

DOMESTIC BANKS AND FINANCIAL INSTITUTIONS
ACT, 2012

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FIRST SCHEDULE

SECOND SCHEDULE



No. 11 of 2012

I assent,
(SIR COLVILLE N. YOUNG)

Governor-General
7th September, 2012.

AN ACT to make new and improved provisions to govern domestic banks and financial institutions; to strengthen the supervisory powers of the Central Bank and enhance its regulatory independence; to address the deficiencies and vulnerabilities in the domestic banking sector; to provide for the appointment of a statutory administrator of a licensee in appropriate cases to protect the interests of depositors, creditors and shareholders; to repeal the Banks and Financial Institutions Act, Chapter 263 of the Laws of Belize; and to provide for matters connected therewith or incidental thereto.

(Gazetted 8th September, 2012).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:-

PART I

Preliminary

1. This Act may be cited as the

Short title.

**DOMESTIC BANKS AND FINANCIAL
INSTITUTIONS ACT, 2012.**

Interpretation

2. (1) In this Act, unless the context otherwise requires:-

“advertisement” means any form of advertising intended to promote interest in any product, process, institution, whether notified, published, mailed, posted, inserted, distributed electronically or otherwise transmitted by any means or device:-

- (a) in a newspaper, magazine, journal or other publication;
- (b) by the display of cinematographic notices;
- (c) by means of circulars, brochures, pamphlets, optically or electronically readable devices or handbills;
- (d) by an exhibition of photographs or cinematographic films;
- (e) by way of sound broadcasting or television, on-air or by cable;
- (f) by way of computer-readable data storage devices, computer networks, satellite or telephone; or
- (g) by way of solicitation in any form;

“affiliate” means an entity that directly or indirectly controls, or is under common control with, another entity;

“Appeal Board” means the Domestic Banks and Financial Institutions Appeal Board established by section 128 of this Act;

“assigned capital” means such portion of the capital of a foreign licensee consisting of unimpaired assets, as

determined by the Central Bank, and assigned to the exclusive use of its operations in Belize;

“auditor” means the partners of any firm of public accountants that is a member of the Institute of Chartered Accountants of Belize that has been designated in writing by the Central Bank as the approved auditor of a licensee;

“bank” means any body corporate duly licensed under this Act to conduct banking business and all offices and branches of a bank in Belize shall be deemed to be one bank, except as otherwise expressly provided;

“banking business” means the business of soliciting and receiving money from the public through the acceptance of deposits on current account, deposit account or other similar account which may be withdrawn by check, draft, order or notice, and using that money for the granting of credit facilities, to customers and, generally, the undertaking of any business appertaining to the business of commercial banking;

“board of directors” means the most senior governing body of management of a body corporate holding a licence under this Act, the members of which are “directors” as defined in this section;

“body corporate” means an incorporated body and any other legal person or entity wherever or however incorporated, and includes a company, but excludes an individual;

“borrower group” includes -

- (a) a family group comprising an individual and his spouse, parents, children and dependants of the individual;
- (b) a company in which the family group indicated in paragraph (a) has controlling interest;

- (c) a company in which the family group indicated in paragraph (a) has a substantial investment;
- (d) a group of companies which has a common shareholder with substantial investment;
- (e) a group of companies which has a common controlling interest;
- (f) a group of persons in which the credit worthiness, ability to generate funds or the future viability of each, depends on one or other members of the group;
- (g) a group of persons in which one member has power directly or indirectly to control the other members;
- (h) two or more borrowers, whether individuals, companies or unincorporated bodies, whether on a joint or separate basis, who, in the opinion of the Central Bank, are interrelated through common ownership, control or management;
- (i) any other group of persons whose relationship with each other is such that it may, in the opinion of the Central Bank, lead to a conflict of interest or other regulatory risk;

“branch” means -

- (a) an office or place of business, whether in Belize or elsewhere, where a licensee carries on all or any part of its banking business or financial business, other than its principal place of business in Belize; or
- (b) an office or place of business in Belize where a foreign licensee carries on all or any part of its banking business or financial business in Belize.

“business of securities” means the business of brokering and dealing in securities as conducted by a broker and dealer respectively, as defined in the relevant Act.

“capital” means the total of paid up share capital, statutory reserve fund, share premium account, retained earnings, and any other capital account approved by the Central Bank;

“Central Bank” means the Central Bank of Belize established under the *Central Bank of Belize Act*;

CAP. 262.

“company” means a legal person established under companies legislation in any jurisdiction in or outside of Belize, but does not include a limited liability partnership;

“competent judicial authority” means a court, as defined in this Act, whether in Belize or another jurisdiction;

“counterparty” for the purpose of measuring credit exposure means the borrower or customer, the person guaranteed, the issuer of a security in the case of an investment in a security, or the party with whom a contract is made or obligor in the case of a derivative contract;

“Court” means a governmental body that adjudicates legal disputes;

“credit exposure” means the amount at risk arising from the extension of credit or funds by a licensee and includes, without limitation:-

- (a) credit facilities, investments including equities, participations, guarantees, and acceptances;
- (b) claims on a counterparty including actual and potential claims that would arise from the drawing down in full of undrawn advised facilities, whether revocable or irrevocable, conditional or

unconditional, that the licensee has committed itself to provide, arrange, purchase or underwrite; and

- (c) contingent liabilities arising in the normal course of business, and which would arise from the drawing down in full of undrawn advised facilities, whether revocable or irrevocable, conditional or unconditional, that the licensee has committed itself to provide;

“credit facilities” include loans, advances, lines of credit, overdrafts, credit cards, commitment letters, standby facilities, letters of credit and any other facilities or arrangements whereby a licensee agrees to provide funds, financial guarantees or commitments to a customer, or the licensee undertakes on behalf of a customer, a financial liability to another person;

“demand deposit” means any deposit repayable to a depositor upon the demand of such person, or withdrawable or transferable by the depositor upon advance notice of less than seven days or without prior notice by cheque, draft or order, electronically or via computerized networks, or by any other means;

“deposit” means:-

- (a) the unpaid balance of money received or held by a bank in the usual course of business and for which it has given or is obligated to give credit to a demand, passbook savings or time account or which is evidenced by its certificate of deposit, certificate of indebtedness or other acknowledgement of obligation;
- (b) money received or held by a bank or the credit given for money or its equivalent received or held

by a bank, in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including but not limited to escrow funds, funds held as security for an obligation due to the bank or others, funds deposited by a debtor to meet maturing obligations, funds held to meet its acceptance or letters of credit, but does not include funds which are received by the bank for immediate application to the satisfaction or reduction of indebtedness to the receiving bank;

- (c) an outstanding draft (including advice or authorization to charge the bank's balance at another bank), cashier's cheque, money order, or other official cheque or draft received by a bank and which has been issued by another bank in the usual course of business for any purpose, including but not limited to those issued in payment for services, dividends, or purchases; and
- (d) such liabilities or other obligations as the Central Bank may specify by Circulars to be a deposit for purposes of this Act;

“deposit liabilities” means those liabilities of a licensee represented by deposits held by that licensee;

“director” means an individual occupying the position of director or member or alternate member of the governing

board of management of a body corporate or other entity by whatever name he may be called and includes a member of a local managing board of a body corporate whose head office is situated outside Belize or which is incorporated outside Belize;

“dollar” means the Belize dollar;

“entity” means a body corporate, company, trust, partnership, fund, an unincorporated association or organization, joint venture, the government of Belize and any agency thereof and the government of a foreign country or any political subdivision thereof and any agency thereof;

“financial business” means the business of receiving funds from the public through the obtaining of loans, advances, extensions of credit, investments, sales of securities of any kind and the relending or reinvestment of such funds in loans to the public or to any person or entity, advances to the public or to any person or entity, shares or securities of any kind; or the business of a trust corporation, or securities brokerage house; as well as the types of businesses set out in the First Schedule to this Act, but does not include a banking business or an insurance business;

**First
Schedule.**

“financial entity” means any entity that carries on a business that includes the provisions of any financial service, including without limitation, any service comprised in banking business, the business of international banking, the business of a financial institution and the business of a credit union and includes the holding company of any such financial entity;

“financial group” means a related group, the members of which are incorporated in Belize and are limited in their activities to:

- (a) banking;

- (b) financial business;
- (c) international banking;
- (d) insurance;
- (e) trading in securities; and

such other necessary services to support the activities of the members of the related group, as approved by the Central Bank and includes a financial holding company;

“financial holding company” means a holding body corporate of a local licensee;

“financial institution” means a company which carries on or used to carry on all or any aspects of financial business;

“foreign bank” means a bank incorporated outside Belize and refers to the branch or branches in Belize through which such bank carries on its banking business in Belize;

“foreign financial institution” means a financial institution which is incorporated outside Belize and refers to the branch or branches in Belize through which such financial institution carries on its financial business in Belize;

“foreign international bank” means a foreign bank holding a valid license under the *International Banking Act* to carry on an international banking business from within Belize and refers to the branch or branches in Belize through which such foreign bank carries on its international banking business;

CAP. 267.

“foreign licensee” means a foreign bank licensee and a foreign financial institution licensee;

“former licensee” means a company which was a former licensed institution whether under this Act or any other Act repealed by this Act;

“Government” means the Government of Belize;

“Governor” means the Governor of the Central Bank of Belize;

“holding body corporate” means a body corporate that owns or controls any other body corporate;

“holding company” means a company that owns more than fifty percent of the voting shares in another company, and/or controls directly or indirectly that other company’s board of directors;

“independent director” has the meaning assigned to that expression under section 45 (8) (c) (Audit Committee);

“large exposure” means the total of all loans, advances and extensions of credit granted by a licensee that is a bank to a person or to a borrower group that exceeds twenty-five percent of the fully paid up capital and reserves in the case of a local bank, or of the assigned capital and reserves in the case of a foreign bank licensee;

“licensed bank” means a company licensed or required to be licensed as a bank under this Act;

“licence” means a licence granted under this Act, and “licensed” shall be construed accordingly;

“licensee” means a company licensed or required to be licensed as a bank or financial institution under this Act;

“loans, advances and extensions of credit” shall include all loans, advances, overdrafts, debt securities, holdings of papers and all direct and indirect obligations of the borrower as well as off-balance sheet commitments, including but not limited to acceptances and guarantees on behalf of the borrower, underwriting facilities, endorsements, placements,

documentary credits issued, performance bonds and other contingent liabilities on behalf of such person or any other facility or instrument that the Central Bank may specify in writing;

“local bank” means a bank that is incorporated in Belize under the *Companies Act* that is licensed under this Act to conduct, in or from Belize, a banking business; CAP. 250.

“local company” means a body corporate incorporated in Belize under the *Companies Act*, or the *International Business Companies Act*; CAP. 250.
CAP. 270.

“local financial institution” means a local company that is licensed under this Act to conduct a financial business in and from Belize;

“local international bank” means a local company holding a valid license granted under the *International Banking Act* to carry on international banking business from within Belize; CAP. 267.

“local licensee” means a local bank and a local financial institution;

“managing director” means the managing director or president of a body corporate or other entity, or a person holding an equivalent position;

“Minister” means the Minister for the time being responsible for banks and banking who has been assigned such responsibility under section 41 of the Belize Constitution; CAP. 4.

“officer” means:-

- (a) in relation to a company or unincorporated body, a chief operating officer, chief executive officer, president, vice-president, corporate secretary, treasurer, chief financial officer, chief accountant,

chief auditor, chief investment officer, chief compliance officer or chief risk officer and any other individual designated as an officer by its articles of incorporation or continuance, by-laws or other constituent document, or resolution of the directors or members;

- (b) any other individual, who performs functions for the company or other unincorporated body similar to those performed by a person referred to in paragraph (a), whether or not the individual is formally designated as an officer, and includes a principal officer;

“ownership interests” means the units of value, however designated, into which an unincorporated body is divided;

“person” means an individual, body corporate, entity or a personal representative;

“prescribed” means prescribed by any written law;

“prescribed liabilities” means such liabilities as may, by notice, from time to time be specified by the Central Bank;

“principal officer” means a person who, either alone or jointly with one or more persons, is responsible under the immediate authority of the board of directors of an institution for the conduct of the business of that institution, whether or not the individual is formally designated as a principal officer;

“prudential criteria” are criteria and standards established under this Act for the purpose of setting outside limits and constraints on licensees for the protection of depositors and potential depositors and for ensuring the safety and soundness of the financial system;

“related group” means:-

- (a) two or more bodies corporate that are controlled by the same person;
- (b) the direct and indirect subsidiaries of the bodies corporate referred to in paragraph (a); and
- (c) the controlling person referred to in paragraph (a);

“significant influence” means: –

- (a) the power to participate in the financial and operating policy decisions of an entity; or
- (b) where an investor holds more than twenty per cent of the voting power of an entity, it shall be presumed unless the contrary is shown that there is significant influence;

“spouse” means in relation to an individual person, a wife, husband, or other individual with whom the first-named natural person is engaged in an ongoing conjugal relationship, whether common-law union as defined by section 148(D) of the *Supreme Court of Judicature Act*, or not and whether or not the two persons are living together;

CAP. 91.

“subsidiary” means a company in which fifty percent or more of its shares are held directly or indirectly by another company, or whose board of directors is controlled directly or indirectly by another company;

“tangible asset” means real property or personal property, such as buildings, furniture, equipment and machinery;

“trust business” means the acceptance of funds in the capacity of trustee, guardian, administrator, executor or similar fiduciary capacity;

“trust corporation” means a body corporate which offers services to the public as a professional trustee engaged in the management or administration of financial or other trust assets but does not include a body corporate which acts as a nominee trustee where the custodianship or management of the trust assets is delegated to another person;

“ultimate beneficial owner” means an individual that ultimately derives the benefits of ownership or control of a person;

“unsecured loans, advances and extensions of credit” means loans, advances and extensions of credit made without tangible security or realizable collateral, or in respect of any loans, advances and extensions of credit made with tangible security or realizable collateral, any part thereof which exceeds the fair or market value, as determined in a manner acceptable to the Central Bank, of the assets comprising the security given.

(2) Grammatical variations of any expression defined in subsection (1) shall be construed accordingly.

(3) For purposes of this Act, a person shall be deemed to accept deposits if he advertises or solicits such deposits from any person, irrespective of any terms or conditions under which such deposits are solicited or received and whether or not certificates or other instruments are issued in respect of such deposits.

CAP. 250. (4) With respect to any bank or financial institution to which the *Companies Act* or any other law then being in force relating thereto may apply, in the case of any conflict or inconsistency between this Act on the one hand or such other Act or law on the other hand, the provisions of this Act shall supersede and take precedence over such other Act or law, unless expressly provided to the contrary in this Act or such other Act or law by language to that effect and not merely by implication.

3. (1) For the purposes of this Act,

Control.

- (a) a person controls a body corporate if –
- (i) shares of the body corporate to which are attached more than twenty-five per cent of the votes that may be cast to elect directors of the body corporate are controlled or beneficially owned by the person and the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the body corporate;
 - (ii) such person can appoint or remove a majority of the board of directors of the body corporate; or
 - (iii) such person is able to exert a significant influence over the body corporate;
- (b) a person controls an unincorporated entity, other than a limited partnership, if:-
- (i) more than twenty per cent of the ownership interests, however designated, into which the entity is divided are controlled or beneficially owned by that person and the person is able to direct the business and affairs of the entity; or
 - (ii) such person is able to exert a significant influence over the unincorporated entity;
- (c) the general partner of a limited partnership controls the limited partnership;

(2) A person who controls an entity is deemed to control any entity that is controlled by the entity.

(3) A person is deemed to control, within the meaning of paragraph (1)(a) or (b), an entity if the aggregate of:-

- (a) any shares or ownership interests of the entity that are beneficially owned by that person, and
- (b) any shares or ownership interests of the entity that are beneficially owned by any entity controlled by that person

is such that, if that person and all of the entities referred to in paragraph (b) that beneficially own shares or ownership interests of the entity were one person, that person would control the entity. The terms “controlling interest” and “controlling shareholder” shall be construed accordingly.

Substantial investment.

4. A person has a substantial investment in a body corporate where:-

- (a) the voting rights attached to the aggregate of any voting shares of the body corporate controlled or beneficially owned by the person, who either alone or with one or more affiliates or relatives or related parties and by any entity controlled by the person exceed ten per cent of the voting rights attached to all of the outstanding voting shares of the body corporate; or
- (b) the aggregate of any shares of the body corporate controlled or beneficially owned by the person, who either alone or with one or more affiliates or relatives or related parties and by any entity controlled by the person represents ownership of greater than ten per cent of the shareholders’ equity of the body corporate,

and the term “substantial shareholder” shall be construed accordingly.

5. (1) For the purposes of this Act, and subject to subsection (2), whether a natural person is a fit and proper person to hold shares or any particular position in a body corporate that applies for or holds a licence as defined in this Act shall be determined by the Central Bank, and in making such determination, the Central Bank shall make such investigations and inquiries as it deems necessary, and shall consider:-

Fit and proper person.

- (a) the probity of the person;
- (b) the background, experience, integrity, competence and soundness of judgment of the person;
- (c) the diligence with which the person is fulfilling or is likely to fulfill the responsibilities of the position in question;
- (d) whether the interest of depositors or potential depositors of the licensee are, or are likely to be, in any way threatened by the person holding the position; and
- (e) any other matters that the Central Bank deems appropriate.

