

LAW AMENDING BANKING LAWS

The House of Representatives votes as follows:

Short title. 1. This Law shall be cited as the Business of Credit Institutions (Amendment) (No. 3) Law of 2013 and shall be read together with the Banking Laws of 1997 to (No. 2) 2013 (hereinafter referred to as the "basic law") and the basic law and this Law shall together be referred to as the Business of Credit Institutions Laws of 1997 to (No.3) 2013.

66(l) of 1997 74(l) of 1999
94(l) of 2000
119(l) of 2003
4(l) of 2004
151(l) of 2004
231(l) of 2004
235(l) of 2004
20(l) of 2005
80(l) of 2008
100(l) of 2009
123(l) of 2009
27(l) of 2011
104(l) of 2011
107(l) of 2012
14(l) of 2013
87(l) of 2013.

Amendment of
Section 2 of basic
law.

2. Section 2 of the basic law is amended as follows:

(a) with the addition in subsection (1), of the following new terms and their definitions, in the proper alphabetical order:

““authorised credit institution” or “ACI” means a credit institution to which a license was granted under this Law;

“management body” means an institution’s body with managerial as well as supervisory responsibilities, which sets the institution’s strategy, objectives and overall direction and which oversees and monitors the management decision-making and comprises the persons who effectively direct the business of the institution as –

(a) with respect to a bank, the board of directors; and

(b) with respect to a CCI, the CCI committee;

“CCI committee” has the meaning attributed to the term “committee” in section 2 of the Cooperative Societies Law, as it may be amended or replaced;

22 of 1985
68 of 1987
190 of 1989
8 of 1992
22(l) of 1992
140(l) of 1999
140(l) of 2000
171(l) of 2000
8(l) of 2001
123(l) of 2003
124(l) of 2003
144(l) of 2003
5(l) of 2004
170(l) of 2004
230(l) of 2004
23(l) of 2005
49(l) of 2005
76(l) of 2005
29(l) of 2007
37(l) of 2007
177(l) of 2007
104(l) of 2009
124(l) of 2009
85(l) of 2010
118(l) of 2011
130(l) of 2012
204(l) of 2012
214(l) of 2012

13(l) of 2013
39(l) of 2013
88(l) of 2013
...(l) of 2013.

“business of a credit institution” means business consisting mainly of accepting deposits or other repayable funds from the public and the granting of credit for own account;

“Central Body” means the Cooperative Central Bank;

“Cooperative Central Bank” means the Cooperative Central Bank Ltd incorporated under the Cooperative Societies Law principally for the purpose of carrying on business of a credit institution for the benefit of its members who are themselves cooperative societies;

“Cooperative credit institution” or “CCI” means an authorised credit institution which was established either under the Cooperative Societies Law or under any relevant legislation of a third country, that maintains a branch in the Republic;

“CSA” means the Cooperative Societies Authority as provided in the Cooperative Societies Laws;”.

(b) with the substitution in subsection (1) of the definitions of the terms licence, representative office, winding-up proceedings, manager, approved auditor, winding-up, liquidator, ancillary services undertakings, institution, home Member State, host Member State, mixed-activity holdings company, reorganisation measures, credit institution, chief executive, associate company, bank, branch, trading book, financial holding company with the following new definitions respectively:

““licence” means a licence issued under this Law to carry on the business of a credit institution in the Republic or abroad from the Republic;

"representative office" means an office from which the interests of the institution to which it belongs are in any way promoted or assisted but at which no business of a credit institution in the Republic or abroad from the Republic is carried on;

"winding-up proceedings" shall have the meaning attributed to this term in relation to a bank, in Part V of the Companies Law and, in relation to a cooperative credit institution and the Cooperative Central Bank, in Part IX of the Cooperative Societies Law;

Ch. 113
9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
46(l) of 1992
96(l) of 1992
41(l) of 1994
15(l) of 1995
21(l) of 1997
82(l) of 1999
149(l) of 1999
2(l) of 2000
135(l) of 2000
151(l) of 2000
76(l) of 2001
70(l) of 2003
167(l) of 2003
92(l) of 2004
24(l) of 2005
129(l) of 2005
130(l) of 2005
98(l) of 2006
124(l) of 2006
70(l) of 2007
71(l) of 2007
131(l) of 2007
186(l) of 2007
87(l) of 2008
41(l) of 2009
49(l) of 2009
99(l) of 2009
42(l) of 2010
60(l) of 2010
88(l) of 2010
53(l) of 2011

117(l) of 2011
145(l) of 2011
157(l) of 2011
198(l) of 2011
64(l) of 2012
98(l) of 2012
190(l) of 2012
203(l) of 2012
6(l) of 2013
90(l) of 2013,
...(l) of 2013.

“manager” means the chief executive of an ACI and any other person employed by an ACI, who under the direct authority of a member of the management body or of the chief executive exercises managerial functions or is responsible for maintaining accounts or other records of the ACI;

“approved auditor” means a statutory auditor and audit firm within the meaning attributed to these terms in section 2 of the Auditors and Statutory Audits of Annual and Consolidated Accounts Law , as it may be amended or replaced, and includes the Audit Service of Cooperative Societies established under section 19 of the Cooperative Societies Law, as it may be amended or replaced;

42(l) of 2009

"winding-up" shall have the meaning attributed to this term,

(a) in relation to a bank, in Part V of the Companies Law; and,

(b) in relation to a cooperative credit institution and the Cooperative Central Bank, in Part IX of the Cooperative Societies Law, as it may be amended or replaced;

“liquidator” shall have the meaning –

(a) in relation to a bank, attributed to the term "liquidator" in Part V of the Companies Law and to the terms "receiver" and administrator" in Part VI of the Companies Law, as it may be amended or replaced; and

(b) in relation to a cooperative credit institution and the Cooperative Central Bank, in Part IX of the Cooperative Societies Law, as it may be amended or replaced;

"Ancillary services undertaking" means an undertaking the principal activity of which consists in owning or managing property, managing data-processing services, or any other similar activity which is ancillary to the principal activity of one or more credit institutions;

"institution" means a credit institution or an investment firm;

“home Member State” means the Member State in which a credit institution has been authorised in accordance with the provisions of Directive 2006/48/EC;

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

“mixed-activity holding company” means a parent undertaking, other than a financial holding company or a credit institution or a mixed financial holding company, the subsidiaries of which include at least one credit institution;

"reorganisation measures" shall mean measures which are intended to preserve or restore the financial situation of an ACI and which may affect third parties' pre-existing rights, including measures involving the possibility of suspension of payments, suspension of enforcement measures or reduction of claims of creditors or shareholders of the ACI, as well as the measures provided for, in case of a bank, in sections 198 to 202 of the Companies Law, as it may be amended or replaced, and, in case of a CCI, in section 49B of the Cooperative Societies Law, as it may be amended or replaced;

‘credit institution’ - means an undertaking the business of which consists mainly of accepting deposits or other repayable funds from the public and the granting of credit for its own account and which possesses a licence by the Central Bank of Cyprus or a relevant licence by a competent authority of a member state or of a third country;

"chief executive" means -

(a) a person who either alone or jointly with others is responsible under the direct authority of the management body for the conduct of the business of an ACI; or

