

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

BANKING UNIT

BANKING RULES

*CAPITAL ADEQUACY OF CREDIT INSTITUTIONS
AUTHORISED UNDER THE BANKING ACT 1994*

Ref: BR/08/2011

CAPITAL ADEQUACY OF CREDIT INSTITUTIONS AUTHORISED UNDER THE BANKING ACT 1994

INTRODUCTION

1. In terms of Article 4 of the Banking Act 1994 ('the Act') the competent authority ('the authority') as appointed under Article 3(1) of the Act may make Banking Rules as may be required for carrying into effect any of the provisions of the Act. The authority may amend or revoke such Banking Rules. The Banking Rules and any amendment or revocation thereof shall be officially communicated to banks and the authority shall make copies thereof available to the public.
2. The Capital Adequacy of Credit Institutions Rule ('the Rule') is complementary to Banking Rule BR/04 on the Capital Requirements of Credit Institutions and is being made pursuant to Article 17 of the Act.
3. Article 17 of the Act states that:

"(1) A credit institution, to the exclusion of an electronic money institution, shall:
 - (a) maintain capital requirements to risk-weighted assets and notional risk-weighted assets as defined in and calculated according to the provisions of a Banking Rule;*
 - (b) notify the ratio to the competent authority at such times and in such manner as shall be prescribed by a Banking Rule;*
 - (c) notify the competent authority forthwith upon the ratio falling below the level required by paragraph (a) whereupon the competent authority shall require the credit institution, to the exclusion of an electronic money institution, to take necessary measures to restore the capital requirements to the required level within such period as the competent authority may determine."*
4. Within the scope of paragraph 2, the Rule enhances the existing capital adequacy regime consisting of the Capital Requirements Rule BR/04 and the Large Exposures of Credit Institutions Rule BR/02. It provides common basic standards for the capital adequacy of credit institutions while providing a complementary framework for the supervision of the risks incurred by credit institutions, in particular market risks incurred by them in their trading book activities and more specifically position risk, counterparty/settlement risk, foreign-exchange risk, underwriting risk and commodities risk. The responsibility for observing the obligations in relation to the Rule rests entirely with the credit institution's Board of Directors and its management.
5. Credit institutions consequently are subject to the common standards already established for the supervision and monitoring of their exposures to credit risks by virtue of Capital Requirements Rule BR/04. The Rule together with the Capital Requirements Rule BR/04 and the Large Exposures of Credit Institutions Rule BR/02 comprises the capital adequacy regime for credit institutions.

SCOPE AND APPLICATION

6. The scope of the Rule is to allocate capital to the market and other risks associated with the trading activities of a credit institution. To achieve the scope of the Rule within an international context, the Rule has been based on:
 - (i) the European Union Council Directive 2006/49/EC of 14 June 2006 on the Capital Adequacy of Investment Firms and Credit Institutions (recast); and
 - (ii) the Bank for International Settlements (BIS) Basel Committee on Banking Supervision January 1996 Amendment to the Capital Accord of 1988.
7. The Rule applies to all credit institutions except for those institutions with minimal trading book business (as determined by paragraph 30). Institutions with minimal trading book business, in both absolute and relative terms, are required to continue to apply the Capital Requirements Rule BR/04, rather than the requirements imposed in the annexes to the Rule relating to their Settlement and Counterparty risk (**Annex II**), Position risk (**Annex III**), Underwriting risk (**Annex IV**) and Large Exposures risk (**Annex VI**).

Foreign exchange risk (**Annex I**) and Commodities risk (**Annex V**) are applicable irrespective of whether a credit institution holds a trading book or not (vide paragraph 31).
8. The Large Exposures Rule BR/02 on the monitoring and control of large exposures of credit institutions does not incorporate common rules for monitoring large exposures in activities which are principally subject to market risks. Notwithstanding this, those credit institutions which calculate the capital requirements for their trading book business relating to Settlement and Counterparty risk (**Annex II**), Position risk (**Annex III**), Underwriting risk (**Annex IV**) and Commodities risk (**Annex V**), shall monitor and control their large exposures in both the banking and trading book in accordance with the Large Exposures Rule BR/02 subject to the modifications laid down in **Annex VI** to this Rule.
9. In order to take account of the particular characteristics of the activities carried on by those credit institutions which mainly involve market risks, Supplementary Own Funds, as defined in the Own Funds Banking Rule BR/03, may only be used to support trading book activities and foreign exchange risk and may not be applied to those trading book capital requirements arising out of counterparty and settlement risk.
10. The Rule also establishes common rules for the consolidated capital requirements of credit institutions that are involved in activities principally subject to market risks.