(2) Without prejudice to the generality of subsection (1), in determining whether a person is a fit and proper person the Central Bank may have regard to the previous or existing conduct and activities in business or financial matters of the person in question, and, in particular, to any evidence that the person:-

- (a) has had any judgment (including a consent judgment) made against him or any penalty or fine imposed upon him by any court or other competent judicial authority in any country in any matter

involving fraud, deception, dishonesty or breach of trust;

- (b) engaged in any business practices appearing to the Central Bank to be deceitful or oppressive or otherwise improper (whether unlawful or not) or which otherwise discredit his method of conducting business;
- (c) has an employment record which leads the Central Bank to believe that the person carried out an act of impropriety in the handling of his employer's business;
- (d) engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment;
- (e) has, in the opinion of the Central Bank, as a director or senior officer of a bank or financial institution, insurance, or investment company participated in or contributed to decisions or other actions which seriously threatened the continued financial viability of that bank or financial institution, insurance, or investment company.

(3) In determining whether a company is a fit and proper person to be a controlling shareholder or substantial shareholder, regard shall be had to, but not limited by, the following criteria:-

- (a) whether the directors of the company have satisfied the fit and proper criteria set out in paragraphs (1) to (2);
- (b) whether the company has been found guilty of insider trading or fraud involving trading in securities by local or foreign authorities;

- (c) whether the company has been convicted of an offence under this Act;
- (d) whether in the opinion of the Central Bank the company has not carried on its business in a prudent manner;
- (e) whether in the opinion of the Central Bank the company is insolvent or is likely to become insolvent;
- (f) whether the company has suspended or is about to suspend payment in respect of, or is unable to meet its obligations, as they fall due;
- (g) whether in the opinion of the Central Bank the affairs of the company or any associated person are being conducted in a manner prejudicial to the soundness of the financial institution in question or the financial system of Belize; and
- (h) any other matter which the Central Bank may prescribe.

PART II

General Provisions Concerning Supervision, Regulations and Guidelines

6. (1) The Central Bank shall be responsible for the general administration of this Act and the supervision of licensees, and shall have the powers and duties conferred on it by this Act and the *Central Bank of Belize Act*.

Objectives of supervision.

CAP. 262.

(2) For the purposes of this Act, the primary objective of the Central Bank shall be to maintain confidence in and

promote the safety and soundness of, the financial system in Belize.

(3) Other objectives of the Central Bank, in respect of licensees are to:-

- (a) promote prudent and fair banking and financial business practices; and
- (b) supervise licensees to determine whether they are in a sound financial condition.

Regulations.

7. (1) The Central Bank, after consultation with licensees, may by regulations published in the *Gazette*, prescribe requirements and standards with respect to the following matters (provided that such requirements and standards shall be the same for each bank and type of financial institution, as the case may be):-

- (a) minimum licensing requirements;
- (b) capital adequacy ratios and solvency requirements and capital ratios in relation to licensees, financial holding companies and members of the financial group;
- (c) classification of loans and other assets;
- (d) provisioning for doubtful loans and other assets;
- (e) treatment of interest;
- (f) related party transactions;
- (g) loan concentrations;
- (h) risks relating to self-dealing;
- (i) profiting from insider information;

- (j) liquidity requirements and ratios in relation to licensees, financial holding companies and members of the financial groups;
- (k) treatment of credit exposures in relation to licensees, financial holding companies and members of the financial group;
- (l) treatment of assets and investments in relation to licensees, financial holding companies and members of the financial group;
- (m) risk management;
- (n) corporate governance;
- (o) information required in published financial statements;
- (p) fees and commissions charged to customers by banks;
- (q) license fees for banks and financial institutions; and
- (r) any other matter as may be determined by the Central Bank from time to time, or as may be necessary or expedient for the better carrying out of the provisions of this Act.

(2) The Central Bank, by regulations published in the *Gazette* or written notice delivered to persons affected thereby, may specify requirements governing the acceptance by licensees, their holding company or affiliates, or the reporting to the Central Bank by licensees, their holding company or affiliates, of currency transactions by customers, including requirements relating to cash transactions and large currency deposits and similar matters.

(3) A person who contravenes any regulations made under this section commits an offence and where the person:-

(a) is an individual, the person is liable on summary conviction to pay a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years, and in the case of a continuing offence, to an additional fine not exceeding ten thousand dollars for every day during which the offence continues;

(b) is a company:-

(i) every director and officer of such company is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years and in the case of a continuing offence to an additional fine not exceeding ten thousand dollars for every day during which the offence continues; and

(ii) the company is liable on summary conviction to a fine not exceeding one hundred thousand dollars and in the case of a continuing offence to an additional fine not exceeding ten thousand dollars for every day during which the offence continues.

(4) All regulations made by the Central Bank under this Act shall be subject to the approval of the Minister.

(5) All regulations made under this Act shall be laid before the National Assembly as soon as may be after the making thereof and shall be subject to negative resolution.

in draft form to the licensees and other persons who may be affected by them, and shall, in that regard, allow twenty-one days for consultation with the licensees and other stakeholders.

(2) Where, in the opinion of the Central Bank, any matter proposed to be dealt with in regulations or by an amendment thereof has become urgent, the Central Bank may, with the approval of the Minister, proceed to effect promulgation of the regulations or an amendment thereof without following the process referred to in subsection (1), in which case the Central Bank shall publish, in the *Gazette*, the reasons for its action.

9. The Central Bank may, after consultation with licensees, issue Guidelines on any matter it considers necessary to:-

Guidelines.

- (a) give effect to this Act;
- (b) establish prudential criteria;
- (c) enable the Central Bank to meet its objectives;
- (d) aid compliance with the *Money Laundering and Terrorism (Prevention) Act, 2008* or any other written law relating to the prevention of money laundering and combating the financing of terrorism; and
- (e) regulate the market conduct of licensees.

Act No. 18 of 2008.

10. Any licensee which fails to comply with any of the requirements of a Guideline shall, on being called upon in writing by the Central Bank, pay a fine not exceeding ten thousand dollars for each contravention, and five thousand dollars for every day the contravention continues.

Contravention of Guidelines.

Amendment
to schedules.

11. (1) The Minister, may, after receiving the recommendations of the Central Bank, by Order published in the Gazette, make amendments to any of the Schedules as he deems necessary.

(2) Every Order made by the Minister under subsection (1) shall be subject to negative resolution.

PART III

Licensing Requirements

Prohibition
on carrying
on banking
business
without a
licence.

12. (1) No person shall carry on banking business from within Belize without holding a valid licence granted under this Act.

(2) A person who not being duly licensed under this Act:-

- (a) acts as a bank, whether on his own account, in partnership or otherwise;
- (b) holds himself out as being licensed as a bank; or
- (c) takes or uses any name, title, addition, or description implying or likely to lead another person to believe that he is licensed as a bank,

commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding four years, or to both such fine and term of imprisonment.

CAP. 267.

(3) No person other than a licensed bank or an international bank licensed under the *International Banking Act* shall use or continue to use the word “bank” or any of its derivatives, either in English or in any other language,

in the description or title under which such person is carrying on business in or from within Belize.

(4) No person other than a licensee or an international bank licensed under the *International Banking Act* shall:-

CAP. 267.

- (a) make or continue to make any representation in any letter, letterhead, circular, paper, advertisement, computer-based information system or in any other manner whatsoever that such person is carrying on a banking business or financial business; or
- (b) issue or cause to be issued any advertisement inviting the public to deposit money on current account, deposit account or other similar account or enter into any agreement connected thereto.

(5) The Central Bank, may, by written directive, require any person who contravenes subsections (1), (2), (3) or (4) to cease doing the acts prohibited by those subsections and may take over the affairs of such person and appoint itself or any person specified in section 86 (Appointment of Statutory Administrator) as liquidator or administrator thereof, and wind up such person's affairs, as provided in this Act.

(6) Wherever the Central Bank has reason to believe that any person:

- (a) is conducting a banking business or financial business in Belize without a valid licence under this Act; or
- (b) has acquired an investment in, or control of a local licensee or increased an investment in a local licensee without the prior approval of the Central Bank pursuant to section 29 (Acquisition and holding of shares in a licensee),

it may, by notice in writing, require that person to produce to the Central Bank any books, accounts, financial statements or other records of any kind to determine whether such person is conducting such business or has acquired such investment or control.

(7) Any person who contravenes any of subsections (1), (3) or (4) or causes any person to contravene any of the said subsections commits an offence, and shall be liable on summary conviction thereof to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding four years, and in the case of a continuing offence, to an additional fine not exceeding ten thousand dollars for each day during which the offence continues. In addition, the court shall direct such person to immediately cease conducting banking business or financial business.

(8) Any person who fails or refuses to comply with any written directive delivered under subsection (6) within five business days of the delivery thereof shall, on being called upon in writing by the Central Bank, pay a fine not exceeding ten thousand dollars for every day during which the offence continues.

(9) Every building society existing at the commencement of this Act shall, if it intends to continue conducting such business, apply to the Central Bank for a licence as a financial institution within three months of such commencement, and shall, if the licence is refused, immediately cease to operate as a building society or to conduct any financial business.

**Prohibition
on carrying
on financial
business
without a
licence.**

13. Where a person carries on financial business without a licence issued or deemed to be issued under this Act, the person commits an offence and:-

- (a) where the person is an individual, he is liable on summary conviction to a fine not exceeding one

hundred thousand dollars or to imprisonment for three years or to both such fine and term of imprisonment, and in the case of a continuing offence to an additional fine not exceeding ten thousand dollars for every day during which the offence continues;

- (b) where the person is a company:-
- (i) every director and officer of such company is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for three years or to both such fine and term of imprisonment, and in the case of a continuing offence to an additional fine not exceeding ten thousand dollars for every day during which the offence continues; and
 - (ii) the company is liable on summary conviction to a fine not exceeding one hundred thousand dollars and in the case of a continuing offence to an additional fine not exceeding ten thousand dollars for every day during which the offence continues; or
- (c) where the person is an unincorporated body, every officer or member of the governing body of such unincorporated body is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for three years or to both such fine and term of imprisonment, and, in the case of a continuing offence, to an additional fine not exceeding ten thousand dollars for every day during which the offence continues.

14. (1) No licence may be issued under this Act to any person other than:

**Eligibility for
grant of a
licence.**

- CAP 250. (a) a company incorporated in Belize under the *Companies Act*; or
- (b) a foreign bank proposing to carry on a banking business in Belize on a branch basis,

that complies with the provisions of subsection (2).

CAP 250. (2) No licence may be issued under this Act to a company incorporated in Belize under the *Companies Act* or a foreign bank unless:

- (a) its shares are in registered form and not in bearer form;
- (b) it is owned and or controlled by a person who is a fit and proper person as defined in section 5 (Fit and proper person) of this Act;
- (c) its memorandum and articles of association are acceptable to the Central Bank;
- (d) its authorized and paid up capital complies with the requirements of sections 36 (Capital requirements) and 37 (Additional capital requirement) of this Act; and
- (e) at least its two most senior executive officers, who are directly responsible for the licensee's management and day-to-day operations in Belize, reside in Belize.

CAP 250. (3) Notwithstanding anything contained in the *Companies Act*, no company may be incorporated under that Act, whose objects include the carrying on of banking or financial business within Belize unless its incorporation has been consented to by the Central Bank.

15. A bank or financial institution licensed in Belize immediately prior to the commencement of this Act, shall from the commencement of this Act, be deemed to be licensed under this Act and the provisions of this Act shall apply accordingly.

Licensing of existing banks and financial institutions.

16. (1) An application for the grant of a licence to carry on banking business or financial business from within Belize shall be made in writing in such form and in such manner, and shall contain such information and particulars and shall be accompanied by such details, together with a non-refundable application fee, as may be specified by the Central Bank, having due regard to the types of banking business or financial business the applicant proposes to conduct. The Central Bank may specify the form and content of any application submitted under this section, and may differentiate among classes of financial institutions with respect to the form and content of such application.

Application for a licence.

(2) The Central Bank may refuse to accept an application which does not contain all of the information specified in subsection (1) by providing written notice to the applicant of such refusal.

(3) An application under subsection (1) shall show that the proposed bank or financial institution will comply with the requirements of Section 14 (2) (Eligibility for grant of license), where applicable. The Central Bank shall also require that such application:-

- (a) give particulars of, but not limited to:-
 - (i) the names and addresses of its directors and principal shareholders or proposed directors and principal shareholders;
 - (ii) the ultimate beneficial ownership of a local company, proposed local company, foreign

- bank, foreign financial institution or other entity where the shareholders of record are, or are to be, bodies corporate or other entities or where the shareholders or proposed shareholders of record are acting as nominees for or under the direction of any other person notwithstanding anything to the contrary contained in any other law;
- (iii) the shareholding structure and management of a local company, proposed local company, foreign bank, foreign financial institution or other entity where the shareholders or proposed shareholders of record are, or are to be, bodies corporate or other entities, or, in the case of an application by a foreign bank or foreign financial institution to carry on banking business or financial business in Belize on a branch basis, the management of the proposed branch;
 - (iv) the financial standing of the local company or proposed local company or of the foreign bank or foreign financial institution;
 - (v) a principal office in Belize; and
 - (vi) by name, one of its officers approved by the Central Bank, to be such applicant's authorized agent in Belize;
- (b) contain a detailed business and financial plan for the proposed bank or financial institution;
 - (c) provide such other information of a financial or other nature as the Central Bank may require in any general or particular case.

(4) In addition to the requirements of subsection (3), a foreign bank or foreign financial institution, whether intending to carry on banking business or financial business in Belize through a local company that is its subsidiary or through a branch in Belize, shall further supply to the Central Bank when making its application:-

- (a) a written statement from the banking or financial institution supervisory authority in its country of incorporation, and the banking or financial institution supervisory authority in the country where its principal office is located if different, confirming that the authority has no objection to the application;
- (b) where applicable, evidence satisfactory to the Central Bank that it is subject to a comprehensive regime of supervision on a consolidated basis by a foreign authority or other appropriate authority in its home country; and
- (c) evidence satisfactory to the Central Bank of the comprehensive nature of anti-money laundering and counter financing of terrorism legal and institutional framework in its home jurisdiction.

(5) An application for a licence and all documents submitted pursuant to this Act in support of the application shall be signed by the directors of a local company, the proposed shareholders or directors of a proposed local company or the directors of a foreign bank or foreign financial institution making the application, as the case may be.

(6) Documents submitted to the Central Bank under subsections (3) and (4) may be produced in evidence in any court of law or before the Appeal Board.

**Assessment
of
application.**

17. (1) On receipt of an application from or on behalf of a local company, proposed local company, foreign bank or foreign financial institution for a licence under this Act, the Central Bank may cause such investigation to be made of the local company, proposed local company, foreign financial institution or foreign bank, of its financial standing, and of any of its associates or affiliates as the Central Bank considers necessary to satisfy itself that the proposed bank or financial institution meets the criteria for licensing and that it will conduct its business in a sound and prudent manner.

(2) For the purposes of this section, “associate” when used to indicate a relationship with any person, means:-

- (a) a body corporate of which the person so referred to beneficially owns or directly or indirectly controls, shares, or securities convertible into shares, carrying more than twenty-five per centum of the voting rights;
- (b) a partner of the person so referred to, acting on behalf of the partnership;
- (c) a trust or estate in which the person so referred to has a substantial beneficial interest or in respect of which he serves as a trustee or in a similar capacity.

(3) Any person who furnishes any information which is in any material respect false or misleading in connection with an application under this section commits an offence and shall be liable on summary conviction thereof to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and term of imprisonment.

**Approval of
licence
applications.**

18. (1) The Central Bank shall act upon any application under section 16 (Application for a licence) within one

hundred twenty days of its acceptance. The time limit provided in this section may be extended by the Central Bank for an additional period of up to ninety days upon written notice to the applicant requesting further information or stating that further information is needed to review the application.

(2) Within the time provided under subsection (1), the Central Bank shall review the application submitted under section 16 (Application for a licence) to determine whether the issuance of a licence satisfies the requirements of this Act. The Central Bank shall, if it is satisfied that the granting of a licence is consistent with the requirements of this Act and will not be against the public interest, grant a licence upon payment of the prescribed fee and subject to such terms and conditions as the Central Bank may specify authorizing the applicant to conduct banking business or financial business as the case may be.

(3) No licence shall be issued to any applicant unless the applicant's capital satisfies all applicable capital requirements under section 36 (Capital requirements) of this Act, and the Central Bank is satisfied that the granting of a licence is consistent with the requirements of this Act and will not be against the public interest.

(4) The Central Bank shall issue a licence, subject to such terms and conditions as it may specify, authorizing the applicant to conduct banking business or financial business, and publish notice of the issuance of such licence in the *Gazette* and a newspaper of general circulation in Belize. Such licence shall specify the types of banking business or financial business in which the applicant is authorized to engage.

(5) Without prejudice to any other remedy available to the Central Bank under this Act, a licensee shall be subject to a fine not exceeding one hundred thousand dollars for

any breach of the terms or conditions of its licence, and a fine not exceeding ten thousand dollars for every day that the breach continues unremedied after being notified thereof in writing by the Central Bank.

(6) Upon the issuance of a licence to an applicant, the Central Bank shall immediately transmit one certified copy of such licence to the Registrar of Companies, in the case of a local licensee, and one certified copy of such licence to the head office and each branch thereof of the licensee.

(7) No licence will be issued under this Act until the fee specified herein is paid, and no licence shall remain in effect if the annual fee is not paid, as provided in section 26 (Display of licence and payment of fees) of this Act.