(b) in the case of an ACI not incorporated in the Republic, a person who either alone or jointly with others is responsible for the conduct of the business of the ACI in or from the Republic; and

in the case of a CCI includes the secretary of the CCI;

"associate company" means a company in which an ACI holds directly or indirectly through related companies not less than twenty per cent (20%) or more of the voting rights or of the company's capital or where the parent or other company of the group exercises over the company significant influence or where the companies are or have been arranged under a single administration or have administrative, management or other bodies the majority of each body consisting mainly of the same persons;

"bank" means an ACI incorporated -

(a) under the Companies Law, as it may be amended or replaced; or

(b) under the provisions of an equivalent legislation of a third country which operates a branch in the Republic;

"branch" means the place of business of a credit institution from where it carries out directly all or some of the transactions inherent in the business of the credit institution;

"trading book" means the portfolio of a credit institution which consists of all positions in financial instruments and commodities held either with trading intent or in order to hedge other elements of the trading book and which are either free of any restrictive covenants on their tradability or able to be hedged;

"financial holding company" means a financial institution, the subsidiary undertakings of which are either exclusively or mainly credit institutions or financial institutions, at least one of such subsidiaries being a credit institution, and which is not a mixed financial holding company;"

(c) with the deletion in subsection (1) of the terms "Trustee", "business of accepting deposits", "director" and "banking business" and their definitions.

(d) with the insertion after subsection (2), of the following new subsection (3):

(3) In this Law and in the regulatory administrative acts issued thereunder, any reference to a Directive, Regulation, Decision or any other legislative act of the European Union, shall mean the said legal act as corrected, amended or replaced from time to time, unless another meaning it is otherwise arises from the text.

Amendment of basic law. of 3. (1) Without prejudice to the provisions of this Law-

(a) but, subject to the provisions of paragraphs(b) to (d),

(i) the word “bank” wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase “ACI” in the corresponding grammatical variation,

(ii) the phrase "the bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "the ACI" in the corresponding grammatical variation,

(iii) the phrase "the bank which" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase " the ACI which" in the corresponding grammatical variation ,

(iv) the phrase "the said bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "the said ACI" in the corresponding grammatical variation,

(v) the phrase " in the said bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "in the said ACI" in the corresponding grammatical variation and

(vi) the phrase "any bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "any ACI" in the corresponding grammatical variation.

(b) but, subject to the provisions of paragraphs (c) and (d) of this subsection, in sections 4(1) to (11), 5(2), 6(4), 10A, 10B, 10D, 10F, 27(2), 27(6), 27(10), 27(11), 27(13), 27A, 27E, 28A, in the proviso of subsection 2 of section 29, in section 30(1)(c), in the proviso of section 33(1), in section 33(9) and in sections 33L, 39(7)(c), (d) and (f), 39(10)(a) and 39(13)(a)(i) -

(i) the word “bank” wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase “credit institution” in the corresponding grammatical variation.

(ii) the phrase “the bank” wherever in any grammatical variation encountered in the basic law (including the side titles) is replaced by the phrase “the credit institution” in the corresponding grammatical variation.

(iii) the phrase "the said bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase" the said credit institution" in the corresponding grammatical variation.

(iv) the phrase "The bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "The credit institution" in the corresponding grammatical variation.

(v) the phrase " a bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "a credit institution" in the corresponding grammatical variation

(vi) the phrase "in the said bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "in the said credit institution" in the corresponding grammatical variation.

(vii) the phrase "in the bank" wherever encountered in the basic law (including the side titles) and in any grammatical variation, is replaced by the phrase "in the credit institution" in the corresponding grammatical variation.

(viii) the phrase "the bank concerned" wherever encountered in the basic law

(including the side titles) and in any grammatical variation, is replaced by the phrase "the credit institution concerned" in the corresponding grammatical variation.

(iv) the phrase "any bank" where encountered in the basic law (including the side titles) and in any grammatical variation, is replaced with the phrase "any credit institution" in the corresponding grammatical variation.

(c) in sections 17C, 18(2), 26(10), 27(14), 30(1)(h) and (j), 30A, 30B, 33, 33A, 39(1) and (3)-

(i) the word "bank" in any grammatical variation encountered (including side titles) is replaced with the corresponding grammatical variation of the phrase "ACI established in the Republic";

(ii) the phrase "the bank" in any grammatical variation encountered (including side titles) is replaced with the corresponding grammatical variation of the phrase "the ACI established in the Republic";

(iii) the phrase "one bank" in any grammatical variation encountered (including side titles) is replaced with the corresponding grammatical variation of the phrase "one ACI established in the Republic";

(iv) the phrase "in the bank" in any grammatical variation encountered (including side titles) is replaced with the corresponding grammatical variation of the phrase "in the ACI established in the Republic";

(v) the phrase "any bank" in any grammatical variation encountered (including side titles) is replaced with the corresponding grammatical variation of the phrase "any ACI established in the Republic";

(vi) the phrase "bank, against which winding-up proceedings were opened" in any grammatical variation encountered (including side titles) is replaced with the corresponding grammatical variation of the phrase "credit institution against which winding-up proceedings were opened".

(d) this subsection does not apply to section 4(2)(c)(i) of the basic law.

(2)(a) Without prejudice to the rest of the provisions of this law but subject to the provisions of paragraph (b) –

(i) the phrase "banking business" in any grammatical variation encountered in the basic law is replaced with the corresponding grammatical variant of the phrase "business of a credit institution"; and

(ii) the phrase "the banking business" in any grammatical variation encountered in the basic law (including side titles) is replaced with the corresponding grammatical variant of the phrase "the business of a credit institution".

(b) This subsection does not apply to section 17(11), 45(1) and 48 of the basic law.

(3) Without prejudice to the rest of the provisions of this Law –

(i) the phrase "board of directors" in any grammatical variation encountered in the basic law is replaced by the corresponding grammatical variation of the phrase "management body".

(ii) the phrase “the board of directors” in any grammatical variation encountered in the basic law is replaced by the corresponding grammatical variation of the phrase “the management body”.

(4) (a) Without prejudice of the rest of the provisions of this Law –

(i) the phrase “director” in any grammatical variation encountered in the basic law is replaced by the corresponding grammatical variation of the phrase “member of the management body”.

(ii) the phrase “the director” in any grammatical variation encountered in the basic law is replaced by the corresponding grammatical variation of the phrase “the member of the management body”

(b) Paragraph (a) does not apply to subsection (1) of section 32 of the basic law.

(5) Without prejudice of the rest of the provisions of this Law, the phrase “member state” in any grammatical variation encountered in the basic law (including side titles) is replaced by the corresponding grammatical variation of the phrase “member-state”.

(6) This section does not apply to the phrase “Central Bank” and the phrase “the Central Bank” in any grammatical variation they are encountered in the basic law.

Amendment of title of Part II of basic law.

4. The title of Part II of the basic law (including the side title) is replaced by the following new title:

“LICENSING”

Amendment of Section 3 of basic law.