NOTIFICATION TO THE AUTHORITY

11. Credit institutions are obliged to report in the manner specified in the Capital Requirements Rule BR/04, that is, on a quarterly basis which must coincide with balance sheet date. The capital requirements under the Rule shall be reported on a

solo basis where applicable. In the case of a credit institution being the parent company within a group of companies, reporting shall be made on a solo and on a consolidated basis. The authority may also request reports on a solo consolidated basis irrespective of whether the reporting credit institution is itself the parent or a subsidiary within a group of companies to which it forms part. The authority may however request a credit institution to report on a solo, solo consolidated or consolidated basis at any time subject to prior notification.

12. Article 17(1)(c) of the Act imposes the obligation on a credit institution to notify the authority forthwith upon that institution's own funds' requirements to risk-weighted assets and off-balance sheet items falling below a minimum as prescribed in the relevant Banking Rules.
13. Institutions are obliged to report to the authority immediately any case in which their counter-parties in repurchase and reverse repurchase agreements or securities and commodities-lending and securities and commodities-borrowing transactions default on their obligations.

THE USE OF MODELS

14. The use of models by credit institutions in the calculation of the overall foreign exchange risk capital requirement, position risk, and option risk management models is subject to a review process by the authority. The review process does not restrict the use by credit institutions of mathematical or computer models to price any transaction. Similarly, credit institutions may perform their own internal risk assessment using models without prior reference to the authority. The authority shall undertake a model review only if such model is used for the purposes of capital requirements calculations.
15. The authority will consider permitting a credit institution which has implemented a value-at-risk (VAR) type model to use that model to determine compliance with capital requirements on a daily basis, subject to certain conditions and criteria laid down by it. The conditions and criteria used by the authority will be based on those set out below in **Annex VII** to the Rule. Moreover, the authority may also refer to the Supervisory Framework for the use of "Backtesting" in conjunction with the BIS Internal Models Approach to Market Risk Capital Requirements, dated January 1996 and subsequent amendments.
16. The authority shall require each institution to agree a policy statement with it in relation to its use of models for the purpose of calculating the capital required by the Rule.
17. Paragraphs 8.0 to 12.0 of Section II.1 of Appendix 2 of Banking Rule BR/04 shall also apply to the recognition of internal models of institutions under Annex VII of Banking Rule BR/08 where the application is submitted by an EU parent credit institution and its subsidiaries or an EU parent investment firm and its subsidiaries, or jointly by the subsidiaries of an EU parent financial holding company.

ALLOCATION OF CAPITAL AGAINST RISKS

18. Institutions shall hold, on a solo *and/or* solo consolidated *and/or* a consolidated basis, own funds which are always more than or equal to the sum of the following:
- (i) the capital requirements, calculated in accordance with the methods and options laid down in **Annex I** (Foreign Exchange risk) and **Annex V** (Commodities risk) for all their trading and banking book business, and points 4 to 7 of **Annex II** (Settlement and Counterparty risk) for their non-trading book business;
 - (ii) the capital requirements, calculated in accordance with the methods and options laid down in **Annex II** (Settlement and Counterparty risk), **Annex III** (Position risk), **Annex IV** (Underwriting risk) and **Annex VI** (Large Exposures risk) for their trading book business;
 - (iii) the capital requirements as stipulated in the Capital Requirements Rule BR/04 for their banking book business;
 - (iv) any additional capital requirement which the authority may require in terms of Article 16A(2) of the Act to cover for those risks not covered by the Rule and the Capital Requirements Rule BR/04.

CALCULATION OF CAPITAL REQUIREMENTS

19. In accordance with paragraph 5 of the Capital Requirements Rule BR/04, the Capital Requirement is set at a minimum of 8% (banking book trigger). Furthermore, according to paragraph 6 of the Capital Requirements Rule BR/04, the authority may set a higher minimum banking book trigger. The minimum trading book trigger requirement shall be set at 8%. The authority may, at its discretion and for supervisory purposes only, set a higher than 8% minimum trading book trigger requirement under the Rule to a credit institution, for any particular capital requirement (haircut) – see **Appendix A** below.