(8) Every licensed bank shall, as part of its description or title, use the word “bank” or one or more of its derivatives, either in English or in any other language.

(9) The Central Bank may refuse to grant approval of the issuance of a licence to an applicant, if in its opinion such applicant is carrying on or is intending to carry on banking business or financial business, as the case may be, under a name which:-

- (a) is identical with that of any body corporate, firm or business house, whether within Belize or not, or which resembles that name in such a manner as to lead a reasonable person to believe that the entities are related or associated with each other; or
- (b) would deceive persons into believing that such bank or financial institution has a special status in relation to or derived from the Government, has the official backing or acts on behalf of the

Government, any department, branch, agency or organ of the Government, or any officer thereof, or is recognized in Belize as a Central Bank.

(10) Every licence issued under this Act shall be in full force and effect until:-

- (a) it is revoked by the Central Bank, with the approval of the Minister, by order under this Act or as provided in section 19 (Revocation of licence); or
- (b) another licence is granted to the licensee upon approval or notification of any changes specified in section 27 (1) (Fundamental changes), whereupon such previous licence thereafter shall cease to have effect.

19. (1) The Central Bank, with the approval of the Minister, may at any time by order revoke a licence:-

Revocation of licence.

- (a) for any failure to pay the fee for the continuation of such licence within the time specified in section 26 (Display of licence and payment of fees);
- (b) for any contravention of any provision of this Act or any other law to which the licensee is subject, or of any regulation made hereunder;
- (c) for any failure to comply with any directive issued by the Central Bank under this Act;
- (d) for any failure to comply with any terms and conditions of its licence issued under this Act;
- (e) if the licensee to which a licence has been issued under this Act fails to commence operations under the terms of such licence within six months following the issuance of that licence, or such

longer period as the Central Bank may approve in writing;

- (f) if the licensee concerned has ceased to carry on all banking business or financial business;
- (g) is conducting its affairs in a manner that is detrimental to the national interest or to the interest of its depositors;
- (h) if the licensee concerned is insolvent as determined by the Central Bank or goes into liquidation or is wound up or otherwise dissolved;
- (i) if the Central Bank has been provided with false, misleading or inaccurate information by or on behalf of the licensee or, in connection with an application for a licence, by or on behalf of a person who is or is to be a director or officer of the licensee;
- (j) if in the opinion of the Central Bank the interest of depositors or potential depositors of the licensee are in any way threatened, whether by the manner in which the licensee is conducting or proposes to conduct its affairs or for any other reason;
- (k) if the licensee has merged or has been amalgamated with another company or licensee and the licence is no longer required;
- (l) the business of the licensee is no longer the business for which it was licensed;
- (m) if the licensee's assets, capital or liquidity are inadequate or insufficient to meet its liabilities as they mature or become due; or

- (n) for any failure to comply with the requirements of sections 36 (Capital requirements) and section 37 (Additional capital requirements) and the Central Bank determines that the licensee has no substantial prospect of bringing itself into compliance with the requirements of those sections.

(2) Subject to section 25 (Mandatory revocation and restriction in cases of urgency), before a licence is revoked the Central Bank shall give to the licensee written notice of its intention to do so, specifying the grounds upon which the Central Bank, with the approval of the Minister, proposes to revoke the licence and the date on which such proposed revocation is to take effect, and shall require the licensee to submit to the Central Bank within a specified period a written statement of any objections to the revocation of the licence.

(3) The Central Bank shall inform the licensee, by notice in writing, of the final decision.

(4) After serving a notice of intention to revoke a licence, and after taking into account any objection under subsection (2), the Central Bank shall decide whether to:—

- (a) revoke the licence;
- (b) take further action; or
- (c) restrict the licence instead.

(5) Where the Central Bank decides to revoke the licence, the notice of revocation shall include the date on which the revocation takes effect, a statement of the grounds for the decision and the rights of the licensee under subsection (9) and section 129 (Appeals against Central Bank's decision).

(6) When the Central Bank serves a notice of intention to revoke a licence under this section, it may, with the approval of the Minister, take charge of all books, records and assets of the licensee or any portion thereof and appoint a liquidator, and to do all such things as may be necessary to safeguard the interests of depositors, creditors and shareholders of the licensee until any appeal filed pursuant to subsection (9) has been determined.

(7) The Central Bank may incur expenses to carry out the provision of subsection (6), including, without limitation, costs in connection with:–

- (a) utilities;
- (b) rent; and
- (c) necessary expenses of maintaining the business of the licensee,

and any such costs shall be paid by the licensee.

(8) Where the licensee does not have adequate liquidity to meet the costs referred to in subsection (7), the Central Bank may provide funding to cover such costs, which funding shall be treated as a loan by the Central Bank to the licensee and shall be repaid out of the funds of the licensee or, in the event that the licensee is liquidated, shall be a first charge on the assets of the licensee. Notwithstanding any provision to the contrary in the *Central Bank of Belize Act*, loan funding provided to a licensee by the Central Bank in accordance with this subsection may be provided, with the prior written approval of the Minister, without collateral.

CAP 262.

(9) A licensee which has submitted a statement of objections as provided in subsection (2) and is dissatisfied with the decision thereon, may apply to the Appeal Board within thirty days to challenge that decision on the grounds

that none of the circumstances referred to in subsection (1) exists.

(10) Where a decision is made to revoke a licence under subsection (3), the licensee shall cease carrying on business as from the date notified to it as the date on which the revocation shall take effect.

(11) When a decision is made to revoke a licence and such decision is not set aside by the Appeal Board, the Central Bank shall apply to the Supreme Court for an order for the winding-up of the licensee.

(12) Where in the case of a licensee having an affiliate located outside Belize, the relevant supervisory authority in that country has withdrawn from the affiliate an authorization or licence corresponding to any which may be conferred by this Act, the Central Bank may restrict or revoke the licence granted under this Act.

(13) Where in the case of an affiliate, wherever incorporated, of a licensee:-

- (a) a winding-up order has been made;
- (b) a resolution for its voluntary winding-up has been made; or
- (c) an order for the appointment of a receiver has been made,

the Central Bank may restrict or revoke the licence if it considers that the winding-up of the affiliate is likely to adversely affect the licensee or its depositors.

(14) The Central Bank shall revoke the licence of a licensee if:-

- (a) a winding-up order has been made against it;
- (b) all its assets have passed into the ownership of another person; or
- (c) a resolution for its voluntary winding-up has been passed in accordance with section 100 (Voluntary winding up and approval of Central Bank).

(15) Where the Central Bank revokes a licence under this section, notice of such revocation shall be published in the Gazette and a newspaper of general circulation in Belize.

Restriction of licence.

20. (1) Where it appears to the Central Bank that there are grounds to revoke a licence but the circumstances are not such as to justify revocation, it may place restrictions on the licence instead of revoking it.

(2) Where the Central Bank has reasonable grounds to believe that a licensee, in conducting its business, is committing or is about to commit a violation of this Act, or any regulation, guideline, directive, notice or condition imposed in writing by the Central Bank, or the Central Bank has reasonable grounds to believe that the licensee has engaged in any unsafe or unsound practice, the Central Bank may restrict the license by issuing such directives as the Central Bank thinks necessary to protect the interests of the licensee's depositors or potential depositors.

(3) Directives issued under this section may, in particular: –

- (a) require the licensee or subject person to cease or refrain from doing the act or pursuing the course of conduct;
- (b) impose limitations on the acceptance of deposit and the incurring of credit exposures;

- (c) prohibit the licensee from soliciting deposits either generally or from persons who are not already depositors;
- (d) prohibit the licensee from entering into any other transaction or class of transactions;
- (e) require the removal of any director or officer;
- (f) impose new conditions upon the licence of the licensee; or
- (g) contain such other requirements as may be considered necessary in any particular case.

(4) At the expense of the licensee, the Central Bank may appoint a person who, in the opinion of the Central Bank, has adequate training and experience to advise the licensee on the proper conduct of its affairs and to report to the Central Bank thereon within such time as specified.

(5) Where any licensee fails to satisfy the requirements of section 36 (Capital requirements) or section 37 (Additional capital requirement) pertaining to capital, or the requirements of section 39 (Deposit and other liability reserves) or section 40 (Liquid asset reserves) pertaining to reserves or section 57 (Single borrower limits of banks), the Central Bank may, by written directive to the licensee, require such licensee to take one or more of the following measures:-

- (a) submit a plan to the Central Bank specifying the measures the licensee shall take to restore its capital or reserves and the timeframe for implementation of the plan;
- (b) increase the licensee's capital and reserves;
- (c) suspend the licensee's payment of dividends;

- (d) restrict the licensee's asset growth;
- (e) prohibit transactions with the holding body corporate, subsidiaries or other affiliates of the licensee;
- (f) restrict the activities of the licensee; or
- (g) require the licensee to take any other action which the Central Bank deems necessary to bring the licensee into compliance with the provisions of section 36 (Capital requirements) or 37 (Additional capital requirement) pertaining to capital, or the requirements of section 39 (Deposit and other liability reserves), or 40 (Liquid asset reserves) or 57 (Single borrower limits of banks).

(6) A directive imposed under this section may be varied or withdrawn by the Central Bank.

(7) A licensee or any director or officer thereof who fails to comply with any requirement or contravenes any prohibition imposed on it by a directive under this section, shall, upon being called to do so by the Central Bank, pay a fine not exceeding one hundred thousand dollars and in the case of a director or officer to a fine not exceeding fifty thousand dollars.

(8) If a person to whom a directive is issued fails to comply with the said directive the Central Bank may, in addition to any other action that may be taken under this Act, apply to the Supreme Court for an Order requiring that person to comply with the directive, cease the contravention or do anything that is required to be done, and on such application the Supreme Court may so order and make any other Order it thinks fit.

21. (1) Where the Central Bank proposes to:—

Notice of
restriction.

- (a) restrict a licence; or
- (b) vary the restrictions imposed on a licence otherwise than with the agreement of the licensee,

it shall serve written notice of intention to do so on the licensee.

(2) A notice of intention to restrict or to vary a restriction shall specify the proposed restriction or the proposed variation as the case may be, and shall state the grounds on which the Central Bank proposes to act and particulars of the licensee's rights under subsection (4).

(3) Where:—

- (a) the ground for a proposed restriction or variation of a restriction is that it appears to the Central Bank that the criteria in section 5 (Fit and Proper) are not or have not been fulfilled, or are unlikely to be or may not have been fulfilled in the case of any person; or
- (b) a proposed restriction consists of or includes a condition requiring the removal of any person as director or officer,

the Central Bank shall serve on that person a copy of the notice of intention to restrict or vary a restriction together with a statement of his rights under subsection (4).

(4) A licensee which is served with a notice of intention to restrict or vary a restriction, and a person who is served with a copy of it under subsection (3) may, within the period of fourteen days commencing from the day on which the notice was served, make representation to the Central Bank.

(5) After serving a notice of intention to restrict or vary a restriction, and after taking into account any representations made under subsection (4) the Central Bank shall decide whether to:—

- (a) proceed with the action proposed in the notice;
- (b) take further action; or
- (c) restrict or vary the restriction, in a different manner.

(6) The Central Bank shall serve on the licensee and on any such person served with a notice in subsection (3), written notice of its decision and, except where the decision is to take no further action, the notice shall state the reasons for the decision and shall give particulars of the rights conferred by sections 22(2) (Restriction or variation) and section 129 (Appeals against Central Bank's decision).

(7) A notice under subsection (6) shall be served within the period of fifteen days commencing on the day after which the notice of intention to restrict or vary a restriction was served and if no notice is served under that section, within that period, the Central Bank shall be treated as having at the end of that period served a notice under that subsection to the effect that no further action is to be taken.

**Restriction
or variation.**

22. (1) A notice under section 21(6) (Notice of restriction) of a decision to restrict or to vary the restrictions on a licence shall have the effect of restricting the licence or varying the restrictions in the manner specified in the notice.

(2) Where the decision notified under subsection (1) is to restrict the licence or to vary the restrictions on a licence otherwise than as stated in the notice of intention to restrict or vary a restriction the licensee may, within the period of seven days commencing on the day after which the notice

was served under section 21(6) (Notice of restriction), make written representations to the Central Bank with respect to the restrictions and the Central Bank may, after taking those representations into account, alter the restrictions.

(3) Where the Central Bank varies a restriction on a licence with the licensee's agreement or withdraws a restriction consisting of a condition, the variation or withdrawal shall be effected by written notice to the licensee.

(4) Where a licence is restricted or varied and the licensee fails to comply with any of the terms of the restriction or variation, as the case may be, the licensee shall, on being called upon in writing by the Central Bank, pay a fine not exceeding one hundred thousand dollars and in the case of a continuing contravention, an additional ten thousand dollars for each day thereafter in which the contravention continues.

23. (1) The Central Bank may give a licensee directives:—

- (a) when giving notice of intention to revoke its licence under section 19(2) (Revocation of licence), that the Central Bank proposes to revoke its licence;
- (b) at any time after such notice of intention to revoke its licence has been given to the licensee, whether before or after its licence is revoked; or
- (c) when giving a notice of revocation of its licence under section 25(2) (Mandatory revocation and restriction in cases of urgency) in the case of the voluntary winding-up of the licensee as referred to in section 19(14) (b) (Revocation of licence).

Directives on notice of intention to revoke and revocation.

(2) Directives under this section shall be such as appear to the Central Bank to be desirable in the interests of the depositors or potential depositors of the licensee,

whether for the purpose of safeguarding its assets or otherwise, and may, in particular -

- (a) require the licensee to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way;
- (b) impose limitations on the acceptance of deposits and the incurring of credit exposures;
- (c) prohibit the licensee from soliciting deposits either generally or from persons who are not already depositors;
- (d) prohibit the licensee from entering into any other transaction or class of transactions;
- (e) require the removal of any director or officer; or
- (f) contain such other requirements as may be considered necessary in any particular case.

(3) Where the Central Bank gives a licensee notice that it does not propose to take any further action pursuant to the notice under section 19(2) (Revocation of licence) it shall not give any directives.

(4) Under this section no directive shall be given to a licensee or former licensee after it has ceased to have any liability in respect of deposits for which it had a liability at a time when it was licensed and any such directive which is in force with respect to a licensee or former licensee shall cease to have effect when it ceases to have any such liability.

(5) A licensee or any director or officer thereof who fails to comply with any requirement or contravenes any prohibition imposed by a directive under this section commits

an offence and is liable on summary conviction, in the case of a licensee, to a fine not exceeding five hundred thousand dollars and in the case of any director or officer, to a fine not exceeding five hundred thousand dollars or to imprisonment for five years or to both such fine and term of imprisonment.

(6) If a person to whom a directive is issued fails to comply with the said directive the Central Bank may, in addition to any other action that may be taken under this Act, apply to the Supreme Court for an Order requiring that person to comply with the directive, cease the contravention or do anything that is required to be done, and on such application the Supreme Court may so order and make any other Order it thinks fit.

24. (1) Directives under section 20 (Restriction of licence) and section 23 (Directives on notice of intention to revoke and revocation) shall be given by notice in writing, and shall state the reasons for which the directives are given, and may be varied by a further notice containing directives, or cancelled by the Central Bank by notice in writing to the licensee or former licensee.

**Notification
and
confirmation
of directives.**

(2) Where a directive requires the removal of a person as director or officer the Central Bank shall serve on that person a copy of the directive together with a statement of his rights under subsection (3).

(3) A licensee to which a directive is given and a person who is served a copy of it under subsection (2) may, within the period of fourteen days commencing from the day after which the directive is given, make written representations to the Central Bank and the Central Bank shall take any such representations into account in deciding whether to confirm the directive.

(4) Where the Central Bank decides to confirm the directive it shall serve written notice of such confirmation

on the licensee or former licensee and such notice shall state particulars of the rights of the licensee or former licensee under section 129 (Appeals against Central Bank's decision).

**Mandatory
revocation
and
restriction in
cases of
urgency.**

25. (1) No notice of intention need be given:-

- (a) under section 19 (2) (Revocation of licence) in respect of the revocation of a licence in any case in which revocation is mandatory under section 19 (14) (Revocation of licence); or
- (b) under section 21 (1) (Notice of restriction) in respect of the imposition or variation of a restriction on a licence in any case in which the Central Bank considers that the restriction should be imposed or varied as a matter of urgency.

(2) In any such case as is mentioned in subsection (1), the Central Bank may by written notice to the licensee revoke the licence or impose or vary the restriction.

(3) A notice under subsection (2) shall state the reasons for which the Central Bank has acted and, in the case of a notice imposing or varying a restriction, give particulars of the licensee's rights conferred by section 129 (Appeals against Central Bank's decision).

(4) Where:-

- (a) the ground for a proposed restriction or variation of a restriction is that it appears to the Central Bank that the criteria in section 5 (Fit and proper person) are not or have not been fulfilled, or are unlikely to be or may not have been fulfilled in the case of any person; or
- (b) a proposed restriction consists of or includes a condition requiring the removal of any person as director or officer,

the Central Bank shall serve on that person a copy of the notice to restrict or vary a restriction together with a statement of his rights under subsection (5).

(5) A licensee which is served with a notice to restrict or vary a restriction, and a person who is served with a copy of it under subsections (2) and (4) may, within the period of fourteen days commencing from the day after which the notice was served, make representation to the Central Bank.

(6) After serving a notice under subsections (2) or (4) imposing or varying a restriction and taking into account any representations made in accordance with subsection (5) the Central Bank shall decide whether to:—

- (a) confirm or rescind its original decision; or
- (b) impose a different restriction or to vary the restriction in a different manner.

