

## LAW AMENDING THE BUSINESS OF CREDIT INSTITUTIONS LAWS

The House of Representatives votes as follows:

Short title. 1. This Law shall be cited as the Business of Credit Institutions (Amendment) (No.4) Law of 2013 and shall be read together with the Business of Credit Institutions Laws of 1997 to (No.3) of 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 (No. 4) 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  
102(l) of 2013.

Amendment of Section 2 of the basic law. 2. Section 2 of the basic law is amended by inserting in the appropriate alphabetical order of the following new terms and their definitions:

“Potential customer” means, for the purposes of the definition of the term “system or mechanism for the exchange of data” and for the purposes of Section 28D (3), a natural or legal person resident or non resident of the Republic in relation to whom the ACI and the credit institution that operates within the Republic under section 10A of the Law are in the process of assessing an application for the granting of a credit exposure as defined in Section 11 (4) (a).

«mechanism for the exchange of data AIANTAS» means the system or mechanism for the exchange of data that is owned by the Cooperative Central Bank, in which the cooperative credit institutions incorporated under the Cooperative Societies Law and the Housing Finance Corporation, participate, and which it operates in accordance with the provisions of this Law and the directives issued pursuant to it and is kept and processed centrally by the Cooperative Computer Society (SEM) Ltd ·»

«mechanism for the exchange of data ARTEMIS» means the system or the mechanism for the exchange of data, that is owned and processed by ARTEMIS Bank Information Systems Ltd, in which all Authorised Credit Institutions and Credit Institutions that operate in the Republic under section 10A of the Law, except the Cooperative Credit Institutions and the Housing Finance Corporation, participate ·»

«system or mechanism for the exchange of data» means system or mechanism that meets all the following requirements:

(a) its operation constitutes the provision, for participating ACIs and credit institutions that operate in the Republic under section 10A, of services for assessing the creditworthiness of their customers and / or the collection, registration, storage, processing, transmission to the participating ACIs and the credit institutions that operate in the Republic under section 10A and / or the exchange between the participating ACIs and the credit institutions that operate in the Republic under section 10A of the Law of data, records and / or information regarding all customers’ facilities, in order to assess the creditworthiness of the customers of ACIs and credit institutions that operate in the Republic under section 10A and their connected persons aiming at the more efficient management of credit and / or other related risks,

(b) provide information, referred to in Section 28E and directives issued under this Law to the Central bank for purposes of exercising its powers that derive from this Law, among others, for the calculation of the probability of default and loss given default and

(c) in this system or mechanism participate only ACIs and credit institutions that operate in the Republic under section 10A or institutions whose principal activity consists in carrying out one or more of the activities listed in paragraphs (a) and (a1) of subsection (3) of section 13 ·

"Customer" means, for the purposes of the definition of the term "system or mechanism for the exchange of data" and for the purposes of sections 28D, 28E, 29 (2) (giv), 41 (6) and 41 (7), a natural or legal person, who has an exposure as defined in section 11 (4) (A), and includes an existing customer, a guarantor of the customer and a supplier of security to the customer and their connected persons.

- Amendment of section 11 of the basic law.
3. Article 11 of the basic law is amended by the replacement in subsection (1) of the phrase "An ACI incorporated in the Republic shall not" with the phrase "(1) Subject to the provisions of subsection (2) of section 46, an ACI incorporated in the Republic shall not –"
- Amendment of section 14 of the basic law.
4. Subsection (1) of Article 14 of the Basic Law is replaced by the following new subsection (1):
- « (1) Subject to subsection (3) of section 46, an ACI shall not exercise on their own account or on a commission basis a trade or business activity unless such activity or business is conducted in the ordinary course of business of a credit institution for purposes of settling debts to the ACI. »
- Amendment of the basic law with the addition of the new section 19B.
5. The basic law is amended with the addition right after the section 19A of the following new section:
- «Governing Body. «19B. The majority of the members of the governing body and the Chairman of the governing body of the ACI are independent. The independence criteria of the members of the management body, are defined in the Central Bank of Cyprus directive about the Framework of Principles of Operation and Criteria of Assessment of Banks' Organisational Structure, Internal Governance and Internal Control Systems of 2006 to 2012.»
- Amendment of the basic law with the addition of a new section.
6. The basic law is amended with the addition, right after the section 28C, of the following new sections:
- «Interconnections of Mechanisms for the Exchange of Data. 28D. (1) All ACIs and the credit institutions that operate in the Republic under section 10A, excluding the CCIs and the Housing Finance Corporation are required to participate and provide data to the mechanism for the exchange of data ARTEMIS and all CCIs incorporated under the Cooperative Societies Law and the Housing Finance Corporation are required to participate and provide data to the mechanism for the exchange of data AIANTAS.
- (2) The data provided by ACIs and the credit institutions that operate in the Republic under section 10A of the Law to the mechanisms for the exchange of data AIANTAS and ARTEMIS are defined by directives of the Central Bank and include data about all the customers' facilities performing or not,
- (3) The mechanisms for the exchange of data ARTEMIS and AIANTAS are interconnected electronically in order to enable the correlation of the data of both mechanisms, for the purpose that access rights to data of ACIs and credit institutions that operate in the Republic under section 10A excluding CCIs and the Housing Finance Corporation shall also be given, in addition to themselves to all the participants in the mechanism for the exchange of data AIANTAS, and access rights to data from the CCIs and the Housing Finance Corporation shall also be given, in addition to themselves, to all the participants in the mechanism for the exchange of data ARTEMIS.
- 138(I) of 2001  
37(I) of 2003  
105(I) of 2012
- It is understood that the interconnection of the mechanisms for the exchange of data is subject to Section 8 of the Processing of Personal Data (Protection of Individuals) Laws of 2001 to 2012.