Supervisory Capital Requirement

20. A credit institution's Supervisory Capital Requirement is equal to the result of the eligible Own Funds of the institution divided by the sum of:
- (a) the institution's banking book risk weighted assets (calculated in accordance with the Capital Requirements Rule BR/04) multiplied by 8%¹; and
 - (b) the institution's notional risk weighted assets (calculated in accordance with the Rule) multiplied by 8%¹.

¹ Or any other higher ratio as may be determined by the Authority.

According to the Rule, notional risk weighted assets are obtained by multiplying the measure of the relevant capital requirement (haircut) by 12.5 (i.e. the reciprocal of 8%). **Appendix A - item 7** to the Rule refers to the calculation of the Supervisory Capital Requirement.

21. A credit institution having a Supervisory Capital Requirement of 1 will be deemed to be meeting its minimum capital requirements for supervisory purposes.

Calculation of Capital Requirement

22. For the purpose of this Rule, a credit institution's Capital Requirement is equal to the result of the eligible Own Funds of the institution divided by the sum of the institution's banking book risk weighted assets (calculated in accordance with the Capital Requirements Rule BR/04) and the institution's notional risk weighted assets (calculated in accordance with the Rule) multiplied by 100 (**Appendix A – item 8**). **Appendix G** to the Rule sets out the Capital Adequacy Summary Schedule required to be submitted to the authority on a quarterly basis.

Publication of Capital Requirement

23. A credit institution may publish its Capital Requirement, calculated in accordance with paragraph 22 above, and subject to the Own Funds Rule BR/03.

Internal Ratings Based Approach

24. Where an institution calculates risk-weighted exposure amounts for the purposes of **Annex II** to this Rule in accordance with the provisions of the IRB Approach as utilised under Capital Requirements Rule BR/04, the following shall apply for the purposes of the calculation provided for in the latter Rule:
 - (a) value adjustments made to take account of the credit quality of the counterparty may be included in the sum of value adjustments and provisions made for the exposures in **Annex II** (for such institutions, such value adjustments shall not be included in own funds other than in accordance with this paragraph);
 - (b) subject to the approval of the authority, if the credit risk of the counterparty is adequately taken into account in the valuation of a position included in the trading book, the expected loss amount for the counterparty risk exposure shall be zero.

For the purposes of this paragraph, the provisions of paragraphs 9 - 12 of the Capital Requirements Banking Rule BR/04, Annex V - Transitional Provisions shall apply.

DEFINITIONS

25. **Appendix B** lists definitions applicable for the purpose of the Rule.

RISK MANAGEMENT SYSTEMS

26. The authority requires that all credit institutions employ systems which can calculate their financial positions with reasonable accuracy at any time. Therefore, credit institutions are expected to have an internal set-up based on internationally accepted practices to measure on a continuing basis, market related risks including interest-rate risks on all the institutions' business and settlement/delivery risks. The implementation of this Rule does not preclude credit institutions from setting any other form of internal risk management set-up which may establish internal limits as a measure of control.

THE TRADING BOOK

Definition of the trading book

27. The trading book of a credit institution shall consist of all positions in financial instruments and commodities held either with trading intent or in order to hedge other elements of the trading book, which must either be free of any restrictive covenants on their tradability or able to be hedged. Positions held with trading intent are those held intentionally for short-term resale and/or with the intention of benefiting from actual or expected short-term price differences between buying and selling prices, or from other price or interest rate variations. The term "positions" shall include proprietary positions, positions arising from client servicing and market making;

Particular items shall be included in or excluded from the trading book in accordance with objective procedures including, where appropriate, accounting standards in the institution concerned.

28. In addition to capital requirements for Position risk, trading book positions may also give rise to Counterparty/Settlement risk requirements and Large Exposures Risk requirements.

Banking book

29. Positions and exposures which are not in the trading book are deemed to be in the banking book. Positions and exposures in the banking book will be subject to the risk weighted capital requirements of the Capital Requirements Rule BR/04.

Allocation of Positions between Trading and Banking books

30. The calculation of capital requirements is based upon the allocation of positions between the trading book and the banking book. Each credit institution shall draw up a policy statement² with the authority setting out the basis on which positions are allocated between the trading book and the banking book. Items must be allocated to either the trading book or the banking book in a consistent manner and in accordance with objective procedures.

² Refer to Appendix C of the Rule for more details.