(7) The Central Bank shall, within the period of fifteen days commencing from the day after which the representations have been made, give the licensee concerned written notice of its decision under subsection (6) and, except where the decision is to rescind the original decision, the notice shall state the reasons for the decision.

(8) Where the notice under subsection (7) contains a decision to take the action specified in subsection (6)(b), the notice under subsection (7) shall have the effect of imposing the restriction or making the variation specified in the notice with effect from the date on which the notice is served.

(9) Where a notice of intention to revoke a licence under section 19(2) (Revocation of licence) is followed by a notice revoking a licence under this section, the latter

notice shall have the effect of terminating any right to make representations in respect of the proposed revocation.

(10) Within seven days of a person ceasing to hold a licence the Central Bank shall publish notice of that fact in the *Gazette* and in a newspaper published and circulated in Belize.

Display of
licence and
payment of
fees.

26. (1) Any licence granted under this Act shall be displayed and kept displayed in a conspicuous place where the licensee conducts business, and certified copies shall be similarly displayed in each of its branch offices in Belize.

(2) Every licensee shall, upon the issuance of a licence, pay to the Central Bank the initial licence fee prescribed by regulations made pursuant to this Act.

(3) Every licensee shall pay to the Central Bank not later than the second day of January of each succeeding year, the annual licence fee prescribed by regulations made pursuant to this Act.

(4) Every licensee who defaults in paying the annual licence fee in respect of a licence granted under this Act by the due date and who continues to transact banking business or financial business, as the case may be, shall be liable to pay, on being called upon by the Central Bank to do so, an initial fee of ten thousand dollars and a sum of five thousand dollars for each day in which the contravention continues.

Fundamental
changes.

27. (1) Except with the prior written approval of the Central Bank, no licensee shall:-

- (a) merge or consolidate with any other licensee or with an international bank licensed under the *International Banking Act*;

- (b) directly or indirectly acquire any material portion of the assets of, or assume any material portion of the liabilities of another licensee or of an international bank licensed under the *International Banking Act*;
- (c) sell or dispose the whole or any material portion of its banking or financial business by any means;
- (d) engage in any banking business or financial business not specified in its licence;
- (e) repurchase its own shares or make loans or extend credit for the purchase of its own shares;
- (f) change its title or name;
- (g) take any action to reduce or materially impair, in any respect, its paid-up capital and assigned capital;
- (h) establish a subsidiary or branch in Belize, or relocate its head office or move branches from one location to another in Belize or another jurisdiction;
- (i) amend its memorandum or articles of association, or any other constituent document under which it is incorporated;
- (j) acquire or dispose of shareholding or ownership rights in any bank or financial institution in any jurisdiction, inside or outside of Belize; or
- (k) carry out any substantial change to its operations in Belize or in another jurisdiction.

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(2) A licensee seeking approval under subsection (1) shall submit to the Central Bank an application containing such information and in such form as the Central Bank may specify.

(3) The Central Bank shall not approve any of the changes specified in subsection (1) if, in its opinion, the proposed change as described in that subsection will adversely affect the condition or operations of the licensee, or be detrimental to the interests of depositors or customers of the licensee, or, if in the opinion of the Central Bank, poses a potential threat to the stability of the financial system.

(4) The Central Bank may grant its approval under this section subject to such conditions as it deems fit and may at any time, add to, vary or revoke any condition.

(5) Upon any changes made in accordance with subsection (1), the Central Bank may make appropriate modifications to the licence of the licensee or resulting licensee, as the case may be, or may cause to be issued a new licence to the licensee or resulting licensee, and any such licence may be subject to such terms and conditions, if any, as may be specified therein.

(6) Upon the issuance of a new or modified licence to any licensee or resulting licensee under subsection (5), the Central Bank shall immediately transmit one certified copy of such licence to the Registrar of Companies, in the case of a local licensee, and one certified copy of such licence to the head office and each branch thereof of the licensee, which copies thereupon shall be displayed in the manner provided in section 26 (1) (Display of licence and payment of fees).

(7) Any licensee which fails to comply with any of the provisions of subsection (1) or with any requirement of the Central Bank imposed under this section shall, on being

called upon in writing, pay the Central Bank a fine not exceeding ten thousand dollars for each day of such failure to comply. Where a licensee fails to comply with any written requirement of the Central Bank under this section, the principal officer of such licensee shall be deemed to have been personally responsible for the failure of the licensee to comply and shall be liable to pay to the Central Bank ten thousand dollars for each day of such failure to comply.

28. (1) A person other than a licensee shall not:-

- (a) describe himself as a licensee; or
- (b) so hold himself out as to indicate or be reasonably understood to indicate that he is a licensee.

False statements as to licensee status.

(2) A person shall not falsely state, or do anything which falsely indicates, that he is entitled, although not a licensee, to carry on banking business or financial business.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction, in the case of a company, to a fine not exceeding five hundred thousand dollars and in the case of an individual, to a fine not exceeding five hundred thousand dollars or to imprisonment for five years, or to both such fine and term of imprisonment.

(4) A person who contravenes subsection (2) commits an offence and is liable on summary conviction, in the case of a company, to a fine not exceeding one hundred thousand dollars and in the case of an individual, to a fine not exceeding one hundred thousand dollars or to imprisonment for three years or to both such fine and term of imprisonment.

29. (1) No person shall, acting directly or indirectly, alone or acting together with one or more affiliates or relatives or related parties, acquire or hold any share in a local licensee:-

Acquisition and holding of shares in a licensee.

- (a) who has had any judgment (including a consent judgment) made against him or any penalty or fine imposed upon him by any court or other competent judicial authority in any country in any matter involving fraud, deception, dishonesty or breach of trust; or
- (b) who is not a fit and proper person pursuant to section 5 (Fit and proper person).

(2) No person shall, acting directly or indirectly, alone or together with one or more affiliates or relatives or related parties, without prior written approval of the Central Bank, acquire:

- (a) more than ten percent of any class of voting shares of a local licensee;
- (b) exercise of control, in any manner, over any voting shares of a local licensee where such acquisition would give the person exercise of control over more than ten percent of
 - (i) any class of voting shares,
 - (ii) the total votes attached to all outstanding voting shares; or
- (c) control of a local licensee.

(3) No person who has obtained the written approval of the Central Bank pursuant to paragraph (2)(a) or (c) shall increase that shareholding, by ten percent or more of any class of voting shares without the prior written approval of the Central Bank.

(4) Any person seeking written approval of the Central Bank pursuant to subsection (2) or (3) shall submit

to the Central Bank an application containing such information and in such form as the Central Bank may specify.

(5) Upon acceptance of any application under this section, the Central Bank, in determining whether or not to grant its approval, shall make such investigations and inquiries as it deems necessary, and shall consider:-

- (a) the terms and conditions of the proposed acquisition;
- (b) the financial resources and history of the shareholder or proposed shareholder;
- (c) the financial condition and capitalization of the local licensee;
- (d) any proposed change in the business, corporate structure, or management, including the Board of Directors, of the local licensee;
- (e) the completeness and truthfulness of the information submitted by the shareholder or proposed shareholder;
- (f) whether the shareholder or proposed shareholder is a fit and proper person pursuant to section 5;
- (g) whether the Board of Directors of the shareholder or proposed shareholder are fit and proper persons;
- (h) the identity of the ultimate beneficial owner of the shares and whether such owner is a fit and proper person; and
- (i) any other matters that the Central Bank deems appropriate.

(6) The Central Bank may refuse to accept an application which does not contain all information required under subsection (4).

(7) The Central Bank may grant its approval under this section subject to such conditions as it deems fit and may at any time, add to, vary or revoke any condition.

(8) Where the Central Bank is of the opinion that the interests of a group of two or more persons are so interrelated that they should be considered as a single unit, the total shareholdings in the local licensee of that group shall be combined and deemed to be the holdings of a single person for purposes of this section.

(9) A person who has received the approval of the Central Bank under subsection (7) shall at all times during which the person holds the investment, control or increased investment, continue to be a fit and proper person pursuant to section 5.

(10) In every case where:-

- (a) the provisions of subsection (1), (2) or (3) have been violated, including through the acquisition of shares or other means of control in other corporate bodies, entities or business enterprises in or outside of Belize;
- (b) the information submitted in the application is false or misleading or incomplete;
- (c) the “fit and proper” requirements of this Act have not been satisfied or have ceased to be satisfied;
- (d) there is a contravention of any of the conditions imposed under subsection (7); or
- (e) the Central Bank would not have granted its approval under this section had it been aware, at

that time, of circumstances relevant to the shareholder's application for such approval,

the Central Bank may, by written directive, require the shareholder in question to divest all or a specified proportion of the shares held by that person in the local licensee.

(11) The Central Bank shall notify the local licensee and the shareholder in writing of any divestment order that the Central Bank proposes to make under subsection (10) and shall afford them an opportunity within fourteen days after the date of the notice, or within any longer period that the Central Bank may allow, to make representations to the Central Bank in relation to the matter.

(12) Where the Central Bank is of the opinion that the public interest may be prejudiced by the shareholder continuing to exercise any shareholder rights attached to the shares to be divested (including, but not limited to, the right to attend or vote at meetings of the shareholders) during:-

- (a) the period for making representations specified in subsection (11);
- (b) the period preceding the decision of the Appeal Board where an appeal has been taken to the Appeal Board pursuant to subsection (14);
- (c) the period preceding the decision of the Supreme Court where an application has been made to the Supreme Court by the Central Bank pursuant to subsection (16); or
- (d) the period preceding the decision of the Court of Appeal or the Caribbean Court of Justice where an appeal has been made to the Court of Appeal or the Caribbean Court of Justice against a

decision of the Supreme Court made under subsection (16),

the Central Bank may make an order prohibiting the shareholder from exercising any such rights until final determination of the matter.

(13) The Central Bank shall without delay, notify the shareholder and the local licensee of a divestment order made under subsection (10). The divestment order shall specify a reasonable period within which the shareholder shall take steps as are necessary to divest the shares.

(14) The shareholder may appeal the matter to the Appeal Board within thirty days after the date of receipt of a notice of the divestment order under subsection (13), or within any longer period that the Appeal Board may allow.

(15) The Appeal Board may dismiss the appeal or set aside the divestment order.

(16) In the event that a shareholder:-

- (a) fails to appeal to the Appeal Board pursuant to subsection (14) within the time period or any extension thereof referred to in that subsection; or
- (b) has taken such an appeal to the Appeal Board, and the appeal has been dismissed,

and the shareholder fails to comply with a divestment order made under subsection (10), the Central Bank may, without prejudice to any other remedy available under this Act or any other law, apply to the Supreme Court for such Orders as may be necessary for enforcing the divestment order.

(17) Without limiting the generality of subsection (16), the Order of the Supreme Court may include an Order

conferring on the Registrar of the Court authority to do any act or take any step necessary to secure compliance with the divestment order.

(18) Any person who acquires:-

(a) any share of,

(b) exercise of control over any share of,

(c) a substantial investment in, or

(d) control of,

a local licensee or increases a shareholding in a local licensee in contravention of this section, or does not comply with any condition of the Central Bank imposed under subsection (7) or an order or directive of the Central Bank made under subsection (10), commits an offence and shall be liable (in addition to any other penalty provided for in this Act or any other law of Belize) to pay on summary conviction a penalty not exceeding ten thousand dollars for every day the offence continues or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.

(19) The authority conferred on the Central Bank under this section shall be in addition to and shall not derogate from any other authority, power or duty conferred on the Central Bank under this Act or any other law.

(20) A local licensee shall by notice in writing require its registered shareholders to submit, within such time and in such form as may be specified by the local licensee, the names of the ultimate beneficial owners of the shares registered in their names.

(21) Where a local licensee has reason to believe that the registered owner of any of its shares has transferred

or agreed to transfer to any other person ownership or control of any of the rights associated with the shares (including, but not limited to, the right to attend or vote at meetings of shareholders), the local licensee may, by notice in writing, require any such shareholder or other person to submit to the local licensee within such time and in such form as may be specified:

- (a) a statement disclosing the particulars of any such transfer or agreement to transfer; and
- (b) copies or particulars of any agreement, transfer form, correspondence, writing or other document in the possession, control or knowledge of the person relative to such transfer or agreement to transfer.

(22) Any person who fails to comply with the requirements of a notice issued under subsection (20) or (21) or who provides inaccurate, incomplete or misleading information or documentation in response thereto commits an offence and shall be liable (in addition to any other penalty provided for in this Act or any other law of Belize), to pay on summary conviction a penalty not exceeding ten thousand dollars for every day the offence continues or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.

(23) Where a penalty has been imposed under subsection (22) and, in the absence of a stay of execution of the penalty by a competent authority or the proper filing of an appeal against the penalty, the fine has not been paid or the period of imprisonment commenced within 90 days of the imposition of the penalty, the Central Bank may apply to the Supreme Court for an order for the disposal of shares on such terms and conditions as the Supreme Court deems appropriate.

30. (1) Where a local licensee or proposed local licensee is, or is about to become, a member of a related group in which:-

**Requirement
for financial
holding
company.**

- (a) one or more members, in addition to the local licensee or proposed local licensee, are limited in their activities to those permitted to a member of a financial group, and
- (b) one or more members are not limited in their activities to those permitted to a member of a financial group,

any person who controls the local licensee or proposed local licensee shall be a financial holding company described in subsection (2) or (3).

(2) For the purposes of subsection (1), in the circumstances where the person who controls, directly or indirectly, the related group referred to in subsection (1) is a holding body corporate, the financial holding company shall be another holding body corporate that is the immediate subsidiary of that first holding body corporate.

(3) For the purposes of subsection (1), in the circumstances where the person who controls, directly or indirectly, the related group referred to in subsection (1) is an individual or unincorporated entity, the financial holding company shall be a holding body corporate, the shares of which shall be directly held by that person.

(4) Where, pursuant to this section, a person who controls a local licensee is required to be a financial holding company, and, at the time this section comes into force, the person who controls the local licensee is a holding body corporate referred to in subsection (2) or an individual or unincorporated entity referred to in subsection (3), that person shall, within a period of one year:

- (a) transfer to a financial holding company that is directly controlled by that person the shares that it holds in the local licensee and in any other member or members of the related group referred to in paragraph (1)(a) that are limited in their activities to those permitted to a member of a financial group; or
- (b) divest itself of its controlling interest in the local licensee.

(5) Where a financial holding company is required by this section, it shall apply to the Central Bank for a permit pursuant to section 33 (Application for a permit).

(6) This section shall not apply where a person who controls a local licensee is itself a local licensee under this Act.

Exception.

31. (1) A financial holding company shall not be required where a local licensee or proposed local licensee is, or is about to become, a member of a related group, and:-

- (a) those members of the related group are directly controlled by a foreign bank, foreign financial institution or foreign holding body corporate described in subsection (2); and
- (b) the local licensee or proposed local licensee is, or will be, directly controlled by the same foreign bank, foreign financial institution or foreign holding body corporate.

(2) Subsection (1) shall apply where the foreign bank, foreign financial institution or foreign holding body corporate:

- (a) is subject to regulation and supervision acceptable to the Central Bank; and

- (b) is not affiliated directly or indirectly with any entity that carries on any business other than an activity permitted to a member of a financial group, except for its link through common ownership by the person who controls it directly or indirectly.

32. (1) A financial holding company referred to in section 30 (Requirement for financial holding company) shall not:-

Restriction on activities of financial holding companies.

- (a) carry on any activity other than administering its holding of shares in members of its financial group;
- (b) directly or indirectly control any member of another financial group, whether through establishment or acquisition, without the prior approval of the Central Bank; or
- (c) directly or indirectly, acquire or hold any share or ownership interest in any commercial, agricultural or industrial company or unincorporated entity.

(2) Regulations or guidelines made pursuant to sections 7 or 9 may include, without limitation, rules relating to:-

- (a) the maximum percentage of shares of any class or the maximum value of ownership interests that may be acquired or held; and
- (b) the maximum aggregate value of any such shares and ownership interest.

33. (1) An application for a permit to carry on the business of a financial holding company shall be made in writing in such form and in such manner, together with a non-refundable application fee, as may be specified by the

Application for a permit for a financial holding company.

Central Bank, and shall be accompanied by the following information and documents:-

- (a) the capital resources and capital structure of the body corporate that is the proposed financial holding company, including identification of the person who controls it and of any person who holds more than ten percent of any class of shares;
- (b) organizational and managerial structures;
- (c) composition of the board of directors;
- (d) whether the directors and officers of the proposed financial holding company meet the criteria set out in section 42 (Limits on directors and officers) of this Act;
- (e) whether the person controlling the proposed financial holding company is a fit and proper person pursuant to the criteria set out in this Act;
- (f) audited financial statements for the past three years, if applicable, or for such lesser period as the entity has been in existence if shorter than three years;
- (g) strategic and operational business plans;
- (h) financial plans, including projections for the next three years;
- (i) sources of funds for initial and ongoing costs; and
- (j) any other information that the Central Bank may require.

(2) In determining whether to issue a permit to an applicant as a financial holding company, the Central Bank shall:-

- (a) take into account the information referred to in subsection (1), and in particular whether the person controlling the proposed financial holding company is a fit and proper person in accordance with the criteria set out in this Act, or may be such as to prejudice the interests of depositors and other customers of the local licensee or licensees in question; and
- (b) determine whether ownership of shares by the person controlling the proposed financial holding company, given the corporate affiliations or structure of that person, will hinder effective supervision under this Act or would be likely to prejudice the interests of depositors and other customers of the local licensee or licensees.