5. Section 3 of the basic law is amended as follows:

(a) with the replacement of subsections (1) and (2) with the following new subsections (1) and (2):

“(1) Subject to the provisions of subsections (2) and (3), the provisions of Part IV, subsection (1) of section 35 and section 36 no person, shall engage in the business of accepting deposits or other repayable funds from the public in the Republic or abroad from the Republic and the lending of funds for own account in the Republic or abroad from the Republic except if:

(a) it is a credit institution established in the Republic and authorised under this Law or

(b) it is a credit institution established in a third country and authorised under this Law to operate through a branch in the Republic.”

“(2) In the case where the Central Bank has reasonable grounds to believe that any person, other than the persons referred to in paragraph (a) and (b) of subsection (1), is engaged in the business of accepting deposits or other repayable funds from the public in the Republic or abroad from the Republic or the lending of funds for own account in the Republic or abroad from the Republic, may, by a written notice to such person call upon him, to produce to an authorised officer of the Central Bank, within the period specified in the notice, any books or records specified in the notice to enable such officer to ascertain whether any business has been carried on which is prohibited in accordance with subsection (1).”; and

(b) with the deletion of subsection (4).

Amendment of Section 4 of basic law.

6. Section 4 of the basic law is amended as follows:

(a) with the replacement of paragraphs (a) and (b) of subsection (1) with the following new paragraphs (a) and (b) respectively:

“(a) Subject to the provisions of section 10A, a credit institution must obtain authorisation from the Central Bank before the commencement of its activities in the Republic or abroad from the Republic.

(b)(i) Subject to the provisions of Part IV, authorisation is granted by the Central

Bank only to a legal person incorporated in the Republic pursuant to the provisions of the Companies Law or of the Cooperative Societies Law, as they may be amended or replaced, or to a credit institution established and authorised in a third country pursuant to the corresponding legislation of that country:

(ii) A credit institution which is registered in the Republic must have its head office in the Republic.”

(b) with the replacement of the first sentence of paragraph (c) of subsection (1) with the following new sentence:

“(c) the Central Bank shall not grant authorisation unless it has been informed of the identities of the shareholders or members, natural or legal persons, that have directly or indirectly control and the percentage of that control.”

(c) with the replacement of paragraph (a) of subsection (6) with the following new paragraph:

“(a) A credit institution to which license was granted may surrender its licence by written notice to the Central Bank.”

Amendment of title of Part III of basic law.

7. The title of Part III of the basic law is replaced with the following new title:

“NAME OF CREDIT INSTITUTIONS AND ADVERTISEMENTS”

Amendment of Section 5 of basic law.

8. Section 5 of the basic law is amended as follows:

(a) with the replacement of the subtitle with the following new subtitle:

“Restriction of use of the word “bank” and the phrases “savings institution”, “credit institution” and “cooperative credit institution” ”

(b) with the replacement of subsection (1) with the following new subsection:

“(1) It is prohibited for any person:

(a) other than a bank, to use in any language the word "bank" and

(b) other than a CCI, to use in any language the phrase “cooperative credit institution” or “savings institution”

or any grammatical variation thereof of the word "bank" or of the phrases “savings institution” or “credit institution” or “cooperative credit institution” in connection with any trade or business carried on by him unless the Central Bank has granted its prior written approval and subject to any conditions which the Central Bank may consider proper to impose.”

Amendment of Section 6 of basic law.

9. Section 6 of the basic law is amended as follows:

(a) with the deletion in subsection (1) of the phrase “or a co-operative society established under the Co-operative Societies Law”.

(b) with the replacement in subsection (4) of the phrase “A bank” with the phrase “A credit institution”.

Amendment of Section 8 of basic law.

10. Section 8 of the basic law is amended as follows:

(a) with the replacement in subsection (1) of the phrase “business which substantially corresponds to banking business” with the phrase “business of a credit institution”.

(b) with the addition in subsection (2) after the word “bank” of the phrase “or “savings institution” or “credit institution” or “cooperative credit institution” ”.

Replacement of Section 9 of basic law.

11. Section 9 of the basic law is replaced by the following new article 9:

law

“Termination of activities of a branch. 9. An ACI incorporated in a third country intending to terminate the operation of its branches in the Republic or an ACI incorporated in the Republic intending to terminate the operation of any of its branches outside the Republic should give to the Central Bank three months prior written notice of its intention to do so, or such shorter prior written notice as the Central Bank may determine.”

Amendment of Section 11 of basic law.

12. Section 11 of the basic law is amended as follows:

(a) with the addition in subsection (1) of the following new paragraph (b) after paragraph (a):

“(b) to have any exposure to any of the independent members of the management body.”

(b) with the replacement of paragraphs (c), (d) and (e) in subsection (1) with the following new paragraphs (c), (d) and (e) respectively:

“(c) grant any non independent member of the management body any exposure unless the transaction was approved by a resolution of the management body of the ACI carried by a majority of two-thirds of the members that participated in the management body meeting and the member concerned was not present during the discussion of this subject by the management body and did not vote on the resolution. The exposures granted in such cases are granted on the same commercial terms as would apply to a customer for similar exposures in the ordinary course of banking practice;

(d) subject to the provisions of paragraphs (b), (c) and (e) to (g), permit the total value of exposures in respect of all members of the management body together to exceed at any time ten per cent of its own funds, or such other lower percentage as the Central Bank may determine from time to time;

(e) subject to the provisions of paragraphs (b) to (d), (f) and (g) permit the total value of any unsecured exposures, which are granted to all its members of the management body together to exceed at any time one per cent (1%) of its own funds, or such other lower percentage as the Central Bank may determine from time to time.”

(c) with the addition in subsection (1), after paragraph (e) of the following new paragraphs (f) to (j):

“(f) subject to the provisions of paragraphs (b) to (d) and (g) permit the total value of exposures to any member of the management body to exceed at any time the amount of five hundred thousand euro (€500.000) or such other lower percentage as the Central Bank may determine from time to time;

(g) subject to the provisions of paragraphs (b) to (f) permit the granting of financing at any time to any executive member of the management body that does not comply to the commercial terms or exceed the limits that apply to all staff of the ACI or such other lower percentage as the Central Bank may determine from time to time;

(h) subject to the provisions of paragraphs (b) to (g) grant to any shareholder holding directly or indirectly more than ten percent (10%) of the share capital of the ACI, a large exposure;

(i) subject to the provisions of paragraphs (b) to (h) grant to all shareholders of the ACI holding directly or indirectly more than ten percent (10%) of the share capital of the ACI, exposures that in total exceed twenty percent (20%) of the ACI own funds;

(j) subject to the provisions of paragraphs (b) to (i) grant to all shareholders of the ACI holding directly or indirectly more than ten percent (10%) of the share capital of the ACI, unsecured exposures that in total exceed two percent (2%) of the ACI own funds;

It is provided that the provisions of paragraphs (h), (i) and (j) shall not apply in the case where the shareholder is the Republic;”

(d) with the replacement of subsection (1A) with the following new subsection (1A):
(1A) An ACI shall at all times comply with all the limits laid down in subsection (1). If, in an exceptional case, exposures exceed any such limit, the ACI reports without delay to the Central Bank, the excess amount, the reasons that led to the excess of the limit and the actions of the ACI for compliance with the said limit, not later than one month from the excess occurrence.

Provided that in case where the ACI does not comply within the one month deadline, the appointment of the member of the management body whose exposure created the excess, is terminated with immediate effect.”

