

Memorandum of Understanding

between

The Central Bank of Malta

and

The Malta Financial Services Authority

on the setting up of a Joint Financial Stability Board



1. INTRODUCTION

This Memorandum of Understanding is based on the principle that the Central Bank of Malta (hereinafter 'the Bank') is the national authority responsible to ensure financial stability and thus having the macro-prudential mandate. As a result the Bank has the duty to ascertain that the relative structures are in place for the implementation of initiatives emanating from such a mandate.

The Malta Financial Services Authority (hereinafter 'the Authority'), is a public authority established by an Act of Parliament (the Malta Financial Services Authority Act). It has statutory powers of licensing, supervision and investigation and has the ability to exercise its powers for the purpose of co-operation with foreign authorities. The MFSA is responsible for the regulation and supervision of credit and financial institutions, the business of insurance and insurance intermediaries' activities, investment services, collective investment schemes, retirement funds, trustees, regulated markets and central securities depositories. It also incorporates the Registry of Companies.

In line with the recommendations of the European Systemic Risk Board (ESRB)¹, the Bank is bound to establish mechanisms for cooperation among all authorities whose actions have a material impact on financial stability, in particular, the Authority without prejudice to their respective mandates.

Therefore, the Bank and the Authority (both hereinafter also referred to jointly as 'the Parties') agree to establish and set out procedures which provide for the creation of a Joint Financial Stability Board (hereinafter 'the Board') in order to facilitate cooperation between the relevant authorities on matters impacting on financial stability, including macro-prudential policy. For this purpose the Parties have agreed to conclude this Memorandum of Understanding (hereinafter 'MoU').

2. OBJECTIVE

The objective of the Board is to establish mechanisms of cooperation between the Parties to formulate macro-prudential policy and to contribute to the safeguard of the stability of the financial system as a whole in Malta, including by strengthening the resilience of the financial system and decreasing the build-up of systemic risks, thereby ensuring a sustainable contribution of the financial sector to economic growth.

Macro-prudential policies can be pursued at national level or as a follow-up to recommendations or warnings from the ESRB.

3. COMPOSITION

The Board shall be chaired by the Deputy Governor of the Bank. Apart from the Deputy Governor of the Bank, the Board shall consist of a maximum of two members for each Party and each Party shall nominate its respective two members. A non-

¹ Recommendation of the European Systemic Risk Board of 22 December 2011 on macro-prudential mandate of national authorities (ESRB/2011/3)

participating Secretary shall be appointed by the Parties on an alternating basis for a period of one year.

The Board shall invite when it deems necessary a representative of the Ministry of Finance, the Economy and Investment to participate as an observer during the meetings of the Board.

4. ROLE OF THE BOARD

Within the terms of Article 2 the mandate of the Board shall be to:

- (i) identify, monitor and assess risks to financial stability from reports raised by both Parties to assess potential systemic risk to the financial system;
- (ii) identify relevant macro-prudential tools to mitigate these risks, including measures that may be required to be implemented through relevant Articles of the CRD IV framework;
- (iii) assess whether relevant macro-prudential tools have cross-border implications;
- (iv) discuss possible designations of financial institutions and structures that are systemically relevant in Malta and outline the perimeter of regulation;
- (v) propose public statements with respect to macro-prudential policy decisions and their motivations as may be necessary; and
- (vi) follow-up on recommendations or warnings from the ESRB and any other matters of a macro-prudential nature that may need to be communicated by the Parties and the Government to the ESRB and/or any other authorities as necessary.

Pursuant to its mandate, the Board shall:

- (i) formulate policy recommendations designed to safeguard the stability of the financial system for consideration and approval according to the procedures established in article 7 and indicate which Party would appear to be most suited to implement the recommendations and under which legal framework;
- (ii) follow-up on the measures taken by the relevant financial institutions to implement approved recommended policy actions implemented by any of the Parties.

The Board shall also discuss:

- (i) views on individual institutions and on the financial system;
- (ii) policy issues or decisions adopted by either of the Parties or the Government that have an effect on the financial system;
- (iii) EU and local developments in the financial system; and
- (iv) other relevant matters that relate to the soundness of the financial system including international developments in regulation and standards and their effect on the local financial system.

5. MEETINGS

The Board shall meet on a regular basis.

Regular Meetings

As a minimum, and pursuant to the above, the Board shall convene every quarter. Without prejudice to the above, the Board shall meet as may be necessary if either of the Parties considers that there is an issue which needs to be addressed urgently.

In such cases, a Party who has valid reasons for considering that an additional meeting is necessary, shall contact the Secretary of the Board to convene such a meeting at the earliest opportunity taking into consideration the urgency of the reasons for calling the meeting.

Exceptional Meetings

The Parties may require convening the Board urgently when, in exceptional circumstances, there is a genuine threat to the stability of the financial system and action is necessary to avoid a serious disturbance in the domestic economy.

When any of the Parties requests the convening of an exceptional meeting, the Contact Persons as referred to in article 13 shall communicate between them and direct the Members of the Board to convene a meeting as soon as possible.