(3) Subject to section 31 (Exceptions), where the proposed financial holding company is a foreign bank, foreign financial institution or foreign holding body corporate, the Central Bank must be satisfied that the financial holding company is subject to regulation and supervision in the relevant foreign jurisdiction acceptable to the Central Bank and that there are no obstacles to the Central Bank obtaining information from the proposed financial holding company or any applicable foreign regulatory authority.

(4) The Central Bank may attach conditions to the permit of a financial holding company under this section, including, without limitation, conditions to ensure that:-

- (a) the capital available to the financial group is adequate and will not jeopardize the financial position of the local licensee or licensees within the financial group;

- (b) no double or multiple gearing or excessive leveraging of capital exists or will take place;
- (c) the financial group is structured and managed in such a manner that it may be supervised by the Central Bank;
- (d) each member of the financial group maintains adequate control mechanisms enabling it to provide to the Central Bank any data or information relevant to its supervision; and
- (e) activities or overseas locations of operations that may be injurious to the local licensee or licensees that are members of the financial group are prevented,

and the Central Bank may, at any time and from time to time, vary, remove or add further conditions to such permit.

Control by
local
international
bank.

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34. In the event that a local licensee is controlled by a local international bank to which the *International Banking Act* applies, and that local international bank also controls all other members of the related group, the financial holding company required by section 30 (Requirement for financial holding company) shall be a financial holding company referred to in the *International Banking Act*.

Local
licensee to
limit risk.

35. (1) Where a local licensee or proposed local licensee is or will be a member of a related group and no other member of the related group is limited in its activities to those permitted to a member of a financial group, the Central Bank may require the licensee to take such measures as, in the opinion of the Central Bank, are appropriate to limit the risks to which the licensee may be exposed from other members of the related group.

(2) Without limiting the generality of subsection (1), the Central Bank may, by order or directive:-

- (a) restrict or prohibit credit exposures by the local licensee to the other members of the related group, or to any person that directly or indirectly controls the holding body corporate of the related group;
- (b) limit or prohibit loans or other transfers of funds by members of the related group to the local licensee, other than deposits with the licensee made in the ordinary course of business;
- (c) limit or prohibit loans or other transfers of funds by the local licensee to members of the related group;
- (d) increase capital and liquidity requirements with respect to the local licensee; or
- (e) require that some or all of the directors of the local licensee are independent directors.

PART IV

Capital, Reserves and Liquid Asset Requirements

36. (1) Every licensee under this Act shall at all times maintain fully paid-up capital as follows:-

Capital requirements.

- (a) in the case of a local bank, fully paid-up capital, of not less than the equivalent of ten million dollars;
- (b) in the case of a foreign bank:-
 - (i) total worldwide fully paid-up capital, of not less than the equivalent of one hundred million dollars; and

- (ii) assigned capital, of not less than the equivalent of ten million dollars;
- (c) in the case of a local financial institution, fully paid-up capital, of not less than the equivalent of two million dollars; or
- (d) in the case of a foreign financial institution:-
 - (i) total worldwide fully paid-up capital, of not less than the equivalent of fifty million dollars; and
 - (ii) assigned capital, of not less than the equivalent of two million dollars.

(2) The Central Bank may also require every licensee to maintain fully paid-up capital or assigned capital and reserves, as the case may be, in amounts not less than that percentage of the licensee's total assets, contingencies, off-balance sheet commitments, transactions and accounts as the Central Bank may specify, calculated in such a manner and using such methods as the Central Bank may prescribe and taking into account on a consistent basis the types of business which the licensee conducts, types of assets which the licensee holds and such other factors as the Central Bank deems necessary.

(3) For purposes of this section, fully paid-up capital and reserves or assigned capital and reserves mean:-

- (a) allotted, called up and fully paid and outstanding share capital or assigned capital, as the case may be, including any amounts which may be paid in excess of the par or stated value of the shares;
- (b) perpetual, irredeemable non-cumulative preferred shares, including shares convertible at the issuing licensee's option into common shares;

- (c) the statutory reserve fund maintained under section 38 (Statutory reserve fund) of this Act;
- (d) any other disclosed reserves created or increased by appropriations of retained earnings;
- (e) retained earnings;
- (f) subordinated term debt subject to such terms, limits and restrictions as the Central Bank may from time to time specify; and
- (g) any other capital element or portion thereof as the Central Bank may declare by notice in the *Gazette* to be eligible for inclusion under this section for purposes of computing the required minimum proportions;

Less:

- (h) goodwill and any other intangible assets, except such intangible assets which are readily marketable and have identifiable and consistent streams of cash flows which, in the determination of the Central Bank, may be included in capital under such terms and conditions as the Central Bank may specify; and
- (i) current year's losses as reported to the Central Bank irrespective of whether they have been published, and any accumulated losses not previously published.

(4) In-kind capital shall not be included as capital and reserves of a licensee.

(5) Where any reserves or portion of any reserves have been created against identified assets, groups of assets

or losses or, in respect of a deterioration in the value of particular assets of the licensee, such reserves or portion of reserves will be considered as being impaired and shall not be included in the capital of the licensee for purposes of computing the minimum requirements provided in this section.

(6) Any licensee which at the commencement of this Act, does not comply with the requirements of this section shall, within twelve months after the commencement of this Act or such longer period as may be approved in writing by the Central Bank, maintain fully paid up or assigned capital, as the case may be, as specified.

(7) Any licensee which fails to comply with any of the provisions of this section shall, on being called upon in writing by the Central Bank, pay a fine not exceeding one hundred thousand dollars and ten thousand dollars for each day of such failure to comply.

**Additional
capital
requirements.**

37. (1) The Central Bank may, after consultation with the Minister, in relation to a licensee or class of licensees, require such greater amounts of capital than those amounts specified in section 36 (Capital requirements) which, in its opinion, are deemed necessary and prudent, taking into account the nature of the banking business or financial business which the licensee or class of licensees conducts, or proposes to conduct, the character and condition of the existing or prospective assets of the bank or financial institution, and the existing or prospective deposits or other liabilities of the bank or financial institution.

(2) Any licensee which fails to comply with any of the provisions of this section shall, on being called upon in writing by the Central Bank, pay a fine not exceeding one hundred thousand dollars and ten thousand dollars for each day of such failure to comply.

**Statutory
reserve fund.**

38. (1) Every licensee shall maintain a statutory reserve fund in the amount and manner required by this section.

(2) In the case of a local licensee, such local licensee shall out of its net profits for each financial year and before any dividend is declared, transfer to its reserve fund a sum equal to twenty-five per centum of such profits until the amount of the reserve fund is at least equal to the fully paid-up capital of such local licensee.

(3) In the case of a foreign licensee, such foreign licensee shall out of its local net profits for each financial year before any part of such net profits are remitted outside of Belize to its holding body corporate or otherwise, transfer to its reserve fund a sum equal to twenty-five per centum of such profits until the amount of the reserve fund is at least equal to the fully paid-up assigned capital of such foreign licensee.

(4) Any licensee which fails to comply with any of the provisions of this section shall, on being called upon in writing by the Central Bank, pay a fine not exceeding ten thousand dollars for each day of such failure to comply.

39. (1) Every licensed bank shall maintain on account in its name with the Central Bank a minimum balance which on average shall be equivalent to at least five per centum of its average deposit liabilities represented by demand deposits, plus at least three per centum of its average deposit liabilities not represented by demand deposits, or such higher proportion of such demand deposits or other deposit liabilities as may from time to time be prescribed or specified by the Central Bank by notice published in the Gazette or by thirty days prior notice in writing, provided that the percentage shall be the same for each licensed bank. Any change in the required percentage will be effective on the first day of the specified month.

**Deposit and
other
liability
reserves.**

(2) The averages specified in subsection (1) shall be computed as follows:-

- (a) the average minimum balance shall be the daily average of amounts standing to the credit of the account established with the Central Bank under this section as at the close of business on each day of a month;
- (b) the average amount of the deposit liabilities shall be the average of each such deposit liability as at the close of business on the four consecutive Wednesdays ending with the penultimate Wednesday of the preceding month.

(3) The Central Bank may vary, by thirty days prior notice in writing to each licensed bank, the method to be used in computing the averages specified in subsection (2), provided that such method shall be the same for each such bank.

(4) The Central Bank may, by notice published in the *Gazette* or by thirty days prior notice in writing require each type of licensed financial institution to maintain on account in its name with the Central Bank a minimum balance in relation to the average of funds obtained by such financial institution from the public, in such amounts and upon such terms and conditions as the Central Bank may determine, provided that such requirements shall be the same for each type of licensed financial institution.

(5) Any licensed bank or licensed financial institution that contravenes this section may be ordered by the Central Bank in writing to pay a charge equivalent to ten per centum of the amount by which the actual daily average balance has fallen short of the required minimum average balance, and such charge shall be payable to the Central Bank on such date as may be fixed by the Central Bank and may be recovered by deduction from any balance of such bank or financial institution held with the Central Bank.

(6) Upon receipt of an order under subsection (5), the licensed bank or licensed financial institution shall have ten days to object that such a contravention has not taken place, at the end of which period the Central Bank shall either confirm or revoke the order.

(7) The Central Bank shall not be required to pay interest on or remunerate in any way the minimum balances referred to in subsections (1) or (4) of this section, but may do so in its sole discretion on such terms and conditions, which may themselves be subject to change or elimination, as it sees fit; provided that the terms and conditions of any such interest payment or remuneration shall be the same for each type of licensed financial institution.

40. (1) Every licensed bank shall maintain a minimum aggregate holding of approved liquid assets which on average shall be equivalent in value to at least fifteen per centum of its average demand deposit liabilities, plus at least ten per centum of its average deposit liabilities other than demand deposit liabilities, or shall be such higher proportions of such demand deposit or other deposit liabilities as may from time to time be prescribed or specified by the Central Bank by notice published in the *Gazette* or by thirty days prior notice in writing, provided that the percentage shall be the same for each such bank.

Liquid asset
reserves.

(2) The average specified in subsection (1) shall be computed as follows:-

- (a) the average aggregate holding of approved liquid assets shall be the average of the aggregate amounts of such assets held as at the close of business on the Wednesday of each week in any month as may be prescribed by the Central Bank from time to time;
- (b) the average amount of the deposit liabilities shall be as specified and computed as section 39 (2)(b) (Deposit and other liability reserves).

(3) The Central Bank may vary, by thirty days prior notice in writing to each licensed bank, the method to be used in computing the averages specified in subsection (2) and such method shall be the same for each such bank.

(4) For the purpose of this section, “approved liquid assets” means assets that are freely and readily convertible into cash without significant loss, free from any charge, lien or encumbrance whatsoever and includes all or any of the following:-

- (a) notes and coins which are legal tender in Belize and such foreign notes and coins as the Central Bank may specify in writing;
- (b) balances and deposits held in accounts with the Central Bank;
- (c) net balances and deposits held with other licensees in Belize and not exceeding ninety days to maturity but where such balances are negative they will be subtracted from the approved liquid assets;
- (d) net amount of cheques and other sight drafts drawn on other licensed banks in Belize and in the course of collection, with net negative amounts being subtracted as provided for in the immediately preceding subsection;
- (e) balances and deposits at call and at short notice not exceeding ninety days held with banks and financial institutions outside Belize and denominated in currencies freely convertible into dollars net of any or all of the following balances due within ninety days:-
 - (i) balances due to banks and financial institutions abroad;

- (ii) balances due to head office and other branches abroad;
 - (iii) balances due to holding body corporate or parent body corporate or any body corporate that owns the majority of the shares of a bank or financial institution; and
 - (iv) other foreign liabilities due within ninety days;
- (f) inland bills of exchange which are financing commercial transactions, which bear the acceptance or confirmation of acceptance of another licensee in Belize and which are payable in not more than ninety days from the date on which they were drawn or accepted;
- (g) treasury bills and other securities issued or guaranteed by the Government of Belize and maturing in not more than ninety days; and
- (h) treasury bills and other securities which have been issued or guaranteed by governments abroad, which are marketable in money and capital markets abroad, which mature in not more than ninety days and which are denominated in currencies freely convertible into dollars.

(5) The Central Bank may declare, by notice in the *Gazette* or by thirty days prior notice in writing, any of the assets described in this section to have ceased to qualify as approved liquid assets for purposes of this section.

(6) The Central Bank may, by thirty days notice in the *Gazette*, require any type of licensed financial institution to maintain a minimum aggregate holding of approved liquid assets which on average shall be equivalent to such value

and in such proportions as the Central Bank may determine, provided that such requirements shall be the same for each such type of licensed financial institution so required.

(7) Any licensed bank which, during any month, fails to maintain its holding of approved liquid assets in the aggregate quantity and proportions prescribed by the Central Bank in accordance with this section shall be liable to pay, on being called upon in writing to do so by the Central Bank, a sum equivalent to ten per centum of the amount by which such holding falls short of the prescribed level, and such charge shall be payable to the Central Bank on such day as may be fixed by the Central Bank and may be recovered by deduction from any balance of the licensee with the Central Bank.

(8) Upon receipt of an order under subsection (7), the licensed bank or licensed financial institution shall have ten days to object to the order on the basis that such a contravention has not taken place, and shall provide evidence to support its claim, at the end of which period the Central Bank shall either confirm or revoke the order.

**Capital and
liquidity
requirements
on a
consolidated
basis.**

41. For the purposes of regulations and guidelines made pursuant to section 7(3) and section 9(2), capital adequacy and solvency requirements and capital ratios and liquidity requirements and ratios shall apply:-

- (a) to a licensee on an individual basis, and
- (b) on a consolidated basis, to a financial holding company, members of the financial group and subsidiaries of the licensee.

PART V**Directors and Officers**

42. (1) A person who has been:—

**Limits on
directors and
officers.**

- (a) a director or officer of a company in the ten years immediately preceding a winding-up order being made by a court or the date that the company has been placed in receivership;
- (b) bankrupt or becomes bankrupt or fails to meet his financial obligations to creditors;
- (c) a director or officer of a former licensee, the licence of which has been revoked, unless such revocation was due to —
 - (i) its amalgamation with another licensee or company; or
 - (ii) its voluntary winding-up,

shall not, without the express approval of the Central Bank, act or continue to act as a director or officer or, be concerned in any way in the management of a licensee or financial holding company.

(2) A person who:—

- (a) has been convicted by a court for an offence involving fraud, dishonesty, a contravention of the *Money Laundering and Terrorism (Prevention) Act* or any regulations made thereunder or such other statutory provision in relation to the prevention of money laundering and the combating of terrorist financing as may be in force from time to time;

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- (b) is or was convicted of an offence under this Act;
or
- (c) is not a fit and proper person in accordance with section 5 (Fit and proper person),

shall not act or continue to act as a director or officer of, or be concerned in any way in the management of a licensee or financial holding company.

(3) Where a licensee is a member of a financial group, a director or officer:—

- (a) of the licensee; or
- (b) of a company that is part of the financial group,

may act or continue to act as a director or officer or be concerned in the management of a financial entity where that financial entity is part of the financial group.

(4) Where, for the purpose of subsection (2) (c), a person is not regarded, or is no longer regarded, as fit and proper by the Central Bank, the Central Bank shall serve a notice on the licensee or financial holding company and where appropriate, on the person concerned informing them that the Central Bank proposes to disqualify the person from being a director or officer, stating the reason for its decision and particulars of the rights conferred by subsection (5) and by section 129 (Appeals against Central Bank's decision).

(5) The licensee or financial holding company and the person concerned may, within the period of fourteen days, commencing from the day after which the notice under subsection (4) is served, make written representations to the Central Bank which shall take such representations into account in deciding whether or not to disqualify the person from acting as a director or officer.

(6) The Central Bank shall inform the licensee or financial holding company and the person concerned, by notice in writing, of the final decision of the Central Bank.

(7) Where the decision of the Central Bank referred to in subsection (6) is to disqualify the person, that person shall immediately cease to be a director or officer of the licensee or financial holding company.

(8) Where:—

(a) the Central Bank places a restriction on the licence of a licensee; or

(b) it appears to the Central Bank that a licensee's capital or liquidity is inadequate to meet its liabilities and the Central Bank has so notified the licensee,

the licensee and any financial holding company of the licensee shall notify the Central Bank at least thirty days before the effective date of election or appointment of any director or officer and shall not elect to the board such director or appoint such officer if within the thirty-day period the Central Bank disapproves of such appointment or employment.

(9) Notwithstanding the liability of a person under subsection (12), it shall be the duty of every licensee and financial holding company to ensure that its directors and officers do not act or continue to act in contravention of this section.

(10) A licensee or financial holding company that contravenes subsections (8) and (9) commits an offence, and shall be liable to pay on summary conviction a penalty not exceeding ten thousand dollars for every day the offence continues.

(11) Every:—

- (a) person who contravenes subsection (1) or (2) (a) or (b);
- (b) licensee or financial holding company upon which notice has been served under subsection (6) and which permits a person who contravenes subsection (1) or (2) to act or continue to act as a director of or be concerned in any way in the management of the licensee or financial holding company,

commits an offence and is liable on summary conviction in the case of an individual to a fine not exceeding one hundred thousand dollars or to imprisonment for four years, or to both such fine and term of imprisonment, and in the case of a licensee or a financial holding company to a fine not exceeding one hundred thousand dollars and to a penalty of ten thousand dollars for each day that the failure continues.