(e) with the addition of the new subsection (1Abis) after subsection (1A):
“(1Abis) Every ACI shall monitor on an ongoing basis the exposures to members of the management body and if an exposure to a member of the management body becomes non-performing, the ACI terminates immediately the appointment of the said member of the management body.”

(f) with the addition of the new subsections (3B) and (3C) after subsection (3A):
“(3B) For the purposes of this section the term “members of the management body” include connected persons that constitutes a group of connected persons as per subsection (3) as well as spouse and minors.

(3C) The Central Bank specifies with a directive issued under section 41 the criteria of independence of the members of the management body of an ACI.”

Amendment of
Section 14 of
basic law.

13. Section 14 of the basic law is amended with the addition after subsection (2) of the following subsection (3):

“(3) In exceptional cases, an ACI may after prior written approval of the Central Bank, to rent to a third party immovable property that was bought or acquired for the purposes provided in paragraph (a) of subsection (1) of section 12.”

Amendment of
Section 15 of
basic law.

14. Section 15 of the basic law is replaced with the following new section 15:

Prohibition of dealing in own shares. 15. An ACI incorporated in the Republic shall not -

(a) acquire or deal for its own account in its own shares without the prior approval of the Central Bank, which is granted subject to the provisions of the Companies Law or of the Cooperative Societies Law, as they may be amended or replaced, with regards to a company’s right of redemption or acquisition of its own shares; or

(b) grant, direct or indirect, credit facilities for the purchasing of its own shares or the shares of its holding company or the shares of any subsidiary of the ACI or of its holding company.

Amendment of
basic law with the
replacement of
the title of Part VI.

15. The title of Part VI of the basic law, is replaced by the following new title:

“OWNERSHIP AND MANAGEMENT OF ACI”

Amendment of
Section 17 of
basic law.

16. Section 17 of the basic law is amended with the replacement in point (i) of paragraph (a) of subsection (1) of the phrase “bank established in the Republic” with the phrase “ACI incorporated in the Republic”:

Replacement of
Section 20 of
basic law.

17. Section 20 of the basic law is replaced by the following new section 20:

Minimum capital. 20. An ACI incorporated in the Republic shall have at all times minimum own funds of not less than five million euro (€5.000.000) or such other higher amount that the Central Bank might determine.

Amendment of Section 24 of basic law.

18. Section 24 of the basic law is amended as follows:

(a) with the replacement of subsection (1) with the following new subsection :

(1) Every bank shall, within four months from the end of each financial year, submit to the Central Bank an electronic copy of the audited annual accounts together with a signed copy of the audit report of the approved auditor, and

It is provided that the Central Bank may permit the submission of the aforementioned documents within a period longer than the four months from the end of the financial year.

(b) with the abolition of subsection (2)

Amendment of the basic law with the insertion of new Section 25A in the basic law

19. The basic law is amended with the insertion of the following new section 25A:

Affiliation of an ACI to the Central Body
25A. (1) A CCI incorporated in the Republic may through the Central Body submit to the Central Bank an application for approval to affiliate to the Central Body.

(2) The Central Bank approves the affiliation of a CCI with the Central Body only if it is satisfied that:

(a) there have been carried out arrangements between the CCI and the Central Body where the obligations of the Central Body, including liabilities of the Central Body concerning guarantee agreements of liabilities of CCIs affiliated to it and the liabilities of the CCI become bilateral liabilities according to criteria established by a Central Bank directive, and

(b) the CCI complies with the conditions of affiliation established by a Central Bank directive.

(3) The Central Bank notifies the interested CCI of its decision to approve or reject affiliation and the justification for any refusal of the application, within three (3) months from the date of receipt of the application or if the application is not complete or the Central Bank requires additional information or documents, within three (3) months from the date of submission of the required information or other documents.

(4) After approval by the Central Bank of the affiliation of a CCI to the Central Body –

(a) the solvency and liquidity of the Central Body and the CCI are subject to supervision by the Central Bank on the basis of consolidated accounts of the Central Body and all the CCI affiliated to the Central Body, and

(b) the CCI complies with the directives issued by the Central Body to the CCIs affiliated to it.

(5) (a) A CCI affiliated to the Central Body is exempted from the obligation to comply to the requirements set out in subsections (2) and (3) of section 19 and in sections 19A and 23 of this Law on an individual basis.

(b) The Central Body and the CCI affiliated to the Central Body comply on a consolidated basis with the requirements of this Law referred to in paragraph (a).

(6) A CCI affiliated to the Central Body shall deposit all liquid assets with the Central Body unless the Central Bank gives prior written approval to deposit liquid assets in a credit institution other than the Central Body under any conditions it deems appropriate to impose.

(7) Notwithstanding the provisions of subsection (4), the Central Bank may require under subsection (2) of section 25 of a CCI which is affiliated to the Central Body to submit periodically or whenever requested any information and within such time limit as the Central Bank may determine.

(8) The Central Bank may withdraw the affiliation of a CCI to the Central Body in the following cases:

(a) The CCI applies for the withdrawal of the affiliation to the Central Body

(b) A winding up procedure of the CCI or the Central Body, has commenced

(c) the CCI violates or fails to comply with the provisions of this section or any directive.

(9) The Central Bank sets out in a directive issued under this Law the terms and conditions of affiliation and of withdrawal of a CCI's connection with the Central Body, the duties and the responsibilities of the Central Body against the CCIs affiliated with it.

Amendment of
Section 26 of
basic law.

20. Subsection (10) of section 26 of the basic law is replaced with the following new subsection (10):

“(10) The review and evaluation performed by the Central Bank includes the exposure of ACIs incorporated in the Republic to the interest rate risk arising from their non-trading book activities; the Central Bank takes measures in the case of ACIs incorporated in the Republic whose economic value declines by more than twenty percent (20%) of their own funds as a result of a sudden and unexpected change in interest rates, the size of which shall be prescribed by the Central Bank and shall apply equally to all ACIs incorporated in the Republic .”

Amendment of
Section 27 of
basic law.

21. Section 27 of the basic law is amended as follows:

(a) with the replacement of subsection (3) with the following new subsection (3):

“ (3) Subject to the provisions of subsection (1), in the case a branch of an ACI, whose head office is located in a third country, the competent authority of that third country who is responsible for the supervision of the said ACI may carry out inspections of the said branch, provided it was previously discussed with the Central Bank and the Central Bank has given its consent.”

(b) with the replacement of subsection (14) with the following new subsection:

(14) Where an ACI incorporated in the Republic carries on its activities also in another Member State through a branch, the Central Bank, after having first informed the competent authority of the host Member State, carry out itself or through a person it appoints for that purpose on-the-spot verification of the information referred to in subsection (10).

(c) with the replacement of subsection (16) with the following new subsection:

(16) Subsections (14) and (15) shall not affect the right of the competent authority of

the host Member State to carry out, in the discharge of its responsibilities, on-the-spot supervision of the branches established in that member state of ACIs incorporated in the Republic, which are assigned by the legislation of the host member state equivalent to this Law.

Amendment of Section 27A of basic law.

