

**Guidelines on the undertaking of specific amendments to legislation and on the process of smoothing applicable to the Public Sector in view of the adoption of the euro**

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Guideline: NECC/0001/07

## 1. Background

In view of Malta's anticipated entry into the euro area on the 1 January 2008, the *Euro Adoption Act* (Act X of 2006) was approved by the Maltese Parliament and was published in the Government Gazette on the 25 July 2006. The Act was passed with a view to laying down the overall national legislative framework and the general principles of the conversion process and to providing the required enabling powers for its implementation.

Notwithstanding, changes are required to the whole body of Maltese law whereby all references to the Maltese lira and amounts denominated in Lm will have to be changed to their euro equivalent. The implementation of specific amendments to primary acts and legal notices is a major task and needs careful and timely planning.

## 2. Objective

These guidelines outline the process for effecting specific changes to legislation due to the introduction of the euro, taking into account rounding and smoothing requirements for the public sector. The document defines the process to be undertaken, the agreed timeframes, the allocation of responsibilities and the intended outcomes.

These guidelines are the result of various discussions and workshops held between representatives from the National Euro Changeover Committee (NECC), the Public Sector Sectoral Committee (PSSC), the Management Efficiency Unit (MEU) within the Office of the Prime Minister, the Public Finance Sectoral Committee (PFSC), the Ministry of Finance (MFIN), the Legal Sector Sectoral Committee (LSSC), the Office of the Attorney General and the Translation and Law Drafting Unit.

## 3. Definitions and Abbreviations

For the purposes of these guidelines, the following terms shall bear the meanings set opposite to them:

<b>€day</b>	-	The date when Malta enters the <u>euro zone</u> , i.e. the euro banknotes and coins become legal tender and are placed in circulation in Malta.
<b>Euro Observatory</b>	-	The Unit set up within the Ministry of Finance with powers established under LN4 of 2007 under the Euro Adoption Act.
<b>Legislative Instrument</b>	-	An instrument in writing of legislative character that is made in exercise of a power delegated by the parliament.
<b>MFIN</b>	-	Ministry of Finance.
<b>Monetary amounts</b>	-	All forms of cash based monetary obligations and amounts to be accounted for, like amounts at which tangible assets are valued, amounts in legislative provisions, sales offers.

<b>NECC</b>	-	National Euro Changeover Committee.
<b>Rounding</b>	-	Part of the process of converting a legacy currency unit into euro that expresses the converted number as a round number e.g. €11.357 rounded off to 2 decimal places becomes €11.36, according to EC Regulation 1103/97.
<b>Rounding rules</b>	-	Precise legal rules governing the conversion of a legacy currency units into euro so as to guarantee clarity and fairness. Each conversion rate to one euro is expressed as six significant figures and these six figures should always be used when making conversions. They cannot be rounded or shortened. If after conversion into euro, the number at the third decimal place is less than 5, then the euro figure must be rounded down e.g. €34.874 becomes €34.87. If the third decimal number is five or above, then it must be rounded up e.g. €34.875 becomes €34.88, according to EC Regulation 1103/97.
<b>Smoothing</b>	-	Smoothing - the process of changing an awkward number after euro conversion to a more acceptable or memorable one, e.g. €10 instead of €10.02.

#### 4. Principles

These guidelines presuppose the following principles:

1. Individual changes to every amount specified in primary and secondary legislation are required.
2. Amendments to legislation will be affected through legal notices published under the Euro Adoption Act which would amend articles, schedules, forms, etc in Maltese legislation which contain monetary values or references to the Maltese lira.
3. The generally preferred option for Government will be to carry out a precise conversion of amounts, i.e. with amounts rounded to the closest euro cent.
4. Smoothing will only be allowed in exceptional cases and subject to the approval of the Ministry of Finance on the recommendation of the Euro Observatory. No automatic smoothing of amounts will be allowed. A Government department/entity would be required to present a business case to MFIN requesting smoothing of amounts according to the parameters set out under article 6.1.2.2 of these Guidelines and following the procedure described by article 6.1.2.3 of these Guidelines.

Additionally for the purpose of smoothing, the Ministry of Finance on the recommendation of the Euro Observatory will also have the prerogative to identify amounts related to specific fees, tariffs and/or fines irrespective of whether a business case had been prepared and presented by the relevant department / entity. This over-riding provision shall be utilised particularly for services with high consumer visibility and which may involve significant cash transactions.

In any case, smoothing of converted euro amounts by Government (including its agencies, Local Councils and the public sector<sup>1</sup>) should be in favour of the consumer in all instances (i.e. fees, fines, thresholds, etc).

## 5. Applicability

5.1 These guidelines shall apply to the government departments, Local Councils and entities, including entities with government majority shareholding and whose business processes and operations or part thereof are governed by one or more legal instruments.

