro (€100,000); or

(b) if either found guilty of contravening the provisions of regulation 3, or has entered into an administrative settlement in terms of sub-regulation (1), unless three (3) years have elapsed from the date of such judgement or settlement agreement.

6. A payment accepted or made in contravention of sub-article (1) of Article 80 of Regulation (EU) 2024/1624 shall not affect the legal validity of the payment, the contractual obligation in respect of

which the payment was carried out, including any contractual obligations, notwithstanding such contravention.

7. (1) The Unit shall have the function to monitor and to ensure compliance with the restriction resulting from sub-article (1) Article 80 of Regulation (EU) 2024/1624.

(2) In monitoring compliance with the restriction the Unit may exercise its powers under Article 34 of the Act, and where any trader is in receipt of any such request it shall comply as soon as is reasonably practicable but not later than ten working days from when the request is first made, and shall reply through such channels and in such format as the Unit may direct:

Provided that the Unit may, where it deems so necessary, demand that the information be submitted within a shorter period of time;

Provided further that any trader may make representations justifying why the requested information cannot be submitted within the said time and the Unit may, at its discretion and after having considered such representations, extend such time as is reasonably necessary to obtain the information, whereupon the subject person shall submit the requested information.

8. Any trader who knowingly makes a false declaration, or a false representation, or who produces false or incomplete information or documentation for the purposes of these regulations shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not more than twenty-five thousand euro (€25,000).

Part B – Cash Deposits Reporting Obligations

9. The Unit shall receive any reports that are to be made in terms of the second paragraph of sub-article (4) of Article 80 of Regulation (EU) 2024/1624 and, for the purposes of better regulating any such reporting, it may issue binding procedures setting out the frequency with which reports are to be submitted, the data, information and documentation that is to be submitted through or with the said reports, the system to be used to submit the said reports, and any other matter related or ancillary thereto.

10. The obliged entities mentioned in sub-paragraph (b) of Article 80 of Regulation (EU) 2024/1624 shall abide by any binding procedures as may be issued by the Unit in terms of article 9 hereabove, failing which the Unit may reject, in whole or in part, any one of the reports it receives.

11. For the avoidance of any doubt, the Unit shall exercise its powers under Chapter III and Chapter IV of Part II of the Act to ensure that obliged entities adhere to their obligations under Part B of these regulations and regulations 15 to 20 of the Prevention of Money Laundering and Funding of Terrorism Regulations shall equally be applicable in relation to any breach of Part B of these regulations.

Part C - General

12. The Use of Cash (Restriction) Regulations are hereby revoked, and the revocation thereof shall not in any way:

(a) affect the previous operation of the regulations so revoked by these regulations or anything done or suffered under those regulations;

(b) affect the institution, continuation or enforcement of any inquiry, investigation or legal proceedings under the regulations so revoked or the imposition of any penalty or punishment under the provisions of those regulations.

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