(12) A person referred to in subsection (2) (c) who contravenes subsection (7) commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or imprisonment for four years or to both such fine and term of imprisonment, and to a fine not exceeding ten thousand dollars for each day that the offence continues.

(13) No person shall be elected or appointed as a director or officer of a licensee without the prior written approval of the Central Bank. Any licensee that fails to comply with this section shall be liable to a fine not exceeding ten thousand dollars and to a fine not exceeding five thousand dollars for every day that the offence continues.

(14) Only a natural person is entitled to serve as a director or officer of a licensee or a financial holding company.

43. (1) A local licensee shall have at least five directors, the majority of which shall not be employees of the licensee.

**Minimum
number of
directors.**

(2) In the event that, as a result of a resignation or removal or for any other reason, the number of directors falls below the minimum number referred to in subsection (1), the vacancy shall be filled by appointment made by the remaining directors within sixty days, in accordance with section 42 (13) (Limits on directors and officers), but any director so appointed shall hold his post only until the next annual general meeting or the next general meeting of shareholders, whichever comes earlier.

44. (1) The directors of a licensee and a financial holding company shall appoint from their number:-

Committees.

- (a) an audit committee;
- (b) such other committee or committees of directors as the Central Bank or the local licensee or financial holding company deems necessary or desirable; and
- (c) a managing director.

(2) The directors may delegate to any such committee and to the managing director such powers of the directors, and assign to any such committee and to the managing director, such duties as the directors consider appropriate or as the Central Bank deems necessary or desirable.

45. (1) The audit committee referred to in section 44 shall consist of at least three directors:-

**Audit
Committee.**

- (a) a majority of whom must be independent directors; and
- (b) at least one of whom must be a financial expert.

(2) The audit committee shall be established within three months of the commencement of this Act.

(3) A licensee or a financial holding company which fails to comply with the requirements of the provisions of subsection (1) shall be liable to pay, on being called upon in writing to do so by the Central Bank, a fine not exceeding ten thousand dollars for every day of such failure to comply.

(4) The audit committee shall report directly to the Board of Directors.

(5) The chair of the audit committee shall be an independent director.

(6) Without limiting the generality of section 44 (2) (Committees) the audit committee of a licensee and a financial holding company shall:-

- (a) review the audited financial statement of the licensee and financial holding company as well as the observations and recommendations to management of the external auditing firm;
- (b) review such reports of the licensee and financial holding company as the Central Bank may specify;
- (c) require the management of the licensee or financial holding company to implement and maintain appropriate internal control procedures, and review, evaluate and approve those procedures;
- (d) ensure adherence to internal control procedures;
- (e) review such investments and transactions that could adversely affect the well-being of the licensee or financial holding company as the auditor or auditors or any officer of the licensee or

financial holding company may bring to the attention of the committee;

- (f) recommend the external auditing firm;
- (g) review the internal audit functions and approve all audit plans;
- (h) ensure compliance with laws, regulations, guidelines and directives made pursuant to this Act and review the compliance officer's reports to ensure compliance;
- (i) report to the board of directors following each meeting of the audit committee; and
- (j) maintain written records of its proceedings and reports.

(7) The audit committee of a local licensee or financial holding company may call a meeting of the directors of the licensee to consider any matter of concern to the committee.

(8) For the purposes of this section:—

- (a) a “financial expert” means a person who has the necessary financial education and substantive experience as:—
 - (i) a qualified accountant;
 - (ii) an auditor;
 - (iii) a chief financial officer;
 - (iv) a comptroller;
 - (v) a chartered financial analyst; or

who otherwise possesses a sound understanding of generally accepted accounting principles, financial statements and the way in which financial statements are prepared and audited;

- (b) a “qualified accountant” means a person who is a member of the Institute of Chartered Accountants of Belize or such other professional association as may be approved by the Central Bank; and
- (c) an “independent director” means a director who:-
 - (i) is not the holder of five per cent or more of the shares of the licensee or financial holding company or of a related party of the licensee or financial holding company;
 - (ii) is not a current officer of the licensee or financial holding company or of a related party of the licensee or financial holding company;
 - (iii) is not a relative or spouse of a current officer or director, or of a person who was an officer or director of the licensee or financial holding company or a related party of the licensee or financial holding company within two years prior to his appointment;
 - (iv) is not the auditor, nor has been employed by the auditor of a licensee or financial holding company nor the auditor of any of the related parties of the licensee or financial holding company within three years prior to his appointment;
 - (v) has not been employed by the licensee or financial holding company or any of its related parties within three years prior to his appointment;

- (vi) is not an incorporator of the licensee or financial holding company or of a related party of the licensee;
- (vii) is not a professional adviser of the licensee or financial holding company or of a related party of the licensee;
- (viii) is not a supplier to the licensee or financial holding company or of a related party of the licensee;
- (ix) is not indebted to the licensee or any of its affiliates, other than by virtue of:
 - (a) a fully collateralized loan; or
 - (b) an outstanding credit card balance not exceeding fifty thousand dollars.

46. (1) The directors of a local licensee shall meet at least four times during each financial year.

**Minimum
number of
meetings and
quorum.**

(2) Written records of the proceedings and decisions of all meetings of the Board of Directors shall be kept and maintained by every local licensee, and it shall be the personal responsibility of the principal officer of the licensee and of the Secretary of the Board of Directors to ensure the maintenance and safe-keeping of such records of the proceedings and decisions.

(3) Three directors shall constitute a quorum at any meeting of directors, and two directors shall constitute a quorum at any meeting of a committee of directors unless otherwise specified in this Act, or such greater number in either case as may be established by the Memorandum and Articles of Association of the local licensee, provided that the directors that constitute the audit committee referred to in Section 44 of this Act cannot constitute a quorum for

a meeting of directors if the business of such meeting of directors includes the receipt or consideration of a report from the audit committee or matters arising therefrom.

(4) In every case where a committee of the Board of Directors is established, the following shall apply:-

- (a) at least one non-executive director, that is, a director who is not an employee of the licensee, its subsidiaries, affiliates, or its holding company, must be a member of such Committee and must be present during an entire meeting of such Committee for that meeting to be lawful;
- (b) written records of the proceedings and decisions of all meetings of such Committee shall be kept and shall be maintained together with the written records of the proceedings and decisions of the Board of Directors. The principal officer and the Secretary of the Board of Directors of the licensee shall be personally responsible for the maintenance and safe-keeping of the records of proceedings and decisions of the Committee;
- (c) the Committee may be established only by the Board of Directors, draw its authority only from that Board, and shall report in writing to any meeting of the Board all of its proceedings, decisions and activities since the last such report.

**Duties of
directors and
officers.**

47. (1) Every director and officer of a licensee or of a financial holding company, in exercising the powers and discharging the duties of that person's office, shall:-

- (a) act honestly and in good faith with a view to securing first the best interests of the licensee; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) The directors of a licensee or financial holding company shall notify the Central Bank of any developments that pose material risks to the licensee or financial holding company.

(3) A director who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

(4) A director of a licensee or of a financial holding company who:-

- (a) resigns;
- (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him from office; or
- (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office upon his resignation or removal from office or because his term of office has expired or is about to expire,

shall submit to the Central Bank a written statement giving the reasons for his resignation or departure from office, or, where applicable, the reasons that he opposes any such proposed action or resolution.

48. (1) A director or officer of a licensee or financial holding company who:-

- (a) is a party to a loan, contract or transaction, or a proposed loan, contract or transaction with the licensee or financial holding company; or
- (b) is a director, shareholder or officer of, or has an interest in or a relation to, any person who is a

Conflict of interest.

party to a material loan, contract or transaction, or a proposed material loan, contract or transaction with the licensee or financial holding company,

shall disclose in writing to the licensee or financial holding company the nature and extent of the material interest or relation.

(2) The disclosure required by subsection (1) shall be made by the director or officer when the matter or proposed contract comes or ought reasonably to come to the attention of the director or officer.

(3) A general notice in writing to the board of directors by a director or officer, disclosing at the time such person assumes or is appointed to his office and from time to time (but in no event less than annually) every commercial, financial, agricultural, industrial or other business or family interest that such person has at the time, and stating that the person is to be regarded as interested in any contract between the licensee or financial holding company and any person named in the disclosure, shall be a sufficient declaration of interest in relation to any such contract.

(4) A director or officer who has a material interest or a material relation within the scope of subsection (1) or (3) shall not be present, or vote at a meeting of the board of directors or a committee of the board of directors of that licensee or financial holding company at which the matter is considered and discussed including a loan, an advance or other credit facility which would result in a direct or indirect financial benefit.

(5) For the purposes of subsections (1), (3), and (4) a director or officer shall be deemed to have a material interest in, or material relation to, another person, if that director or officer, or the spouse, parent, sibling or child of such director or officer:-

- (a) in the case of another person which is a body corporate or other entity, is or during the last fiscal year has been an officer, director or partner of such body corporate or other entity, or owns or has the power to vote, or during the last fiscal year has owned or held the power to vote, twenty-five per centum or more of any class of shares or other equity interest of such body corporate or other entity;
- (b) owes money to or otherwise is indebted to, or is a guarantor of any obligation of such other person in an amount exceeding two per centum of the fully paid-up capital and reserves in the case of a local licensee, or the assigned capital and reserves in the case of a foreign licensee;
- (c) engages or during the last fiscal year has engaged in any transaction with such other person in an amount which exceeds ten *per centum* of the director's or officer's net worth; or
- (d) is the spouse, parent, sibling or child of any person described in paragraph (b) or (c).

(6) Where a director or officer fails to disclose a material conflict of interest in accordance with this section, the Central Bank may:-

- (a) require the licensee or financial holding company to suspend the director or officer from office for a period of one to three years; or
- (b) remove the director or officer from office.

(7) A director or officer who contravenes subsection (1), (3) or (4) shall, upon being called in writing to do so by the Central Bank, pay a fine not exceeding one hundred thousand dollars for failure to comply.

Policies and procedures for transactions with related parties.

49. (1) The board of directors of a licensee and a financial holding company shall:-

- (a) establish and maintain written policies and procedures for transactions between the licensee, a financial holding company and:-
 - (i) a related party;
 - (ii) a related party group;
 - (iii) an employee who is not a related party; and
- (b) review annually such policies, procedures and transactions, to ensure compliance.

(2) The Board of directors of a licensee and financial holding company shall provide to the Central Bank:-

- (a) upon request, copies of the licensee and financial holding company's policies and procedures; and
- (b) annually, the results of the compliance reviews, referred to in subsection (1).

(3) The board of directors that fails to comply with subsections (1) or (2) commits an offence for which the licensee or financial holding company is liable on summary conviction to a fine not exceeding one hundred thousand dollars.

(4) Where, in the opinion of the Central Bank, the policies and procedures referred to in this section are inadequate, the Central Bank may require the board of directors of the licensee to take all necessary action to change the policies and procedures.

(5) The board of directors of a licensee or financial holding company that fails to make the changes required

by the Central Bank referred to in subsection (4) commits an offence and the licensee or financial holding company shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars.

50. (1) The board of directors of a licensee and a financial holding company shall establish and maintain documented information systems that identify and monitor the credit exposures referred to in sections 57 (Single borrower limits of banks) and 69(3), (4) and (5) (Exceptions for certain transactions).

Information systems for credit exposure.

(2) The board of directors of a licensee or a financial holding company that fails to comply with the requirements of subsection (1) shall be liable to pay, on being called upon in writing to do so by the Central Bank, a sum not exceeding fifty thousand dollars and to a fine not exceeding ten thousand dollars for every day that the offence continues.

51. (1) The board of directors of a licensee shall establish and maintain adequate internal controls, safety and security measures and documented operational standards for all functions of the bank.

Internal controls.

(2) A licensee that fails to comply with the requirements of subsection (1) shall be liable to pay, on being called upon in writing to do so by the Central Bank, a sum not exceeding one hundred thousand dollars.

(3) Where the board of directors of a licensee fails to comply with subsection (1), the Central Bank shall require the board of directors to take such action, within a specified period, to effect compliance therewith.

(4) Each member of the board of directors of a licensee that fails to take the necessary action in accordance with subsection (3) commits an offence and shall be liable on summary conviction to a fine not exceeding twenty five thousand dollars.

**Risk
management.**

52. (1) The board of directors of a licensee and a financial holding company shall establish and maintain a comprehensive risk management framework that adequately identifies, measures and mitigates related risks in reference to operations of the licensee.

(2) The board of directors of a licensee or a financial holding company that fails to comply with subsection (1) shall, on being called upon in writing by the Central Bank, pay a fine not exceeding one hundred thousand dollars and an additional ten thousand dollars for every day that the contravention continues.

**False
statements
and
obstruction.**

53. Any director or officer of a licensee or financial holding company who with intent to deceive:-

- (a) makes any false or misleading statement or entry, or omits any statement or entry that should be made in any book, account, report or statement of the licensee or financial holding company; or
- (b) obstructs or endeavors to obstruct the proper performance by an auditor of his duties in accordance with the provisions of this Act, or a lawful examination of the licensee by the Central Bank or a duly authorized examiner appointed by the Central Bank under section 80 (Central Bank's authority to examine and to appoint examiners) of this Act,

commits an offence and on summary conviction, shall be liable to pay to the Central Bank a fine not exceeding one hundred thousand dollars and a fine not exceeding ten thousand dollars for each day of such failure.

PART VI**Restrictions and Prohibitions**

54. (1) Subject to this Act—

Prohibitions.

- (a) a bank shall not engage in any type of banking business or financial business not specified in its licence.
- (b) a licensee shall not use or cause its premises or any part thereof to be used for any business other than for which it is licensed under this Act save that a licensee may permit a financial holding company, a regulated subsidiary or a subsidiary approved by the Central Bank to occupy a separate part of the premises so, however, that the entrance to and exit from that subsidiary or financial holding company are separate from that of the licensee and the location and signage of the subsidiary and financial holding company are such that there is a clear distinction between the office and operations of the licensee and those of the subsidiary or financial holding company.

(2) For the purposes of subsection (4), sections 57 (Single borrower limits of banks), 58 (1) and (2) (Limits on acquisition of shares or ownership interests), and 69 (3) (Exceptions for certain transactions) and without limiting the generality of those sections and subsections, a licensee is deemed indirectly to have undertaken a course of action, entered into a transaction or incurred a credit exposure where the action is undertaken, the transaction entered into or the credit exposure incurred, by a subsidiary of the licensee.

(3) A licensee shall not directly or indirectly:-

- (a) engage in any trade except so far as may be necessary in the ordinary course of business operations and services, including the satisfaction of debt due to such licensee and the due performance of its functions as a trustee, executor, administrator or attorney;
- (b) acquire or hold land or any interest in land other than as a mortgagee or chargee except so far as may be necessary:-
 - (i) for the purpose of housing its offices, officers or employees; or
 - (ii) for the satisfaction of debts due to it and the due performance of its functions as an executor, administrator or attorney;
- (c) acquire its own shares or the shares of a holding company, financial holding company or subsidiary of the licensee; or
- (d) deal, underwrite or grant credit exposures on the security of its own shares or the shares of a holding company, financial holding company or subsidiary of the licensee; or
- (e) own a subsidiary which is an unregulated entity except that the Central Bank may approve the ownership of a company by a licensee or its financial holding company if the business of that company is the provision of necessary support services to the licensee or to the financial entities held by the financial holding company.

(4) A licensee that contravenes subsections (3) (b) or (c) commits an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred thousand dollars.

(5) The Central Bank may prescribe or specify regulations and guidelines to ensure that any transaction referred to in this subsection will not materially affect the risk of exposure of the licensee or constitute inappropriate market conduct.

55. (1) No licensee shall declare, credit or pay any dividends on its shares or repatriate any profits:-

**Restriction
on payment
of dividends.**

- (a) until all the capitalized expenditures of the licensee not represented by tangible assets, and all prior losses have been written off;
- (b) if the licensee fails to comply with any requirement of this Act relating to capital and reserves;
- (c) until all impaired loans and other assets are adequately provided for by the licensee;
- (d) if the licensee fails to comply with a directive of the Central Bank;
- (e) until all sums due and payable to the Central Bank by the licensee have been paid; or
- (f) if the licensee fails to comply with section 57 (2) (Single borrower limits of banks).

(2) Any licensee who contravenes the provisions of subsection (1) shall, on being called upon in writing by the Central Bank, pay a fine not exceeding five hundred thousand dollars.

(3) Upon receipt of an order under subsection (2), the licensee or licensed financial institution shall have ten days to object that such a contravention has not taken place, at the end of which period the Central Bank shall either confirm or revoke the order.

**Revaluation
of fixed
assets.**

56. (1) No licensee shall revalue its fixed assets upward without the prior permission in writing of the Central Bank. Where the Central Bank agrees to any revaluation of fixed assets, any surplus over the acquisition cost of the assets arising from the revaluation must be shown separately on the shareholders' equity section on the books of a local licensee, or on the assigned capital section of a foreign licensee, as a revaluation reserve and shall remain there until it is either realized through sale of the revalued assets or it is reduced by subsequent revaluations in the relevant asset values.

(2) If fixed assets have suffered a permanent diminution in value as determined by an independent evaluator approved by the Central Bank and the estimated value of fixed assets is below the undepreciated cost of these assets, the licensee shall establish such provisions or reserves in respect of the diminution in value of such assets as may be specified by the Central Bank.