Exemptions from the trading book requirements

31. The authority may exempt a credit institution from the trading book capital requirements if its trading book business is considered to be minimal. In this case the credit institution will be allowed to calculate the capital requirement for its trading-book business in accordance with the Capital Requirements Rule BR/04 rather than in accordance with the relative annexes to the Rule. This means that if a credit institution's trading book is below a certain size on a solo or consolidated basis, it may be exempt from the trading book requirements provided that:
- (i) the trading book business of such institution does not normally exceed 5% of its total business;
 - (ii) its total trading book positions do not normally exceed the equivalent of Euro 15 million; and
 - (iii) the trading book business of such institution never exceeds 6% of its total business and its total trading book positions never exceed the equivalent of Euro 20 million.

Notwithstanding this, even if a credit institution does not have a trading book, the capital requirements for foreign exchange exposures (Foreign Exchange Risk) as detailed in **Annex I** and Commodities Risk (as detailed in **Annex V**) are applicable. Consequently, the calculation of Capital Requirements in accordance with the provisions of paragraphs 19 - 22 of the Rule apply to credit institutions allocating capital for Foreign Exchange Risk and Commodities Risk.

32. In order to calculate the proportion that trading book business bears to total business as in paragraph 31 (i) and (iii) above, the authority may refer either to the size of the combined on- and off-balance-sheet business, to the profit and loss account or to the own funds of the credit institutions in question, or to a combination of those measurements. When the size of on- and off-balance-sheet business is assessed, debt instruments shall be valued at their market prices or their principal values, equities at their market prices. Where a derivative is based on an underlying security, it will be valued according to the market value of that security. Otherwise, the notional principal amount underlying the derivative should be used. Underwriting positions (which should always be included in the trading book) will be valued according to the full market value of the underlying securities. Long positions and short positions shall be summed regardless of their signs. Forward foreign exchange contracts should (for these purposes only) be treated as if they were banking book business, although foreign exchange futures and options, unless hedging the banking book, are to be treated as trading book items.
33. The authority may, at its discretion apply to any particular credit institution a different criterion to that applied to other institutions provided that such criteria fall within the definition of 'total business' established in paragraph 32 above.
34. In the event that a credit institution subject to an exemption from the trading book requirements exceeds the limits in paragraph 31 above, it must notify the authority as soon as possible. If the excess is regarded by the authority as being likely to exist for

more than a short period, the credit institution will be required to meet the requirements imposed in paragraph 18 (ii) rather than those of the Capital Requirements Rule BR/04 in respect of its trading book business.

35. If the own funds held by a credit institution, either on a solo or consolidated basis, fall below the amount of the own funds as required in paragraph 18, the credit institution shall notify the authority in accordance with paragraph 12 of the Rule and should take appropriate measures to rectify its situation as quickly as possible.

Valuation of positions for reporting purposes.

36. All trading book positions shall be subject to prudent valuation rules as specified in Appendix C. These rules shall require institutions to ensure that the value applied to each of its trading book positions appropriately reflects the current market value. This value shall contain an appropriate degree of certainty having regard to the dynamic nature of trading book positions, the demands of prudential soundness and the mode of operation and purpose of capital requirements in respect of trading book positions.
37. Positions shall be re-valued at least daily.
38. In the absence of readily available market prices, the authority may waive the requirement imposed in paragraphs 36 and 37 above, and shall require credit institutions to use alternative methods of valuation provided that these methods are sufficiently prudent and have been approved by competent authorities.
39. **Appendix C** to the Rule details further the:
- trading intent as evidenced on the basis of strategies and policies and procedures set up by the institution to manage the position or portfolio;
 - establishment and maintenance of systems and controls to manage the institution's trading book; and
 - internal hedges as may be included in the banking book.

CONSOLIDATION

40. The authority will continue to apply capital adequacy requirements on a solo, solo consolidated and on a consolidated basis, as appropriate.
41. A credit institution subject to the calculation of capital adequacy requirements on a consolidated basis must consolidate all its credit institution, financial institution and investment firm subsidiaries and all their subsidiaries and participations and also their financial holding companies. For the purposes of the Rule, subsidiaries should be consolidated irrespective of the minimum trading book business as set out in paragraph 31 of the Rule.