5.2. These guidelines also apply to monetary amounts to be paid or accounted for which are purely of an administrative form and not arising from any legal instrument. e.g. fees of office, administrative fees or penalty instruments.

## 6. Guidelines

### 6.1 Process

The process for adapting all national legislation in view of the introduction of the euro involves the:

1. **Identification** of all references to the Lm currency in all primary acts and subsidiary legislation.
2. **Conversion** of amounts from Lm to euro, and, where approved by the Ministry of Finance, the smoothing of certain amounts.
3. Preparation and **publication** of legal notices containing all the amendments with the Lm and new euro provisions indicated for each article, schedule, form, etc that is to be amended.

#### 6.1.1 Identification Stage

Identification of all references to legislation shall be carried out by the Translation and Law Drafting Unit as this holds a comprehensive and updated list of all legislation including those laws which are yet to be published in electronic format. The review of the entire body of law is envisaged to be completed in the first half of 2007.

In the process of identifying the changes necessary, the Translation and Law Drafting Unit shall also be drafting legal notices for these amendments to take effect. All amendments shall be contained in a number of such legal notices, the publication process of which is described under Article 6.1.3 of these Guidelines.

#### 6.1.2 Conversion Stage

The process of identification of all references to Lm amounts in legislation shall be followed by the conversion of these amounts into euro. The actual conversion, keying in of the euro converted amount into a draft legal notice and verification of conversion accuracy will be carried out centrally.

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<sup>1</sup> Including utility prices, fees, licenses, fines, etc

The Translation and Law Drafting Unit shall be responsible for converting Lm amounts into euro, inputting the converted amount for each amendment and preparing draft legal notices.

The Ministry of Finance will be responsible for verifying the correctness of all euro amounts indicated within the draft legal notices as prepared by, and received from, the Translations and Law Drafting Unit and also for indicating any discrepancies that would have arisen during the conversion process. The MFIN will also be responsible for processing and maintaining a repository of approved smoothed amounts which values would be forwarded to the Translation and Law Drafting Unit for inclusion within the legal amendments.

The MFIN shall assume ultimate responsibility for validating the accuracy of all converted euro amounts and will sign-off finalised legal notices prepared by the Translation and Law Drafting Unit. Once a legal notice has been verified, approved and signed off by MFIN no other changes to it shall be allowed unless formal written consent is obtained from the said Ministry.

#### 6.1.2.1 Rounding

All monetary values in the Maltese lira shall be subject to a straight conversion by the application of the irrevocable fixed exchange rate. Converted amounts shall be rounded to the nearest euro cent in accordance with the rounding rules described within the NECC Guidelines on the rounding and smoothing of Maltese lira amounts converted into euro (Guideline: NECC/0004/06).

#### 6.1.2.2 Smoothing

Smoothing effectively entails the process of fine tuning an awkward number after euro conversion to a more acceptable or memorable one. According to Government's policy, a straight conversion represents the general preferred option and no automatic smoothing of amounts shall be allowed. Smoothing will be allowed in certain exceptional cases where it is ascertained that a solid business case for such smoothing exists for easier memorisation and familiarity by the consumer and only subject to the approval of the MFIN on the recommendation of the Euro Observatory.

A Government department/entity would be required to present a business case to MFIN requesting smoothing of amounts according to the parameters set out hereunder and following the procedure described by article 6.1.2.3 of these Guidelines.

Instances where the use of convenient euro amounts could be warranted would include:

- a. payments that are normally made via cash transactions;
- b. specific licences, fees and fines having a value that needs to be easily memorised;
- c. threshold values as applicable to income tax bands, means testing, etc.

Conversely, smoothing should in no case be considered in relation to this non-exhaustive list:

- a. amounts that are currently not smoothed;
- b. rates and fees paid by Government;
- c. payments made by Government for services rendered;
- d. payments in respect of salaries, pensions and other related benefits;

- e. inter-departmental payments across Government (including Government-controlled entities).

In any case, smoothing of converted euro amounts by Government (including its agencies, Local Councils and the public sector<sup>2</sup>) should be in favour of the consumer in all instances (i.e. fees, fines, thresholds, etc). Thus, by way of example, a current fee of Lm 20 would result in a straight conversion of EUR 46.59. If smoothing were to be considered advisable, the smoothed amount would have to be set at a level below the straight converted amount. It could be EUR 46 or EUR 46.50, but in no case could this be converted to e.g. EUR 46.60 or higher.

#### 6.1.2.3 Implementing smoothing

Any smoothing of euro amounts shall only be carried out with the specific approval of the MFIN on the recommendation of the Euro Observatory. Such approval is required not only for those monetary amounts contained within legal instruments but also for those amounts which are of a purely administrative nature as governed by Article 5 of this Guideline.