(3) The revaluation reserve mentioned in subsection (1) shall not be included as fully paid-up capital for purposes of computing the minimum capital requirements as provided in sections 36 (Capital requirements).

(4) Any licensee who contravenes any of the provisions of this section shall, on being called upon in writing by the Central Bank, pay a fine not exceeding ten thousand dollars for each day of such failure to comply.

**Single
borrower
limits of
banks.**

57. (1) The aggregate amount of unsecured loans, advances and extensions of credit granted by a licensed bank to a person or to a borrower group shall not exceed fifteen per centum of the fully paid up capital and reserves in the case of a local bank, or of the assigned capital and reserves in the case of a licensee that is a foreign bank.

(2) Except with the permission in writing of the Central Bank, the aggregate amount of all loans, advances

and extensions of credit granted by a licensed bank to a person or to a borrower group shall not exceed twenty-five per centum of the fully paid-up capital and reserves in the case of a local bank, or of the assigned capital and reserves in the case of a licensee that is a foreign bank.

(3) The aggregate amount of all loans, advances and extensions of credit granted by a licensed bank to all persons and borrower groups shall not exceed six times the fully paid-up capital and reserves in the case of a local bank, or of the assigned capital and reserves in the case of a licensee that is a foreign bank.

(4) Where a licensee is in contravention of the limits referred to in subsections (2) and (3), the Central Bank may require the licensee to reduce the loans, advances and extensions of credit to the person or borrower group triggering the contravention to the level where the limit is not exceeded, or increase its capital pursuant to section 37 (Additional capital requirements) so that the limit is not exceeded, or make one hundred percent loan loss provision for:-

- (i) any amount in excess of Central Bank's approved limit under subsection (2); or
- (ii) any unauthorised amount in excess of twenty-five per centum of the bank's fully paid-up capital and reserves in the case of a local bank, or of the assigned capital and reserves in the case of a foreign bank.

(5) The limitations contained in subsections (1) and (2) shall not apply to:-

- (a) loans, advances and extensions of credit to the Government;
- (b) loans, advances and extensions of credit fully secured by bonds, debentures, notes, treasury

bills of the Government or by other such obligations fully guaranteed as to principal and interest by the Government;

- (c) loans, advances and extensions of credit fully secured by the Government; or
- (d) loans, advances and extensions of credit fully secured by a segregated and pledged deposit account in the lending bank.

Limits on acquisition of shares or ownership interest.

58. (1) A local bank shall not acquire or hold any share or ownership interest of any body corporate or other entity in excess of a total value that exceeds twenty-five per centum of the sum of its fully paid-up capital and reserves, except such shares or ownership interests as such bank may acquire in the course of the satisfaction of debts due to it, which shares or ownership interests shall, however, be disposed of at the earliest suitable moment.

(2) A local bank shall not acquire or hold any share or ownership interest of any body corporate or other entity if the aggregate value of all shares and ownership interests in all bodies corporate and other entities held by such local bank exceeds, or the acquisition would cause that aggregate value to exceed one hundred per centum of the sum of its fully paid-up capital and reserves.

(3) A licensee that is a bank to which subsections (1) and (2) are applicable and which, prior to the date of coming into force of that subsection entered into any transaction which does not comply with the said subsections shall, within three months after the said date, submit a statement thereof to the Central Bank and shall liquidate all such transactions within such reasonable time as shall be determined by the Central Bank.

(4) Any licensee who contravenes any of the provisions of this section shall, on being called upon in

writing by the Central Bank, pay a fine not exceeding fifty thousand dollars for each day of such failure to comply.

59. (1) Notwithstanding section 58 (1) and (2) (Limits on acquisition of shares or ownership interest) a licensee that is a local bank shall not acquire or hold any share in another local licensee or in a local international bank unless, pursuant to subsection (3), it acquires or holds shares in such number that the other local licensee or the local international bank is its subsidiary.

**Acquisition
of shares in
another local
licensee.**

(2) A licensee that is a local bank that, upon the date that this section comes into force, holds any shares in another local licensee or in a local international bank other than pursuant to subsection (3), shall, within three years from that date, or within such reasonable time as the Central Bank may order, dispose of such shares.

(3) Subject to the prior approval in writing of the Central Bank, the limitations contained in subsection (1) and sections 58 (1) and (2) (Limits on acquisition of shares or ownership interest) shall not apply to the acquisition by a local bank of:-

- (a) shares in another licensee that is a local bank or a local financial institution, or in a local international bank, providing such acquisition results in the other licensee or local international bank becoming a subsidiary of the local bank;
- (b) shares in a foreign bank or foreign financial institution providing that such acquisition results in the foreign bank or foreign financial institution becoming a subsidiary of the local bank; or
- (c) shares in a company formed by a licensee that is a local bank for the execution of nominee, executor, trustee functions or other functions

incidental to a banking business, providing such acquisition results in the company becoming a subsidiary of the local bank.

Regulation of financial business.

60. (1) A licensee that is a financial institution may not engage in any type of financial business not specified in its licence.

(2) A licensee that is a financial institution shall not engage, in any manner, in a banking business.

Limitations on business of trust corporations.

61. (1) No licensee which carries on the business of a trust corporation shall:-

- (a) commingle, in any respect, any assets or funds held in a fiduciary capacity with the general assets of the licensee (except where the licensee is a bank and is permitted to deposit funds with itself as a banker);
- (b) commingle the assets or funds of separate accounts held in a fiduciary capacity, other than as permitted under paragraph (a) or under regulations and guidelines made pursuant to section 62 (g) (Regulations and guidelines governing operations of financial institutions);
- (c) accept deposits in any department or division of the licensee which carries on the business of a trust corporation; or
- (d) make any loan, advance or extension of credit of any funds held in a fiduciary capacity to any director or officer of the licensee.

(2) Unless authorized under other applicable laws, an order of any court of competent jurisdiction, or the instrument creating the trust relationship, no licensee shall

engage as fiduciary in any transaction in which it has a financial interest that might affect its best judgment in engaging in such transaction.

62. The Central Bank may, after consultation with licensees that are financial institutions, prescribe or specify regulations, guidelines, policies and procedures specifically governing their operations, taking into account the nature of the business in which such licensees engage, including but not limited to, the following:-

Regulations and guidelines governing operations of financial institutions.

- (a) permissible investments for licensees conducting a financial business;
- (b) underwriting, trading or dealing practices with respect to persons engaged in business as an investment or merchant bank;
- (c) minimum liquidity requirements;
- (d) bonding and deposit requirements with respect to the conduct of the business of a trust corporation;
- (e) books, records and other accounts to be maintained by such licensees;
- (f) sales, trading, lending, financing and advertising practices with respect to licensees engaged in a retail financial business or otherwise conducting business with members of the public; or
- (g) requirements for the operation of unit trusts or the collective investments of funds held in a fiduciary capacity;

63. No licensee, and no officer of any licensee, shall:-

Prohibition relating to insurance matters.

- (a) exercise any undue pressure or influence in any manner whatsoever upon a borrower to place insurance in any particular insurance company for the security of the licensee;
- (b) without the prior permission of the Central Bank, act as agent for an insurance company; or
- (c) engage in the business of insurance on its own account.

Penalty.

64. Any person who contravenes the provisions of sections 57 (Single borrower limits), 58 (Limits on acquisitions of shares or ownership interest), 59 (Acquisition of shares in another local licensee), 60 (Regulation of financial business) or 61 (Limitation on business of trust corporations) or of any regulation, guideline, policy or procedure made pursuant to section 62 (Regulations and guidelines governing operations of financial institutions) or section 63 (Prohibitions relating to insurance matters) shall, on being called upon in writing by the Central Bank, pay a fine not exceeding twenty-five thousand dollars for each day of such failure to comply.

PART VII

Transactions with Related Parties

Definitions.

65. (1) For the purposes of this Part, any person described in subsections (2) to (7) is a related party of a licensee.

(2) The person:

- (a) has a substantial investment in the licensee;
- (b) is a director or officer of the licensee;

- (c) is a financial holding company, holding company, controlling shareholder of the licensee;
- (d) is a person who holds twenty percent or more of any class of shares of the licensee or of a person referred to in paragraph (c);
- (e) is an affiliate of the licensee;
- (f) is an affiliate of a person referred to in paragraph (c);
- (g) is a director or officer of a holding body corporate of the licensee; or
- (h) is acting in a capacity similar to that of a director or officer in respect of any other entity that controls the licensee.

(3) The person is the spouse, parent, child or dependent of a person who:-

- (a) has a substantial investment in the licensee;
- (b) is a director or officer of the licensee;
- (c) is a director or officer of a holding body corporate of the licensee; or
- (d) is acting in a capacity similar to that of a director or officer in respect of any other entity that control the licensee.

(4) The person is a body corporate or unincorporated entity that is controlled by a person referred to in subsection (2) or (3).

(5) The person is a body corporate or unincorporated entity in which a person who controls the licensee has a substantial investment.

(6) The person is a body corporate or unincorporated entity in which the spouse, parent, child or dependent of a person who controls the licensee has a substantial investment.

(7) The person is a person or a member of a class of persons designated under subsection (8) or to whom subsection (9) applies.

(8) For the purposes of this Part, the Central Bank may, with respect to a particular licensee, designate as a related party of the licensee any person or class of persons whose direct or indirect interest in or relationship with the licensee or a related party of the licensee might reasonably be expected to affect the exercise of the best judgment of the licensee in respect of a transaction.

(9) Where, in contemplation of a person becoming a related party of a licensee, the licensee enters into a transaction with the person, the person is deemed for the purposes of this Part to be a related party of the licensee in respect of that transaction.

(10) For the purposes of this Part, entering into a transaction with a related party of a licensee includes:

- (a) making a guarantee on behalf of the related party;
- (b) making an investment in any securities of the related party;
- (c) taking an assignment of or otherwise acquiring a loan made by a third party to the related party; and
- (d) taking a security interest in the securities of the related party and the fulfillment of an obligation under the terms of any transaction, including the

payment of interest on a loan or deposit, is part of the transaction, and not a separate transaction.

(11) For the purposes of this Part, the term “loans, advances and extensions of credit” shall include all loans, advances, overdrafts, debt securities, holdings of papers and all direct and indirect obligations of the borrower as well as off-balance sheet commitments, underwriting facilities, placements, documentary credits issued, performance bonds and other contingent liabilities on behalf of such person or any other facility or instrument that the Central Bank may specify in writing, but does not include acceptances, endorsements and other guarantees on behalf of the borrower.

66. Except as provided in this Part, a licensee shall not, directly or indirectly, enter into any transaction with a related party of such licensee, and without limiting the generality of the foregoing, a licensee is deemed to have indirectly entered into a transaction in respect of which this Part applies where the transaction is entered into by a subsidiary of the licensee.

Prohibition.

67. (1) Any transaction permitted by this Part shall:

Market terms and conditions and approval of board.

- (a) be on terms and conditions that are at least as favourable to the licensee as market terms and conditions; and
- (b) have the prior approval of the board of directors of the licensee.

(2) For the purposes of subsection (1), “market terms and conditions” means:

- (a) in respect of a service or a loan facility or a deposit facility offered to the public by the licensee in the ordinary course of business, terms and conditions that are no more or less favourable

than those offered to the public by the licensee in the ordinary course of business; and

- (b) in respect of any other transaction,
 - (i) terms and conditions, including those relating to price, rent or interest rate, that might reasonably be expected to apply in a similar transaction in an open market under conditions requisite to a fair transaction between parties who are at arm's length and who are acting prudently, knowledgeably and willingly, or
 - (ii) if the transaction is one that would not reasonably be expected to occur in an open market between parties who are at arm's length, terms and conditions, including those relating to price, rent or interest rate, that would reasonably be expected to provide the licensee with fair value, having regard to all the circumstances of the transaction, and that would be consistent with the parties to the transaction acting prudently, knowledgeably and willingly.

Exceptions.

68. (1) Subject to section 71 (Limitations by Central Bank), a licensee may enter into a transaction with a related party of the licensee if the transaction consists of a deposit by the licensee with a bank.

(2) A licensee may borrow money from, take deposits from, or issue debt obligations to, a related party of the licensee subject to the limits as prescribed in section 69 (Exceptions for certain transactions).

(3) A licensee may purchase or otherwise acquire from a related party:-

- (a) securities of, or securities guaranteed by, the Government of Belize;
- (b) assets fully secured by securities of, or securities guaranteed by, the Government of Belize; or
- (c) goods for use in the ordinary course of business.

(4) A licensee may sell any assets of the licensee to a related party if the consideration for the assets is fully paid in money subject to the requirement as detailed in section 67(1)(a) (Market terms and conditions).

(5) A licensee may lease assets to a related party and may lease assets from a related party if such assets are for use in the ordinary course of business of the licensee.

(6) A licensee may enter into a transaction with a related party if the transaction:-

- (a) consists of a written contract for the purchase by the licensee of services used in the ordinary course of business;
- (b) involves the provision of services normally offered to the public by the licensee in the ordinary course of business; or
- (c) consists of a written contract with another licensee or with another bank or financial institution or an entity that is a subsidiary of the licensee;
 - (i) for the networking of any services provided by the licensee, bank, financial institution or subsidiary;
 - (ii) for the referral of any person by the licensee to the other licensee, bank, financial

institution or subsidiary, or for the referral by the other licensee, bank, financial institution or subsidiary to the licensee;

provided always that a licensee is prohibited whether by itself, its subsidiary or affiliates from financing the related party's participation in the transaction.

**Exceptions
for certain
transactions.**

69. (1) Subject to section 71 (Limitations by Central Bank) and subsections (3), (4), (5) and (6), a licensee may make a loan, advance or extension of credit to, a guarantee on behalf of, or an investment in the securities of, or take an assignment of or otherwise acquire a loan, advance or extension of credit to, a related party.

(2) For the purposes of this section, "related party group" means:-

- (a) in the case where a related party has a substantial investment in the licensee but does not control the licensee:-
 - (i) the related party;
 - (ii) a related party who is the spouse, parent, child or dependent of the related party referred to in subparagraph (i); and
 - (iii) a related party that is an entity controlled by any related party referred to in subparagraphs (i) and (ii);
- (b) in the case where the related party controls a licensee:
 - (i) the related party;
 - (ii) a related party who is the spouse, son, daughter, mother or father of the related party referred to in subparagraph (i); and

- (iii) a related party that is an entity in which any related party referred to in subparagraphs (i) and (ii) has a substantial investment; or
- (c) in the case where the related party is a director or officer of the licensee or of a holding body corporate of the licensee or is acting in a similar capacity in respect of any other entity that controls the licensee:-
 - (i) the related party;
 - (ii) a related party who is the spouse, parent, child or dependent of the related party referred to in subparagraph (i); and
 - (iii) a related party that is an entity controlled by any related party referred to in subparagraphs (i) and (ii).

(3) A licensee shall not make or permit to be outstanding unsecured loans, advances or extensions of credit to, or guarantees on behalf of, a related party or a related party group, in an aggregate amount that exceeds two per cent of:-

- (a) the aggregate of the fully paid-up capital and reserves in the case of a local licensee, or
- (b) the aggregate of the assigned capital and reserves in the case of a foreign licensee.

(4) A licensee shall not make or permit to be outstanding secured loans, advances or extensions of credit to, guarantees on behalf of, or investments in the securities, of a related party or related party group in an aggregate amount that exceeds fifteen per cent of:

- (a) the aggregate of the fully paid-up capital and reserves in the case of a local licensee, or
- (b) the aggregate of the assigned capital and reserves in the case of a foreign licensee,

(5) A licensee shall not make or permit to be outstanding unsecured and secured loans, advances or extensions of credit to, or guarantees on behalf of, all related parties and related party groups in an aggregate amount that exceeds fifty per cent of:-

- (a) the aggregate of the fully paid-up capital and reserves in the case of a local licensee, or
- (b) the aggregate of the assigned capital and reserves in the case of a foreign licensee.

(6) The aggregate limits referred to in subsections (3) to (5) shall not include any loan referred to in section 70 (1) (Concessionary loans to employees and officers).

**Concessionary
loans to
employees
and officers.**

70. (1) Notwithstanding section 67 (Market terms and conditions) and subject to section 71 (Limitations by Central Bank), a licensee may make a loan to a related party who is an employee or officer of the licensee, on terms and conditions more favourable to the employee or officer than those offered to the public by the bank if those terms and conditions have been approved by the board of directors, provided that the amount of such loans to an individual shall not exceed the equivalent of one hundred per cent of the annual remuneration of such person and it does not cause the aggregate amount of such loans disbursed to all persons to exceed ten percent of the paid-up capital and reserves in the case of a local licensee and assigned capital and reserves in the case of a foreign licensee.

(2) The percentage limits mentioned in subsection (1) shall not apply to any loan that is secured by a mortgage

on property for a local primary residence whose appraised value, or whose expected value at the date of completion if the loan is to be used to finance a new construction, exceeds the principal amount of the credit by not less than one-third of that principal amount.

(3) This section does not apply to the employees and officers outside Belize of a foreign licensee.

71. Notwithstanding that a transaction with a related party is permitted under section 68 (Exceptions) or section 69 (Exceptions for certain transactions), or section 70 (Concessionary loans to employees and officers), if the Central Bank is of the opinion that a transaction relating to the business and financial relationship between a licensee and a related party of such licensee may be detrimental to the interest of depositors or customers of the licensee, it may, after discussions with the licensee, by written order, impose such limitations or restrictions on any such transaction as the Central Bank may consider necessary to protect the interests of such depositors or customers.