22. Section 27A of basic law is amended with the replacement of paragraph (b) of subsection (1) with the following new paragraph:

“(b) the approved auditor responsible for carrying out, under the Auditors and Statutory Audits of Annual and Consolidated Accounts Law , as it may be amended or replaced, and this Law, the audit of accounts of ACIs and other financial institutions.”

Amendment of Section 27B of basic law.

23. Subsection (1) of section 27B of the basic law is amended with the replacement of paragraph (a) with the following new paragraph:

“ (a) the authorities responsible for overseeing the bodies involved in the liquidation and bankruptcy of ACIs and in other similar procedures; and ”

Amendment of Section 27E of basic law.

24. Section 27E of the basic law is amended with the replacement of the subtitle with the following new subtitle:

“Significant branch in the Republic or another Member State”

Amendment of the basic law with the insertion of new Section 27H in basic law.

25. The basic law is amended with the addition right after section 27G, of the following new section 27H:

“Appointm ent of approved auditor 27H. (1) Subject to the provisions of Part X of the Auditors and Statutory Audits of Annual and Consolidated Accounts Law and section 19 of the Cooperative Societies Law, as they may be amended or replaced, the appointment of an approved auditor for the performance of the statutory audit of the annual and consolidated accounts of an ACI requires the explicit approval of the Central Bank.

(2) For the approval of an approved auditor under subsection (1), the Central Bank shall assess whether the approved auditor has the qualifications for the effective and unbiased audit of the ACI.

(3) The approved auditor shall certify to the Central Bank that the statutory audit of the ACI is conducted in accordance with the international audit standards and any additional requirements set out with directives issued pursuant to this Law.

(4) In the case where an ACI incorporated in the Republic fails to appoint an approved auditor for the statutory audit of its annual and consolidated accounts, the Central Bank shall appoint such auditor and shall set his remuneration to be paid by the ACI.

Amendment of Section 29 of basic law.

26. Subsection (2) of section 29 of the basic law is amended with the insertion of the following new paragraphs (giii) and (giv) after the paragraph (gii):

(giii) the information is provided to the Central Body by an affiliated ACI in accordance with the provisions of section 25A or

(giv) the information is provided under subsection (6) of Section 41 to an exchange system or mechanism for the collection and provision of data of cooperative credit institutions, or”

Amendment of Section 30 of

27. Subsection (1) of section 30 of the basic law is amended as follows:

basic law.

(a) with the replacement of paragraph (f) with the following new paragraph:

“(f) to demand that the ACI incorporated in the Republic increase its share capital in accordance with section 30A:

It is provided that the provisions of the Companies Law and the Cooperative Societies Law, as they may be amended or replaced, shall also apply, in as much as they do not conflict with the provisions of increasing capital of section 30A of this Law;

(b) with the replacement of paragraph (i) with the following new paragraph:

“(i) to demand that dividends be limited or withheld, the provisions of the Companies Law or Cooperative Societies Law ,as they may be amended or replaced notwithstanding;”

Amendment of Section 30A of basic law.

28. Section 30A of the basic law is amended with the replacement of subsections (3), (4) and (5) with the following new subsections (3), (4) and (5) respectively:

(3)(a) The ACI’s management body shall convene an extraordinary general meeting of shareholders at a point of time decided by the Central Bank in accordance with subsection (1).

(b) The provisions of section 127 of the Companies Law and the provisions of the Cooperative Societies Law ,as they may be amended or replaced, notwithstanding, the ACI shall give shareholders written notice of the extraordinary general meeting of shareholders within three (3) days.

(4) The provisions of section 62(1) of the Companies Law and the provisions of the Cooperative Societies Law, as they may be amended or replaced, notwithstanding, the ACI must give, in case of a bank, to the Registrar of Companies notice of the increase for registration purposes within seven (7) days of approval of a resolution authorising the increase in share capital; the proviso in subsection (2) of section 62 of the Companies Law shall not apply for the purposes of the present Law.

”(5) If the ACI’s management body fails to convene an extraordinary general meeting of shareholders as per subsection (3) or if the ACI fails to send the Registrar of Companies notice for the purpose of registering the increase in share capital as authorised by the extraordinary general meeting of shareholders, the Central Bank may impose a fine of up to one hundred thousand euro (€100.000) on each member of the management body who failed to comply.”

Amendment of Section 30B of basic law.

29. Section 30B of the basic law is amended as follows:

(a) with the replacement of subsection (2) with the following new subsection:

“ Without prejudice to subsection (1), the Central Bank in relation to recovery plans and in its capacity as Resolution Authority in relation to resolution plans, may require the credit institution incorporated in the Republic that submits what is provided in subsection (1) any of the following:

(a) to provide additional information or records deemed necessary for the evaluation of the submitted recovery plan and for the preparation of the resolution plan;

(b) to supplement the recovery plan with a plan to negotiate with all or some of the creditors of the credit institution incorporated in the Republic, in order to restructure its loan capital, debt and accounts payable in general;

(c) to amend the recovery plan in order to make it more effective;

(d) to implement the above plans or parts thereof within a specific timetable.”

(b) with the replacement in subsection (4) of the phrase “the bank’s board of directors” with the phrase “the ACI’s management body”.

(c) with the insertion after section (5) of the following new subsection (6):

“(6) In the case of the Central Body and its affiliated, under section 25A, CCIs, the Central Bank may require that the provisions of this section are applied on an aggregate basis.”

Amendment of
Section 31 of
basic law.

30. Subsection (1) of section 31 of the basic law is amended with the replacement of the phrase “banking business” with the phrase “business of a credit institution in the Republic or abroad from the Republic”.

Amendment of
Section 33 of
basic law.

31. Section 33 of the basic law is amended as follows:

(a) with the replacement of subsection (2) with the new subsection (2):

“(2) Where winding up measures are taken in an ACI incorporated in the Republic and

-

(a) in case of

- (i) a bank incorporated in the Republic, the Central Bank may propose a compromise or settlement, and the Court may, up on summary application by the Central Bank order the convening of a meeting of the creditors of the bank as specified in subsection (1) of section 198 of the Companies Law or
- (ii) a CCI incorporated in the Republic, the Central Bank may propose an arrangement, and the Court may, up on summary application by the Central Bank to order the convening of an extraordinary general meeting of the members as provided in Article 49B of the Cooperative Societies Law, and

(b) the Court validates the said compromise or arrangement or settlement as defined in paragraph (a) only after consulting the Central Bank as provided in subsection (2) of Section 198 of the Companies Act and subsection (2) of Section 52 of the Cooperative Societies Law, which sections apply mutatis mutandis.”

(b) with the replacement of subsection (3) with the following new subsection:

“(3) The initiation of resolution measures does prevent the dissolution of an ACI incorporated in the Republic and the commencement of a process for its liquidation.”

(c) with the replacement in subsection (7) of the phrase “of the Companies Law” with the phrase “of the Companies Law or the Cooperative Societies Law, as the case maybe,”.