CONSOLIDATED CAPITAL REQUIREMENTS

42. The calculation of capital adequacy requirements on a solo basis for an individual credit institution which has both a trading book and a banking book has been broadly explained under paragraphs 18 to 22 above. The calculation combines banking book risk assets with the notional risk asset equivalent of the trading book capital requirement to provide the denominator for calculating the capital ratios of the credit institution. This approach is called the simple aggregation approach.
43. The calculation of capital adequacy requirements on a consolidated basis is determined by the type of institution being consolidated as follows:

Credit and Financial Institutions': Banking Books

- (i) Consolidation for banking books will be carried out on a line-by-line (or accounting) basis across the group members being consolidated, i.e. a continuation of current practice. The group banking book capital requirement shall be determined by multiplying the risk weighted assets by the Capital Requirements set by the authority for that group (if different from the minimum set Capital Requirements);

Credit and Financial Institutions': Trading books (including foreign exchange exposure)

- (ii) As an alternative to line-by-line consolidation, credit institutions may use a technique described as "aggregation plus" for consolidation of trading book exposures. Essentially, "aggregation plus" is the summation of trading book capital requirements for individual companies within a group without any allowance for offsetting between companies in contrast to the line-by-line method. Capital adequacy is then assessed using the consolidated group capital with the capital requirement for group companies: the latter is measured as the sum of the banking book capital requirement of group companies consolidated on a line-by-line basis and the trading book capital requirements of group companies consolidated by the "aggregation plus" method.

Therefore, trading book exposures (including counterparty exposures) and foreign exchange exposures will usually be consolidated using "aggregation plus". The trading book notional risk weighted assets are separately calculated. The aggregate of the separately worked out notional risk weighted assets for the trading book are included together with the risk weighted assets for the banking book in the consolidated Capital Requirements Ratio, and are also converted into a capital charge to be included in the Supervisory Capital Requirements (vide **Appendix E**);

- (iii) The trading book notional risk weighted assets, should be determined:
- (a) in the case of a local subsidiary - according to the requirements of the Rule;

- (b) in the case of an institution's foreign subsidiary licensed in the E.E.A. - E.U. Directive 2006/49 EC;
 - (c) in the case of an institution's foreign subsidiary situated in a third country;
 - (d) where the host banking supervisor's capital adequacy rules, are considered by the authority to be broadly equivalent to the Rule;
- (iv) The trading book capital requirement is then generated by multiplying notional risk weighted assets by the trading book trigger of 8% or a different percentage where a higher trading book trigger is set by the authority. In cases where the supervisory rules of another competent authority apply, the capital ratios as set by the relevant authority shall apply;
- (v) As an alternative to "aggregation plus", consolidation of a banking subsidiary's trading book may be carried out on a line-by-line (or accounting) basis, if the institution can satisfy the authority that:
- (a) the parent bank calculates or monitors trading book positions in an integrated fashion across the entities using this basis of consolidation; and
 - (b) the banking subsidiary satisfies its local supervisory requirements on a solo basis; and
 - (c) the parent bank is able to carry out adequate line-by-line consolidation on a daily basis; and
 - (d) capital resources are freely transferable between the banking subsidiary and the rest of the group;
- (vi) When consolidating using line-by-line, credit institutions - if they wish - can construct their consolidated capital requirement for general market risk without first calculating the net position in each security on a consolidated basis. However, the method used to measure general market risk must be the same for all entities subject to the line-by-line consolidation;

Credit Institutions': Subsidiary Investment Firms

- (vii) Subsidiary investment firms will usually be consolidated using "aggregation plus". The firm's notional risk weighted assets are separately calculated. These are included in the consolidated Capital Requirement, and such notional risk weighted assets are converted into a capital requirement to be included in the Supervisory Capital Requirement;
- (viii) When using "aggregation plus", the subsidiary investment firm's notional risk weighted assets, should be determined:

- (a) in the case of a local subsidiary - according to the requirements as set out in rules issued in terms of the Investment Services Act 1994;
 - (b) in the case of an institution's foreign subsidiary licensed in the E.E.A. - the E.U. Council Directive 2006/49/EC; or
 - (c) in the case of a foreign subsidiary situated in a third country- the host securities regulator's capital adequacy rules, are considered by the authority to be broadly equivalent to the E.U. Council Directive 2006/49/EC.
- (ix) The subsidiary investment firm's capital requirement is then generated by multiplying its notional risk weighted assets by the credit institution's trading book trigger of 8% or a different percentage where a higher trading book trigger is set by the authority. In cases where other supervisors' rules apply the capital ratio as set by the relevant authority shall apply;
 - (x) When using "aggregation plus", an institution may satisfy itself on a daily basis that it meets the authority's minimum capital requirement (i.e. its target) with reference to position limits as opposed to actual positions. It may adopt such a procedure only after first satisfying the authority that its control systems are such that actual positions may reliably be taken as being no higher than the adopted position limits. (The authority reserves the right to require consolidation of an investment subsidiary on the basis of the parent's total investment in that company, depending on the quality of the credit institution's control systems and the ease with which surplus capital can be transferred out of the subsidiary.);
 - (xi) The use of "aggregation plus" for investment subsidiaries may be constrained by the size of non-trading activity. If this is large, the authority reserves the right to use line-by-line (or accounting) consolidation for these assets;
 - (xii) As an alternative to "aggregation plus", consolidation of an investment firm may be carried out on a line-by-line basis, if the institution can satisfy the authority that:
 - (a) the parent bank calculates or monitors trading book positions in an integrated fashion across the entities using this basis of consolidation; and
 - (b) the investment subsidiary satisfies its local supervisory requirements (where these apply) on a solo basis; and
 - (c) the parent bank is able to carry out adequate line-by-line consolidation on a daily basis; and
 - (d) capital resources are freely transferable between the investment subsidiary and the rest of the group;

- (xiii) When consolidating using line-by-line, credit institutions - if they wish - can construct their consolidated capital requirement for general market risk without first calculating the net position in each security on a consolidated basis. However, the method used to measure general market risk must be the same for all entities subject to the line-by-line consolidation;

Other Group Entities

- (xiv) Other group entities which are not the parent's credit institutions, financial institution and investment firm subsidiaries, will usually be consolidated on a line-by-line basis.

Appendix E sets out examples for the calculation of Consolidated Capital Requirements.

Offsetting - Calculation of Consolidated Requirements

- 44. In determining consolidated group capital requirements, recognition for offsetting exposures can only be given by the authority where consolidation is done on line-by-line basis as set out in paragraph 43 (i) and (xi) to (xiii) above. Offsetting is not permitted under the "aggregation plus" method.
- 45. The authority, for the purpose of calculating the capital requirements set out in **Annex III** and **Annex VII**, and the exposures to clients set out in **Annex VI** (Large Exposures) on a consolidated basis, may permit positions in the trading book of one institution to offset positions in the trading book of another institution according to the rules set out in **Annexes III, VI and VII**.

In addition, the authority may allow foreign-exchange positions in one institution to offset foreign-exchange positions in another institution in accordance with the rules set out in Annex I and/or Annex VII. The authority may also allow commodities positions in one institution to offset commodities positions in another institution in accordance with the rules set out in Annex V and/or Annex VII.

- 46. The authority may permit offsetting of the trading book and of the foreign-exchange and commodities positions, respectively, of undertakings located in third countries, subject to the simultaneous fulfilment of the following conditions:
 - (a) those undertakings have been authorised in a third country and either satisfy the definition of credit institution as set out in EU Directive 2006/48/EC or are recognised third country investment firms;
 - (b) such undertakings comply, on a solo basis, with capital adequacy rules equivalent to those laid down in EU Directive 2006/49/EC;
 - (c) no regulations exist in the countries in question which might significantly affect the transfer of funds within the group.

47. The authority may also allow the offsetting provided for in paragraph 45 above between institutions within a group that have been authorised in the member state in question, provided that:
- (a) there is a satisfactory allocation of capital within the group;
 - (b) the regulatory, legal or contractual framework in which the institution operates is such as to guarantee mutual financial support within the group.
48. Furthermore, the authority may allow the offsetting provided for in paragraph 45 above between institutions within a group that fulfil the conditions imposed in paragraph 47 above and any institution included in the same group which has been authorised in another member state provided that the institution is obliged to fulfil the capital requirements imposed in paragraphs 20 - 22 and **Annex VI** on an individual basis.

BRANCHES OF THIRD COUNTRY INSTITUTIONS

49. Consequent to paragraph 8 of the Own Funds of Credit Institutions Rule (BR/03) whereby a branch in Malta of a third country institution is not required to maintain its Own Funds, the requirements of the Rule do not apply.
50. The authority may however enter into a bilateral agreement with the overseas regulatory authority which has authorised and supervises the credit institution, whereby such authority shall be required to forthwith inform the authority in case of non-compliance by that institution in any manner whatsoever with the capital requirements rules of the overseas regulatory authority.

OFFENCES AND PENALTIES

51. Any person who commits an offence in terms of the Rule as provided for under Article 35 of the Act is liable to such penalties as prescribed in L.N. 155 of 1999 and/or any subsequent amendment thereof.