(4) All ACIs and the credit institutions that operate in the Republic under section 10A, and are subject to the supervision of the Central Bank on a consolidated basis according to this Law and which participate in the mechanisms for the exchange of data AIANTAS and ARTEMIS, have the right to access data kept in those mechanisms with the main purpose to assess the creditworthiness of their customers and/or their potential customers and the more effective management of credit risk or other related risks.

(5) All the subsidiaries of ACIs and credit institutions operating in the Republic under Section 10A, which have been established under the Companies Law and the Cooperative Societies Law and operating in the Republic, which are included in the consolidated supervision of the Central Bank, will have the same obligations and rights.

(6) (a) Data transfer from the interconnected system or mechanism for the exchange of data of subsection (3) to other systems or mechanisms for the exchange of data outside the Republic takes place after the applicant has submitted a well documented report to the Central Bank. In case this report does not include the findings of consultations with ACIs and credit institutions that operate in the Republic under Section 10A, the Central Bank proceeds with consultations itself.

(b) The Central Bank after having agreed with the reasons and the purpose of the requested data transmission and after having determined the data which might be transmitted by the mechanism for the exchange of data to subsection (3) shall take all necessary measures provided in the Processing of Personal Data (Protection the Individual) Law of 2001 to 2012 in relation to the issuance of the relevant authorization where applicable.

(7) The provisions of Section 29 shall apply to any person who becomes aware of data and information from a mechanism for the exchange of data.

(8) The Central Bank exercising the powers conferred to it by section 41 (6) of the Law, issues Directives specifying the charging procedures from the mechanisms to the ACIs and credit institutions operating in the Republic under Article 10A and / or specifying the level of fees to be charged, as deemed necessary.

Powers of access, monitoring and control.

28E. (1) The Central Bank has the authority to supervise mechanisms or systems for exchange of data in order to ensure the proper management of the data that exist in their database.

(2) For the purpose of exercising its supervision, the CBC or any person authorised by it has the right of entry and access to all systems, data and operations of the mechanism or system for the exchange of data.

(3) Access to the data kept in a mechanism for the exchange of data is granted by this Law to the Central Bank or to any person authorised by it.

(4) The Central Bank may require from the Cooperative Central Bank and the ARTEMIS Bank Information Systems Ltd as administrators of the mechanisms for the exchange of data AIANTAS and ARTEMIS respectively, to access the records and the production of reports for the purpose of exercising its powers.

The Central Bank may require, among other, information and reports of the total exposure and performance of a customer and its connected persons and statistics to create a statistical model to estimate the probability of default and losses given default.

(5) Information obtained under this section are kept confidential and used only for the purposes of this Law.

It is understood that the Central Bank may publish statistical information obtained

pursuant to this Section.

Amendment of section 29 of the basic law.

7. Section 29 of the Basic Law is amended by the substitution of paragraph (giv), in this subsection (2), with the following new paragraph (giv):

«(giv) information is provided in a system or a mechanism for the exchange of data of ACIs and the credit institutions that operate in the Republic under section 10A under this Law and directives issued under section 41 (6):

It is understood that, unless one or more of the cases referred to in this subparagraph is present, any person that has access through system or mechanism for the exchange of data or access through any other way to the information provided in a system or mechanism for the exchange of data, is prohibited from providing, communicating, disclosing or using for his own benefit any information regarding the account of particular customer of ACI or credit institution that operates in the Republic under section 10A, either while his employment or professional relationship, through which he gained access to such information continues or after it has been terminated.

Amendment of section 35 of the basic law.

8. Section 35 of the basic law is amended by deleting the phrase "with the exception of subsection (1) of Article 14 of this Law." (second and third line).

Amendment of section 41 of the basic law.

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

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

« (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 of data that are associated with the use by the Central Bank of the data for the performance of its powers deriving from this Law and the assessment of the creditworthiness of customers and their connected persons from the ACIs and the credit institutions that operate in the Republic under section 10A and the terms, conditions and procedures for the cooperation of such systems or mechanisms for the exchange of data with other relevant arrangements or with credit or financial institutions within the Republic or abroad.