6. MODALITIES

The Board shall regulate its own procedures in the following way:

- (i) The Secretary shall take Minutes of all the meetings and shall carry out other administrative work as may be directed by the Board, particularly to call meetings, to co-ordinate the agenda and to attend to any other business of the Board.
- (ii) Copies of the Agenda and of the Minutes of the meetings shall be made available to the members.
- (iii) The items for the Agenda shall be submitted by the members and the Secretary shall co-ordinate and forward the Agenda to the members at least one week before the date of the meeting unless it is an exceptional meeting. Attached to the Agenda the Secretary shall append a copy of the Minutes of the previous meeting.
- (iv) Meetings shall only be held if at least one member from each Party and the Chairman are present. Where a meeting cannot be held in accordance with the foregoing, the matter shall be referred to the Contact Persons as referred to in article 13 who shall decide on the scheduling of the meeting taking into consideration the urgency of the agenda items for that particular meeting.
- (v) The Board may request any officer or employee from any of the Parties to attend a meeting and provide information as may be necessary.

7. IMPLEMENTATION PROCESS

The Board shall discuss policy recommendations within the terms of article 2 and shall try to achieve consensus on such policy recommendations.

However, where no consensus is achieved, a simple majority of the Board members is sufficient to adopt a policy recommendation.

Where the voting on a policy recommendation leads to an equal number between those Board members voting in favour of a decision and those Board members voting against a decision, the Chairman of the Board shall have a casting vote.

The Governor of the Bank and the Chairman of the Authority shall discuss any policy recommendations agreed upon by the Board. The Chairman of the Authority shall submit the policy considerations agreed by the Board and the outcomes of discussions with the Governor of the Bank to the Board of Governors of the Authority for its consideration.

The final outcome of the recommendations of a macro-prudential nature, incorporating the considerations of the Governor of the Bank and of the Chairman of the Authority, shall be considered for adoption and subsequent implementation by the Board of Directors of the Bank.

The final outcome of the recommendations of a micro-prudential nature, incorporating the considerations of the Governor of the Bank and of the Chairman of the Authority, shall be considered for adoption and subsequent implementation by the Board of Governors of the Authority.

The Board of Directors of the Bank or the Board of Governors of the Authority, as the case may be, may send back policy recommendations to the Board for further discussion. In such cases, the Board shall reconvene and submit its replies to the Governor of the Bank for discussion with the Chairman of the Authority at the earliest possible. The Governor of the Bank and the Chairman of the Authority shall submit these replies to the Board of Directors of the Bank and the Board of Governors of the Authority respectively so that they may be considered for final adoption and implementation.

8. TOOLS AND INSTRUMENTS

Macro-prudential tools are appropriate instruments that can be used to contain systemic risk.

The Board shall discuss the tools that might be necessary for adoption at the national level. The Board shall be guided by the tools defined and explained by the ESRB on this matter.

The Board shall establish a list of tools to be applicable to the local scenario by means of a policy recommendation which shall be approved according to the decision making process explained in article 7.

The list of tools shall then be issued in the form of a CBM Directive, following approval by the Board of Directors of the Bank.

This procedure shall apply to:

- (i) any tool of a macro-prudential nature to be issued and/or implemented by the Bank as a macro-prudential authority, and
- (ii) any other tool of a prudential nature that may be relevant to the attainment of the objective of this MoU which the Board recommends for adoption according to the decision making process in article 7.

9. EXCHANGE OF INFORMATION

The provisions on exchange of information of the Memorandum of Understanding between the Bank and the Authority concerning their co-operation and exchange of information in the field of financial services dated 15th February 2010 and as subsequently amended shall apply to the operational procedures of this Board.

10. CROSS-BORDER COOPERATION

The Board shall discuss issues of a cross-border nature which have been forwarded by the ESRB to the Bank and shall make recommendations on the exchange information on a cross-border basis to the ESRB and to any other macro-prudential authority.

The Bank as the macro-prudential authority shall inform the ESRB of the policy recommendations to address systemic risks at the national level to be adopted or which have been adopted according to the decision-making process in article 7 by following the ESRB coordination framework on cross-border aspects of national macro-prudential policies.

11. DOMESTIC STANDING GROUP AND THE FRAMEWORK FOR THE MANAGEMENT OF FINANCIAL CRISIS SITUATIONS

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

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

The Parties agree and clarify that the functions and powers given to the Board under this MoU shall not affect, or in any way act as a substitute to, the operation and implementation of the provisions of the Framework for the Management of Financial Crisis Situations. The Parties therefore agree that, if as a result of the operation of this MoU, either Party or, alternatively, members of the Board, suspect or in any way become aware that circumstances prevail which might give rise to a serious disruption

to the financial system, the Chairmen of both Parties and the Chairman of the Domestic Standing Group shall be immediately notified.

12. PROFESSIONAL SECRECY

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

13. COMMUNICATIONS

Each of the Parties agree to nominate a contact person who shall be responsible to coordinate, oversee and consult as necessary in order to ensure the smooth working of this MoU.

The contact persons shall inform each other in writing on their nominations or changes to nominations.

14. TERM AND AMENDMENTS

This MoU shall remain in force until such time as it is terminated by agreement of the Parties.

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

Agreed and signed this *25th* day of the month of *January* 2013.

(signed)

Professor Josef Bonnici
Governor
Central Bank of Malta

(signed)

Professor Joseph V Bannister
Chairman
Malta Financial Services Authority