(d) with the replacement of subsection (8) with the new subsection (8):

“(8) The Central Bank may, whenever it deems appropriate, to request through a duly justified application, to the Court, the implementation of one or more reorganisation measures in a bank or CCI; in such a case the Court may ratify the reorganisation measures, irrespective of the fact that in case of a bank the meeting of the bank’s creditors or shareholders as provided in section 198 of the Companies Law and in the case of a CCI an extraordinary general meeting of the CCI’s members as provided in section 49B of the Cooperative Societies Law has not been convened:

It is provided that the ACI concerned is required to provide the necessary information, as provided for, in case of a bank, in section 199 of the Companies Law, and in case of a CCI, in section 49B of the Cooperative Societies Law, to all its creditors and to all its shareholders.”

Replacement
of Section 33B

32. Section 33B of the basic law is replaced by the following new section 33B:

of basic law.

“Dissolution and appointment of liquidator.

33B. Irrespective of the provisions of the Companies Law with respect to the dissolution of a company and the provisions of the Cooperative Societies Law with respect to the dissolution of a cooperative society, the revocation of a licence pursuant to paragraph (e) of subsection (1) of section 30 or section 4A or the surrender of a licence pursuant to subsection (1A) of section 4A is a reason for the liquidation of an ACI incorporated in the Republic by the Court, after an application submitted by the Central Bank, and the appointment of a temporary receiver or liquidator of the ACI, other than the Official Receiver, is made only after the Court hears the opinion of the Central Bank.

It is provided that, in the case of voluntary winding-up, the management bodies of the CSI, request the Central Bank for its opinion, before taking such decision, whereas in the case of liquidation, either by the Court, or under the supervision of the Court, the Court informs immediately the Central Bank for the taking of such a decision:

It is further provided that any decision for the liquidation of the ACI is applicable and immediately enforceable in all member states in which the ACI has branches, without any further formalities.

It is further provided that, irrespective of the provisions of any other law, and subject to the provisions of sections 33G, 33H, 33I, 33J and 33K, in the case of a branch of a credit institution whose head office is in a member state other than the Republic, any decision for the liquidation of the credit institution, taken by the competent authority of the home member state, is recognised and is effective without any restrictions in the Republic from the moment it is recognised and it is effective in the home member state, and the liquidation and all the issues referred to in section 33A are governed by the laws prevailing in the home member state, whereas the provisions of the Companies Law or the Cooperative Societies Law, as they may be amended or replaced, are applicable to the extent that they are not in conflict with the laws of the said home member state.”

Replacement of Section 33Bbis of basic law.

33. Section 33Bbis of the basic law is replaced by the following new section:

Special ACI liquidation.

33Bbis. (1) Section 33B notwithstanding, the Central Bank shall file an application with the court for the issue of a special liquidation order to be granted and for a special liquidator to be appointed, for a bank or a CCI accordingly, in accordance with subsection (2) where:

(a) the ACI's licence has been withdrawn pursuant to section 30(1A) or section 4A or the ACI's licence has been handed over pursuant to section 4(6); and

(b) the ACI concerned is holding deposits covered in the case of a bank by the Bank Deposit Protection Fund and in the case of a CCI by the CCI Deposit Protection Fund provided for under the Law on the Establishment and Operation of a Deposit Protection and Resolution of Credit and Other Institutions Scheme, as it may be amended or replaced; and

(c) the special liquidation of the ACI concerned serves the public interest:

It is provided that the provisions of the Companies Law or the Cooperative Societies Law shall apply in as much as they do not conflict with the provisions of the present section:

It is further provided that the provisions of Part XIII on the liquidation of ACIs shall also apply to cases of special liquidation of ACIs save where they conflict with the provisions of the present section.

(2)(a) The Court, grants an order as referred to in subsection (1) if it is convinced that the preconditions stipulated therein are satisfied and shall appoint a special liquidator other than the official receiver, the provisions of section 229 of the Companies Law notwithstanding, at the recommendation of the Central Bank and after the Court hears its opinion.

(b)(i) The said order shall be granted by the Court further to an *ex parte* application in application, *mutatis mutandis*, of section 9 of the Civil Procedure Law and the Civil Procedure Rules.

(ii) The deadline set by the Court for the ACI to file an objection or to prove why the order granted should cease to apply shall not exceed three (3) days.

Ch. 6.
11 of 1965
161 of 1989
228 of 1989
51(I) of 1999
134(I) of 1999
58(I) of 2003
66(I) of 2004
138(I) of 2006.

Δ.N. Top. II,
Page 120,
Official
Gazette,
Annex Three:
20.5.1954
21.6.1956
8.5.1958.
Official
Gazette,
Annex
Two:
19.11.1964
14.10.1965
23.12.1965
29.1.1969
24.10.1969
6.10.1972
18.1.1974
10.10.1975
4.6.1976
3.2.1978
25.5.1980
3.9.1982
31.12.1983
25.5.1980
3.9.1982
31.12.1983
25.4.1986
14.11.1986

27.2.1987
12.2.1988
23.12.1992
12.3.1993
2.4.1993
19.11.1993
24.2.1995
3.3.1995
2.2.1996
23.3.1996
5.7.1996
19.7.1996
27.9.1996
18.10.1996
1.11.1996
11.11.1996
25.7.1997
6.2.1998
8.5.1998
3.7.1998
29.5.1998
27.11.1998
23.12.1999
29.12.2000
1.6.2001
30.11.2001
21.12.2001
25.1.2002
18.10.2002
7.2.2003
4.7.2003
18.7.2003
14.11.2003
21.5.2004
17.12.2004
21.1.2005
20.1.2006
27.1.2006
5.12.2007
20.2.2009
9.9.2011.

(c) The said order shall state that the special liquidator is subject to control and supervision by the Central Bank.

(3)(a) The special liquidator selected shall be a person of recognised repute and professional experience in financial matters.

(b) The special liquidator's fee and procedural costs shall be paid by the ACI in special liquidation. If it is unable to pay all or part of the costs, the Central Bank shall assume the liability in question.

(4) The special liquidator has -

(a) as a primary duty to cooperate with the Management Committee of the Deposit Protection and Resolution of Credit and Other Institutions Scheme and to ensure as quickly as possible that depositors are paid compensation in accordance with the Law on the Establishment and Operation of a Deposit Protection and Resolution of Credit and Other Institutions Scheme and the

regulations issued pursuant thereto; and

(b) as a secondary duty, to complete special liquidation so as to bring about the best possible results for all the ACI's creditors,

It is provided that the attainment of the special liquidator's primary duty referred to in paragraph (a) shall take precedence over the duty referred to in paragraph (b); however, the special liquidator must work to attain both duties.

(5) (a) Without prejudice to the powers vested in liquidators under section 233 of the Companies Law and Cooperative Societies Law, the special liquidator shall have the following powers in addition thereto:

- (i) To maintain and contract insurance policies relating to the ACI's work and assets;
- (ii) to take action he deems necessary to realise the ACI's assets; and
- (iii) to make all payments he deems necessary in order to attain his objectives and exercise his powers.

(b) Notwithstanding the provisions of section 233 of the Companies Law in respect of approval by the court or the verification committee the special liquidator shall exercise or execute his powers subject to approval by the Central Bank.

(c) The provisions of section 259 of the Companies Law notwithstanding and without prejudice to the proviso contained in that section, the powers referred to therein shall be exercised or executed by the special liquidator subject to control by the Central Bank.