To this effect, departments/entities are expected to prepare a convincing business case to substantiate any request for smoothing. More specifically, they are required to:

- a. identify any such cases where it is felt appropriate that smoothing of euro amounts should apply;
- b. submit a detailed explanation as to why smoothing is considered indispensable, including the likely impact of non-application;
- c. propose the smoothed euro value/s that the department/entity would consider appropriate, taking account of the provisions of the Guidelines on the rounding and smoothing of Maltese lira amounts converted into euro (Guideline: NECC/0004/06 / LN 4 of 2007), and including different smoothing options where practical;
- d. give a detailed estimate of the impact on revenue/expenditure levels, as compared to current turnover, if each of the proposed smoothing options were to be applied.

**Submissions of requests for smoothing are to be made to the Director General (Financial Policy and Management) in the MFIN by Friday 27<sup>th</sup> April 2007.**

MFIN shall inform the respective departments/entities of the decisions taken in respect of smoothing of monetary amounts by not later than the 20<sup>th</sup> July 2007.

#### 6.1.2.4 Re-conversion of amounts

In the case where a euro amount has been converted into the Maltese lira within national legislation this shall be re-translated back to its original euro value and not converted through the use of the irrevocably fixed conversion rate. Such instances include the conversion of euro amounts in EU Regulations, Directives or Decisions that require implementation in Maltese legislation.

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<sup>2</sup> Ibid

### **6.1.3 Publication Stage**

Upon final verification and sign-off of a legal notice by the MFIN, the latter shall forward this to the Office of the Attorney General which Office shall be responsible for ensuring its publication under the Euro Adoption Act.

In view of the volumes involved it is envisaged that the amendments shall be published in a number of legal notices, with each containing a batch of sequentially grouped amendments (i.e. chapter by chapter including all relevant subsidiary legislation, starting from Chapter 1). It is envisaged that all amendments will be published by 31 December 2007, with changes coming into effect on 1 January 2008.

The Translation and Law Drafting Unit will be responsible for updating the Laws of Malta website in accordance with the amendments as published. The new legal texts shall be put online after 1 January 2008.

### **6.2 Monetary amounts of an administrative form**

Government departments / entities must ensure that those monetary amounts which are not contained within legal instruments but that are purely of an administrative nature (as per Article 5.2) are identified, converted into euro and published, as necessary, in accordance with the other provisions of this Guideline. Smoothing of such amounts shall also be subject to the provisions of articles 6.1.2.2 and 6.1.2.3.

## Annex: Process of Identification and Implementation of Legal Amendments and Other Applicable Monetary Amounts

Action	Owner	Due Date
1. Guideline on Legal Amendments / Smoothing:		
<ul style="list-style-type: none"> <li>▪ define an official NECC Guideline dealing with legal amendments and smoothing procedures applicable for the Public Sector</li> </ul>	NECE / MFIN	Done
<ul style="list-style-type: none"> <li>▪ inform all stakeholders (Ministries, Departments, and other Public Sector Entities) on way forward</li> </ul>	LSSC, PSSC, PFSC	Done
2. Smoothing of amounts:		
<ul style="list-style-type: none"> <li>▪ present business case for smoothing of amounts to MFIN</li> </ul>	Departments/Entities	27 <sup>th</sup> April 07
<ul style="list-style-type: none"> <li>▪ process all applications for smoothing, approve or otherwise, and inform the respective organisation</li> </ul>	MFIN / Euro Observatory	20 <sup>th</sup> July 07
<ul style="list-style-type: none"> <li>▪ maintain a list of all approved smoothed amounts organised by Act</li> </ul>	MFIN	End July 07
3. Identification of amounts:		
<ul style="list-style-type: none"> <li>▪ review and identify all provisions in legislation that need to be amended and prepare draft legal notices (with empty space for recording of amounts in euro)</li> </ul>	Translation and Law Drafting Unit	March 07
4. Conversion of amounts:		
<ul style="list-style-type: none"> <li>▪ Carry out a conversion of each individual amount which is defined within the draft legal notices and consequently input the euro amount directly in the System. For those provisions where smoothing was approved by the MFIN, the smoothed amount will be recorded</li> </ul>	MFIN / Translation and Law Drafting Unit	Commence exercise following publication of Irrevocably Fixed Exchange Rate Complete by October 07 Ongoing
<ul style="list-style-type: none"> <li>▪ Verification of all data converted and recorded</li> </ul>	MFIN	
5. Publication of amendments:		
<ul style="list-style-type: none"> <li>▪ Publication of legal notices in batches</li> </ul>	AG's Office	December 07
<ul style="list-style-type: none"> <li>▪ Amend legal texts to the Laws of Malta</li> </ul>	AG's Office	1 <sup>st</sup> January 08

Action	Owner	Due Date
website		
<p>Monetary Amounts of an Administrative Nature:</p>		
<p>Identify, convert and publish (as applicable) all amounts which are of an administrative nature</p>	<p>Departments/Entities</p>	<p>Identification: 27<sup>th</sup> April 07 (if authority to smoothen is to be requested from MFIN)</p> <p>Publication: December 07</p>

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