It is understood that the directive issued under this paragraph, may provide that the exchange between the ACIs and the credit institutions that operate in the Republic under section 10A may only refer to the data, details and information that are absolutely necessary for purposes relating to the evaluation of the creditworthiness of customers and their connected persons and the more effective management of credit or other related risks as well as for the use by the CBC of such information that is considered necessary for the exercise of its powers deriving from this Law.»

(b) With the addition, right after subsection (6), of the following new subsection (7):

« (7) By virtue of subsection (6) directives issued by the Central Bank contain provisions that govern or regulate in particular:

(a) the data or information entered into the database of a system or a mechanism for the exchange of data.

(b) the frequency of the supply of data or information in the database of a system or a mechanism for the exchange of data.

(c) the right to use and how to use or access data or information of systems or mechanisms for the exchange of data.

(d) the obligations of the administrators of the systems or the mechanisms for the exchange of data.

(e) the process of handling customer complaints that relate to data, details or information included in the system or the mechanism for the exchange of data.

(f) any other matter that may be deemed useful or necessary to be regulated or specified in the Directive.»

Amendment of

10. Section 42 of the basic law is amended with the addition, right after the subsection (2), of the following

section 42 of the basic law.

new subsection:

«(3) (a) In case that the Central Bank, during the exercise of its powers or jurisdictions for the control and supervision of the mechanisms for the exchange of data under this Law or the directives issued pursuant to this, including its powers and jurisdictions, for entry and investigation under sections 28 (E), evidences that any system or mechanism for the exchange of data-

(i) Violates or fails to comply with any legally published directive or circular of the Central Bank towards the systems or mechanisms for the exchange of data, or,

(ii) violates or fails to comply within the specified time limit or in the absence of such, within a reasonable time, to any legally submitted or addressed to it claim or notice of the Central Bank, or

(iii) complying to any such directive, requirement or notice of the Central Bank or to any provision of the current Law or directives issued pursuant to it, provides or demonstrates any misleading, inaccurate or incomplete data or information which it knew or should have known that they are not true,

the Governor of the Central Bank, after calling the mechanism for the exchange of data to state its defence, has the power to impose for each violation an administrative fine of one thousand (€1.000) to eighty thousand euro (€80.000), depending on the severity of the violation and in case the violation continues, the Governor of the Central Bank has additionally the power to impose an administrative fine, depending on the severity of the violation, of one hundred (€100) up to eight thousand euro (€8.000) for each day that the violation continues.

(b) Without prejudice to paragraph (a) in the event that the Central Bank, in the exercise of its powers or jurisdictions thereof for the control and supervision of the mechanisms for the exchange of data under this Law or under the directives issued pursuant to this, including its powers and jurisdictions for entry and investigation under Article 28 (E), ascertains that any system or mechanism for the exchange of data, due to fault or negligence or omission or in the knowledge of the members of the Board of Directors and / or the Chief Executive Officer and / or the Director and / or the Manager, –

(i) Violates or fails to comply with any legally published directive or circular of the Central Bank towards the banks, or

(ii) violates or fails to comply within the specified time limit or in the absence of such, within a reasonable time, to any legally submitted or addressed to it claim or notice of the Central Bank, or

(iii) complying with any such directive, requirement or notice of the Central Bank or with any provision of the Law or the directives issued pursuant to this, provides or demonstrates any misleading, inaccurate or incomplete data or information which it knew or should have known that they are not true,

the Governor of the Central Bank, after inviting the members of the Board of Directors and / or the Chief Executive Officer and / or the Director and / or the Manager to state its defence, has the power to impose on the relevant person (persons) for each violation an administrative fine of one thousand (€1.000) to twenty thousand euro (€20.000), depending on the severity of the violation and, in case the violation continues, the Governor of the Central Bank has additionally the power to impose an administrative fine, depending on the severity of the violation, of one hundred (€100) up to one thousand euro (€1.000) for each day the violation continues. "

Amendment of section 46 of the basic law.

11. Section 46 of the basic law is amended as follows:

(a) by renumbering the existing text to subsection (1) and replacing the phrase "ACI" in any grammatical variation of the phrase with the phrase "bank incorporated in the Republic" in the corresponding grammatical variation; and

(b) by adding, right after the subsection (1) the following new subsections:

"(2) The provisions of paragraphs (b) to (j) of subsection (1) of Section 11 shall apply to the CCIs whose operating license lies within the scope of implementation referred to in subsection (1) of section 45A from the date of issue of the license by the Central Bank under this Law.

(3) The provisions of subsection (1) of Article 14 shall apply to the Co-operative Central Bank and ACIs established under the Cooperative Societies Law from January 1, 2017. "