(d) Financial instruments in material or dematerialised form belonging to the ACI's clients and held directly or indirectly by the ACI, clients' claims to which are verified based on entries in the ACI's books and records or on any other written proof, and the contents of safety deposit boxes shall be separated from the assets for distribution and delivered to the rightful parties unless:

- (i) a lien has been established on them, in which case they shall be delivered to the secured lender; or
- (ii) the ACI has a claim against the rightful party, in which case they shall be offset against similar and opposing claims.

(6) The Central Bank must ensure that the special liquidator performs his duties in accordance with the present section.

(7) The Central Bank shall, as soon as it is feasible, make recommendations to the special liquidator as to the best ways of attaining his primary duty as referred to in paragraph (a) of subsection (4) and the special liquidator must comply with any such recommendations.

(8) The special liquidator must report to the Central Bank, on any subject:

- (a) at the request of the Central Bank and with a specific timetable set by it; or

(b) as and when the special liquidator deems necessary.

(9) The special liquidator shall advise the Central Bank of progress in his primary duty as referred to in paragraph (a) of subsection (4) and shall notify the Central Bank in writing when he considers that duty to have been attained in its entirety or to what he considers to be the most feasible point.

(10) On receipt of the notification referred to in subsection (9), the Central Bank shall:

(a) decide that the special liquidator's primary duty as referred to in paragraph (a) of subsection (4) has been attained in its entirety or to the most feasible point; or

(b) apply to the court, for instructions to exercise the powers vested in it under the present section.

(11) Where resolution measures have been applied to a ACI in accordance with the Resolution of Credit and Other Institutions Law, special liquidation of the ACI concerned shall only be completed once application of the measures in question has been completed.

(12) In the event that voluntary liquidation of an ACI has already commenced in accordance with the provisions of the Companies Law or the Cooperative Societies Law, as the case maybe, and the preconditions of subsection (1) are satisfied, the Central Bank may file an application to the court for a special liquidation order referred to in the present section.

(13) No lawsuit or proceedings shall be continued or initiated against a bank in liquidation from the date on which the ACI special liquidation order is granted and the special liquidator is appointed.

(14) The special liquidator shall perform his duties until such time as:

(a) He resigns from them in notice to the court to be copied to the Central Bank

(b) he is relieved of them, by order of the court at the recommendation of the Central Bank.

(15) The special liquidator may only be held liable in the event of fraud or gross negligence. He shall not have any liability whatsoever for debts of the ACI in special liquidation that accrued prior to his appointment."

Amendment of Section 33E of basic law. 34. Section 33E of the basic law is amended with the replacement of subsection (1) with the following subsection:

(1) Where the opening of winding-up proceedings is decided on in respect of an ACI in the absence, or following the failure, of reorganisation measures, the authorisation of the ACI shall be withdrawn by the Central Bank and the latter informs immediately the competent authorities of the other member states in which the bank has branches.

It is provided that, where the Central Bank decides to withdraw the licence of an ACI incorporated in a third country, it shall inform the competent authorities of member states of its decision, before the opening of winding-up proceedings, providing information on the potential effects of this procedure.

Replacement 35. Section 33J of the basic law is replaced by the following new section 33J

of Section 33J
of basic law.

“Set off.

33J. Subject to the provisions of the Companies Law, the Cooperative Societies Law and of sections 33(7), and 33A(I) of this Law, and in the case where the ACI is an institution with covered bond obligations, of section 40(4) of the Covered Bond Law, the adoption of reorganisation measures or the opening of winding-up proceedings shall not affect the right of a creditor to demand the set-off of its claims against the claims of the bank, where such a set-off is permitted by the contract signed between the creditor and the ACI.”

Replacement
of Section 33N
of basic law

36. Section 33N of the basic law is replaced by the following new section 33N:

“Dissolution of a bank that is an institution with covered bond obligations.

33N. For the purposes of the provisions of the Companies Law or the Cooperative Societies Law, concerning the dissolution of a company or society after the complete winding up of its affairs, an ACI which is an institution with covered bond obligations, is not dissolved even if all of its affairs have been completely winded up, before the Central Bank terminates the appointment of the covered bond business administrator under subsection (1) of section 67 of the Covered Bond Law of 2010 and notifies the decision of this termination in accordance with subsection (2) of the same section.”

Amendment of
Section 34 of
basic law.

37. Section 34 of the basic law is amended as follows:

(a) with the replacement in subsection (1) of the phrase “Deposit Protection Fund” with the phrase “Bank Deposit Protection Fund and CCI Deposit Protection Fund”.

(b) with the replacement in subsection (5) of the phrase “the terms “Committee”, “Scheme” and “Deposit Protection Fund”” with the phrase “the terms “Committee”, “Scheme”, “Bank Deposit Protection Fund” and “CCI Deposit Protection Fund””.

Replacement
of Section 35
of basic law.

38. Section 35 of the basic law is replaced by the following new section 35:

“Application of this Law to the Central Cooperative Bank.

35. The provisions of this Law shall apply to the Central Cooperative Bank with the exception of subsection (1) of section 14 of this Law.”

Amendment of
Section 39 of
basic law.

39. Section 39 of the basic law is amended as follows:

(a) with the replacement of subsections (2), (4) and (6) with the following new subsections (2), (4) and (6) respectively:

“ (2) The Central Bank may determine that any of the subsidiaries of an ACI incorporated in the Republic and or of the holding company of an ACI incorporated in the Republic shall be deemed to be a credit institution for the purpose of any of the provisions of this Law as may be specified by the Central Bank, whereupon the relevant provision or provisions shall apply to any such company either individually or on a consolidated basis.”

“(4) without prejudice to the provisions of paragraphs (1) to (3), the Central Bank may exercise consolidated supervision, in the manner it considers as appropriate where:

(a) an ACI incorporated in the Republic, exercises in the opinion of the Central Bank, a significant influence over one or more credit institutions or companies that mainly carry

on activities ancillary to credit institutions activities, but without holding any participation or other capital ties with them;

(b) two or more ACIs incorporated in the Republic or companies mainly carrying on activities ancillary to credit institutions activities are placed under single management other than pursuant to a contract or clauses of their memoranda or articles of association:

Where consolidated supervision is required pursuant to subsection (7), ancillary services undertakings and asset management companies shall be included in consolidations in the cases and in accordance with the methods laid down in section 39B and in this subsection.”

“(6) Where an ACI, the parent company of which is a credit institution or an undertaking

(a) engaged in activities ancillary to activities of a credit institution or closely related to them, in accordance with the provisions of subsection (3) of section 13 and

(b) which is registered in a third country and is not subject to consolidated supervision in accordance with the provisions of subsections (4) and (5),

the Central Bank shall verify whether the ACI is subject to consolidated supervision by a supervisory authority of the third country, which is equivalent to that governed by the principles of this section:

It is provided that the Central Bank shall, for this purpose, consult any other competent authority of the member states involved:

It is further provided that the Central Bank shall, for this purpose, take into account the general guidance of the European Banking Committee as to whether the consolidated supervision arrangements of competent authorities in third countries are likely to achieve the objectives of consolidated supervision as defined in this section in relation to ACIs the parent undertaking of which has its head office outside the European Union. For that purpose, the Central Bank consults EBA before adopting a decision:

It is further provided that in the absence of such equivalent supervision, the Central Bank shall apply to the bank the provisions of this section by analogy.”

(b) with the replacement of paragraph (e) of subsection (7) with the following new paragraph:

“ (e) Where more than one credit institution authorised in the Union has as its parent the same financial holding company and none of these credit institutions has been authorised in the Member State in which the financial holding company was registered, supervision on a consolidated basis shall be exercised by the Central Bank if it authorised the credit institution with the largest balance sheet total, which shall be considered, for the purposes of this Law, as the credit institution controlled by an EU parent financial holding company.”

(c) with the replacement of paragraph (d) of subsection (10A) with the following new paragraph (d):

“ (d) The essential information referred to in paragraph (a) include, in particular, the following items:

(i) identification of the group structure of all major credit institutions in a group, as well as of the competent authorities of the credit institutions in the group;

(ii) procedures for the collection of information from the credit institutions in a group, and the verification of that information;

(iii) adverse developments in credit institutions or in other entities of a group, which could seriously affect the credit institutions; and

(iv) major sanctions and exceptional measures taken by competent authorities in accordance with Directive 2006/48/EC, including the imposition of an additional capital charge under paragraph 1 of article 136 of Directive 2006/48/EC and the imposition of any limitation on the use of the Advanced Measurement Approach for

the calculation of the own funds requirements under article 105 of Directive 2006/48/EC.”

Amendment of
Section 41 of
basic law.

40. Section 41 of the basic law is amended as follows:

(a) with the replacement in subsection (2) of the phrase “banking system” with the phrase “financial system”.

(b) with the replacement in subsection (4) of the semicolon with a full stop and the abolition of the proviso of that subsection. .

(c) with the addition of the following new subsection (6):

“(6) Without prejudice to the generality of subsections (1) and (2) the Central Bank may issue directives regarding the terms, conditions and procedures for the operation of systems or mechanisms for the exchange, collection and provision of data of cooperative credit institutions related to the evaluation of the creditworthiness of customers and their connected persons by cooperative credit institutions and the terms, conditions and procedures of cooperation of such systems or mechanisms with other corresponding arrangements or with credit institutions or financial institutions in Cyprus or abroad:

Provided that the directive issued under this subsection may provide for the exchange of data that is absolutely necessary for purposes related to the evaluation of the creditworthiness of customers and their connected persons. ”

Amendment of
Section 42 of
basic law.

41. Section 42 of the basic law is amended as follows:

(a) with the replacement in paragraph (d) of subsection (1), of the fool stop with a comma.

(b) with the replacement in subsection (1) of the phrase "to eighty thousand euro" with the phrase "to five hundred thousand euro" and the phrase "to eight thousand euro" with the phrase "to five thousand euro».

(c) with the replacement of subsection (2) with the following new subsection (2):

“(2) Without prejudice to subsection (1), where the Central Bank in the course of exercising its powers or responsibilities to examine and supervise ACIs pursuant to this Law or the directives issued under this Law, including its powers and responsibilities to collect information, enter and inspect under sections 25 and 26, ascertains that an ACI, due to fault or negligence or omission or in the knowledge of the member of the management body or/and of its chief executive officer or/and of a manager -

(a) contravenes or fails to comply with any directive or circular lawfully issued to ACI’s by the Central Bank, or

(b) contravenes or fails to comply, within the specified time limit or, in the absence of such time limit, within a reasonable time, with any requirement or notice of the Central Bank lawfully made or addressed to it, or

(c) in complying with any such directive, requirement or notice of the Central Bank or with any provision of the Law or the Regulations issued thereunder, provides or makes available any misleading, inaccurate or incomplete data or information, which it knew or ought to have known that they did not represent true reality, or

(d) violates or fails to comply with any of the provisions of sections 11, 12, 13, 14, 15, 15A, 20, 21, 23, 24 and 25,

the Governor of the Central Bank, after inviting the bank’s managing director or/and its chief executive officer or/and its director to state its defence, has the power to impose for each and every contravention an administrative fine, ranging from one thousand euro (€1.000) to one hundred thousand euro (€10.000), depending on the seriousness of the contravention, and in the case of a continuing contravention, the Governor of the Central Bank is additionally empowered to impose a further administrative fine, ranging from one hundred euro (€100) to five thousand euro

(€5.000), depending on the seriousness of the contravention, for each day during which the contravention continues.”

Amendment of Section 42A. 42. Section 42A of the basic law is amended with the replacement of the phrase "not exceeding three thousand euro" with the phrase "not exceeding twenty thousand (€20.000)" and the phrase "not exceeding one hundred pounds" with the phrase "not exceeding five hundred euro (€500)»

Amendment of Section 43 of basic law 43. Section 43 of the basic law is amended as follows:

(a) with the replacement in subsection (1) of the phrase "not exceeding two years" with the phrase "not exceeding five (5) years", the phrase "not exceeding fifty thousand pounds" with the phrase "not exceeding five hundred thousand euro (€500.000)" and the phrase "not exceeding one thousand pounds" with the phrase "not exceeding five thousand euro (€5.000)»

(b) with the replacement in subsection (2) of the phrase "not exceeding fifty thousand pounds" with the phrase "not exceeding five hundred thousand euro (€500.000)" and the phrase "not exceeding one thousand pounds" with the phrase "not exceeding five thousand euro (€5.000)», and

(c) with the deletion in subsection (3) of the phrase “managing director,”.

Amendment of the basic law with the insertion of new Section 45^A. 44. The basic law is amended with the insertion of the following new section 45A after section 45:

“Provisions for former licences of CCIs.

45A. (1) Licences issued under Part VIA of the Cooperative Societies Law shall be deemed to be licences issued under this Law by the Central Bank and are subject to all provisions of this Law; The Central Bank revokes, prior to 31st March 2014, every license under the provision of this subsection.

(2) Any conditions attached to a licence referred to in subsection (1) shall be deemed to be conditions imposed under this Law and shall continue to be in force until amended, varied or revoked by the Central Bank.

(3) CCI with a licence under the scope of application of subsection (1), may not establish a branch nor provide cross border services in another member state under section 10C before 31st March 2014.”

Replacement of Section 46 of basic law 45. The basic law is amended with the replacement of section 46 with the following new section 46:

“Compliance with this Law.

46. An ACI which at the date of entry into force of this Law is in excess of the limits prescribed in paragraphs (h) to (j) of subsection (1) of section 11 shall within fifteen (15) working days from the date of entry into force of this Law inform the Central Bank of the above situation and the Central Bank shall, after a meeting with the ACI set time limits or other conditions as it deems appropriate for the rectification of the situation and the maximum period for rectification of the situation may not exceed three (3) years from the date of entry into force of this Law.”

Amendment of Section 47 of basic law 46. Section 47 of the basic law is amended with the replacement of the phrase “substantial losses or hardship for the bank or its customers” with the phrase “substantial losses for the ACI or its customers”.

Amendment of 47. The basic law is amended with the insertion after section 47 of the following new

the basic law with the insertion of new Section 47A.

section 47A:
Scope of application of existing regulations and directives of 49. Any regulations, directives or other administrative acts issued under this Law to the banks shall apply and shall be implemented by CCIs to the extent that they are not incompatible with the provisions of this Law.