**Limitations
by Central
Bank.**

72. (1) Any person who contravenes any provision of this Part shall, on being called upon in writing by the Central Bank, pay a fine not exceeding twenty-five thousand dollars for each day of such failure to comply.

**Penalties and
enforceability
of
transactions.**

(2) Nothing in this Part shall be deemed to prevent a licensee from enforcing any transaction referred to therein against any person who is a party thereto or against whom it could have been otherwise enforced.

PART VIII**Financial Statements, Reports and Auditors**

Financial statements, reports and accounts.

73. (1) The financial statements, reports, accounts, records and other documents and information required by this Part shall be prepared and maintained in accordance with international financial reporting standards.

(2) Every licensee and financial holding company shall submit to the Central Bank covering such period and by such date as may be specified by the Central Bank, and in such form as the Central Bank may from time to time specify, such financial statements and other statements of condition and income, accounts, reports, schedules, and any other information required by the Central Bank prepared in accordance with subsection (1) of this section.

(3) In accordance with section 79(2) (Central Bank's responsibility for supervision) and section 80 (Central Bank's authority to examine and to appoint examiners) the Central Bank may apply reporting requirements:-

- (a) to a licensee on an individual basis; and
- (b) on a consolidated basis, to a financial holding company, to include all subsidiaries and members of the financial group.

(4) Every licensee shall also submit to the Central Bank customer information including account statements covering such period and by such date as may be specified by the Central Bank in the form and frequency it deems necessary.

(5) Subject to subsection (6), (7) and section 84 (Disclosure of information), all statements and other documents and information submitted by a licensee or

financial holding company or subsidiary of the licensee to the Central Bank under this section shall be regarded as confidential.

(6) Every licensee and financial holding company or subsidiary of the licensee shall submit to the Central Bank and/or an authority as specified by the Central Bank detailed information on each loan in its loan portfolio in order to permit the operation of any credit reporting system established by the Central Bank.

(7) Notwithstanding subsection (5), the Central Bank may publish in whole or in part in such form and at such time as it may decide, consolidated statements aggregating the figures in any statement, report or other document furnished under subsection (2) and may also publish financial condition information, balance sheets, income statements, and financial ratios in respect of each licensee utilizing information submitted to the Central Bank under this section.

(8) No information shall be published in accordance with subsection (7) which discloses the affairs of any individual customer unless the specific consent in writing to such publication has first been obtained by the Central Bank from such customer.

(9) Any licensee or person who knows that any officer or other person participating in the affairs of the licensee may have committed or aided in any act, involving fraud, deception, dishonesty, misappropriation of funds or embezzlement shall submit a report thereof to the Central Bank within thirty days.

(10) The Central Bank may require a licensee, financial holding company or subsidiary to submit such further information as it considers necessary for the proper understanding of any statement or return furnished by that licensee under subsection (1) and such information shall be

submitted within such period and in such manner as the Central Bank requires.

(11) Any licensee or person which fails to comply with any requirement under any of the provisions of subsection (1), (2), (3), (4), (6) or (9) shall be liable to pay, on being called upon in writing to do so by the Central Bank, a fine not exceeding ten thousand dollars for every day of such failure to comply.

(12) Any licensee or person which fails to comply with the requirements of subsection (2) or (3) shall be liable to pay, on being called upon in writing to do so by the Central Bank, a fine not exceeding five thousand dollars for every day of such failure to comply.

(13) Any licensee or person who provides false or misleading information under this section shall, on being called upon in writing by the Central Bank, pay a fine not exceeding one hundred thousand dollars.

**Audited
financial
statements.**

74. (1) A licensee shall, within four months of the end of its financial year, or such longer period as the Central Bank may, in any particular case, permit in writing, furnish to the Central Bank:-

- (a) the signed audited unconsolidated financial statements, the auditor's full report, supplementary notes and management letter, or other communication prepared in accordance with international financial reporting standards;
- (b) a list of all shareholders on the register of the licensee of any class of shares, together with the number of shares held and the percentage of the class represented by such ownership; and
- (c) the name and address and occupation of every director of the licensee;

and shall publish in the Gazette and in a newspaper of general circulation in Belize and exhibit thereafter throughout the year in a conspicuous position in each of its offices and branches in Belize, as well as on its web site, copies of its audited financial statements on an unconsolidated basis as may be specified by the Central Bank, together with the certification or opinion of the auditor.

(2) A financial holding company shall, within four months of the end of its financial year, or such longer period as the Central Bank may, in any particular case, permit in writing, furnish to the Central Bank:-

- (a) the signed audited consolidated financial statements, the auditor's full report, supplementary notes and management letter, or other communication prepared in accordance with international financial reporting standards;
- (b) a list of all shareholders on the register of the financial holding company of any class of shares, together with the number of shares held and the percentage of the class represented by such ownership;
- (c) the name and address and occupation of every director of the financial holding company; and
- (d) where available, the annual report.

(3) A local licensee or financial holding company shall submit on the request of the Central Bank in respect of any:-

- (a) subsidiary of the licensee or company in which the licensee has a substantial investment; and
- (b) member of the financial group which the financial holding company controls,

audited financial statements, as the case may be.

(4) Any licensee and financial holding company of a licensee which fails to comply with the requirements of this section or with any requirement specified by the Central Bank under this section shall, on being called upon in writing to do so by the Central Bank, pay a fine not exceeding ten thousand dollars for every day of such failure to comply except when an extension to the period has been granted in writing by the Central Bank.

**Appointment
and
qualifications
of auditors.**

75. (1) Every local licensee and financial holding company shall appoint annually an auditor approved by the Central Bank.

(2) Every foreign licensee shall appoint annually an auditor approved by the Central Bank for its business in Belize.

(3) The auditor referred to in subsections (1) and (2) shall be:-

- (a) a member in good standing of the Institute of Chartered Accountants of Belize and hold a practising certificate of that Institute;
- (b) knowledgeable and experienced in the audits of banks and financial institutions satisfactory to the directors of the licensees and the Central Bank;
- (c) independent, within the meaning of subsection (4), of the license, its subsidiaries and other affiliates and the directors and officers of the licensee, its subsidiaries and other affiliates;
- (d) compliant with his duties under section 76 of this Act (Duties of auditors); and
- (e) rotated at least every seven years.

- (4) For the purposes of this section:-
- (a) independence is a question of fact;
 - (b) an auditor shall be deemed not to be independent of a licensee if he:-
 - (i) has any financial relationship with a licensee other than as a depositor provided that the holding and use of a credit card issued by the licensee for at least two years prior to the appointment as auditor of that licensee shall not constitute a disqualification under this subsection if that credit card has been operated satisfactorily and within the terms and conditions of its issuance;
 - (ii) is a director, officer, employee or agent of the licensee or of any of its subsidiaries or other affiliates;
 - (iii) has any financial relationship with a director, officer, employee or agent of the licensee or of any of its financial holding company, subsidiaries or other affiliates other than as a depositor;
 - (iv) owns any share of the licensee or beneficially owns or controls, directly or indirectly, a material interest in the shares of the licensee or of any of its subsidiaries or other affiliates; or
 - (v) has been a receiver, receiver-manager, liquidator or trustee in bankruptcy on behalf of the licensee, or of any subsidiary or other affiliate of the licensee within two years immediately preceding the appointment of

the auditor, other than of a subsidiary or affiliate acquired through a realization of security.

(5) Upon the appointment of an auditor as specified in accordance with subsections (3) and (4), the licensee shall immediately give written notice to the Central Bank of such appointment, and if the Central Bank has valid reason to believe that the auditor is not qualified for appointment under subsections (3) and (4), it may disapprove the appointment and notify the licensee in writing whereupon the licensee shall promptly remove that auditor and appoint another auditor who is qualified to be appointed.

(6) If the licensee or financial holding company does not or is unable to appoint an auditor qualified under this section, the Central Bank shall have the power to appoint an auditor for the licensee or financial holding company, and the remuneration of the auditor so appointed shall be determined by the Central Bank and paid by the licensee or financial holding company.

(7) A licensee or financial holding company, immediately upon the resignation or termination of appointment of an auditor for any reason, shall: -

- (a) notify the Central Bank in writing giving the reasons for the resignation or termination; and
- (b) appoint another auditor in conformity with the requirements of this section.

(8) Any licensee that fails to comply with any requirements under any of the provisions of this section shall be liable to pay, on being called upon in writing to do so by the Central Bank, a sum not exceeding fifty thousand dollars.

76. (1) The duties of an auditor appointed under section 75 (Appointment and qualifications of auditors) shall consist of the following:-

Duties of auditors.

- (a) to make a full review of the licensee's or financial holding company's records and accounts in accordance with international standards on auditing, and to make to the directors and shareholders of the licensee or financial holding company a report on the annual balance sheet, profit and loss statement, statement of cash flows and related accounts, and state in that report whether, in the auditor's opinion, such balance sheet, profit and loss statement, statement of cash flows and related accounts are full and fair and properly drawn up, whether they exhibit a true and correct statement of the affairs of the licensee or financial holding company in accordance with international financial reporting standards;
- (b) to make a review of the licensee's or financial holding company's internal control structure, loan classification system, loan loss reserves, information management system and its controls, capital adequacy and procedures for financial reporting, and make a fair report of the same to the directors of the licensee or financial holding company and the Central Bank; and
- (c) to make a review of the licensee's or financial holding company's adherence to and compliance with the requirements of this Act and the regulations and guidelines made hereunder, and make a fair report of the same to the directors of the licensee or financial holding company and the Central Bank.

(2) In the case of a foreign licensee, the reviews and reports required under subsection (1) shall refer to the

branch or branches in Belize and the conduct of its business in Belize.

(3) Prior to making its reviews and reports under subsection (1) or (2), the auditor for the licensee or financial holding company shall request for review from the licensee or financial holding company, a copy of the most recent report of examination for that licensee or financial holding company prepared by the Central Bank, and any orders, directives or other action taken by the Central Bank under Part IX (Supervision) of this Act.

(4) The reports required under subsection (1) shall be delivered to the licensee or financial holding company and the Central Bank as soon as they are available but not later than four months after the close of the licensee's or financial holding company's financial year. The periods of time specified in this subsection may be extended by the Central Bank for up to three additional months upon good cause shown in writing to the Central Bank.

(5) If, during the course of any review required under this section, any auditor learns of any fact, transaction, action or course of conduct concerning a licensee or financial holding company which:-

- (a) in the opinion of the auditor, has the effect of misrepresenting the financial position of the licensee or financial holding company due to any change in accounting policy or any presentation of or any failure to present facts or figures;
- (b) may pose a substantial risk to the financial condition of the licensee or financial holding company;
- (c) may result in a significant loss to the licensee or financial holding company;

- (d) may seriously prejudice the interests of the licensee's depositors or customers, or threaten the stability of the financial system;
- (e) is a violation of any provision of this Act or any regulation or guideline made hereunder;
- (f) indicates involvement in fraudulent or criminal activity, or sharp practices; or
- (g) indicates that the licensee or financial holding company is or may soon become insolvent,

the auditor shall, as soon as possible, and as appropriate, report such matters to the directors of the licensee or financial holding company and shall within one week of such discovery report the matter to the Central Bank.

(6) In addition to the requirements of subsection (5), the auditor shall have the right to submit directly to the Central Bank such reports as it considers necessary to bring to the attention of the Central Bank for purposes of improving the operations of the licensee or financial holding company.

(7) If the Central Bank, on reasonable grounds, is not satisfied with the annual report of an auditor appointed by a licensee or financial holding company, it may appoint another auditor to make an independent audit report, and in every such case the Central Bank shall fix the remuneration to be paid by the licensee or financial holding company to such auditor appointed under this subsection.

(8) In addition to the requirements of section 74(1)(a) and section 74(2)(a) (Audited financial statements) the Central Bank may require auditors to provide any documents relating to any audit performed by the auditor under this section within any such period as specified by the Central Bank.

(9) The Central Bank may arrange meetings with the auditor from time to time, to discuss matters relevant to the Central Bank's supervisory responsibilities which have arisen in the course of the audit of the licensee and financial holding company, including relevant aspects of the licensee's business, its accounting and control system and its annual accounts.

(10) Any auditor who fails to report his findings to the Central Bank within four weeks as required under subsection (5), shall be disqualified from being an approved auditor as per section 75 (1) and (2) (Appointment and qualifications of auditors).

**Removal and
resignation
of auditors.**

77. (1) A local licensee or financial holding company shall immediately give notice to the Central Bank if the licensee or financial holding company:-

- (a) proposes to give special notice to its shareholders of an ordinary resolution removing an auditor before the expiration of his engagement; or
- (b) gives notice to its shareholders of an ordinary resolution replacing an auditor at the expiration of his engagement with a different auditor, or if a person ceases to be an auditor of the licensee otherwise than in consequence of such a resolution.

(2) A foreign licensee shall immediately give notice to the Central Bank if the foreign licensee:-

- (a) removes an auditor before the expiration of his engagement; or
- (b) replaces an auditor at the expiration of his engagement with a different auditor, or if a person otherwise ceases to be an auditor of the foreign licensee.

(3) An auditor of a licensee or financial holding company appointed under section 75 (Appointment and qualifications of auditors) shall immediately give written notice to the Central Bank if he:-

- (a) resigns before the expiration of his engagement;
- (b) does not seek to be re-appointed;
- (c) is terminated by the licensee or financial holding company; or
- (d) decides to include in his report on the licensee's financial statements any qualification that indicates that the licensee may be carrying on its business in a manner detrimental to the interests of its depositors or of its creditors, or may have insufficient assets to satisfy its liabilities as they mature or become due, or may be contravening any of the provisions of this Act or the regulations and guidelines made hereunder.

(4) A licensee, financial holding company or auditor who fails to comply with this section shall pay to the Central Bank a fine not exceeding ten thousand dollars.

78. (1) Notwithstanding the provisions of any other Act or regulation, including the rules of any professional association of which he may be a member, no duty to which an auditor may be subject shall be regarded as contravened by reason of his communicating in good faith to the Central Bank, whether or not in response to a request made by it, any information about a licensee or financial holding company or opinion pursuant to an obligation of the auditor under this Act.

**Auditor's
protection
from
liability.**

(2) This section applies to any matter of which an auditor becomes aware in his capacity as auditor and which

relates to the business or affairs of the licensee or financial holding company or any affiliate of the licensee.

PART IX

Supervision

**Central
Bank's
responsibility
for
supervision.**

79. (1) The Central Bank shall be responsible for the supervision of licensees and financial holding companies.

(2) A licensee, financial holding, subsidiary or members of the financial group shall provide the Central Bank with such information, at such times and in such form as the Central Bank may require.

(3) Without limiting the generality of subsection (2), the Central Bank, any authorized officer, employee or agent of the Central Bank and any examiner appointed under section 80 (Central Bank's authority to examine and to appoint examiners) or section 82 (Special examinations) in the performance of the supervisory duties under this Part, shall be entitled at all reasonable times:-

- (a) to have access to all books, records and documents in the possession or control of any director, manager, officer or employee of any licensee or financial holding company;
- (b) to have access to any and all data or information held, stored or transmitted by computer-based or electronic means; and
- (c) to require any director, manager, officer, auditor or employee of any licensee or financial holding company to furnish such information or to produce such books, records or documents as are in his possession or control that relate to the operations

of the licensee and that may be reasonably required for the performance of those duties within such time as the Central Bank may prescribe.

80. (1) The Central Bank shall make or cause to be made such examination and inquiry into the affairs or business of each:-

Central Bank's authority to examine and to appoint examiners.

- (a) licensee;
- (b) financial holding company;
- (c) subsidiary of a local licensee; and
- (d) subsidiary and branch of a local licensee located outside Belize,

as it considers necessary or expedient, for the purpose of satisfying itself that the provisions of this Act are being observed and that the licensee or financial holding company or subsidiary is in a sound financial condition.

(2) The Central Bank may appoint examiners to carry out the performance of its functions under section 79 (Central Bank's responsibility for supervision) and this section, and shall prepare a report detailing the findings and conclusions of each examination in such form as the Central Bank may determine, and deliver such report to the licensee upon its completion.

(3) Every licensee, financial holding company or subsidiary of a licensee and every officer or agent of the licensee, financial holding company or subsidiary shall furnish for the examination of any examiner appointed by the Central Bank such books, records, accounts, writings and documents of any kind, and supply the examiner with such other oral information as may be required by such examiner in the performance of the functions specified in

sections 79 (Central Bank's responsibility for supervision) and this section.

(4) The Central Bank shall make or cause to be made such examination and inquiry into the affairs or business of a member of a financial group, if in the opinion of the Central Bank, such examination and inquiry is necessary to assess any risk that such member may pose to the licensee.

(5) Any licensee, financial holding company or subsidiary of a licensee or any director, officer or employee of such licensee, financial holding company, subsidiary or member of the financial group who contravenes the requirements of subsections (3) or (4), or who obstructs or impedes the performance by any examiner or officer appointed by the Central Bank of the duties specified in sections 79 (Central Bank's responsibility for supervision) and this section, commits an offence and shall be liable, on summary conviction to a fine not exceeding one hundred thousand dollars and a penalty of ten thousand dollars for each day that the contravention continues.

(6) The Central Bank may examine the affairs of any foreign licensee in accordance with the powers and functions specified in sections 79 (Central Bank's responsibility for supervision) and this section, but nothing in this Part shall be construed to authorize the examination of the business and affairs conducted outside of Belize of any foreign licensee without the permission or consent of the supervisory or regulatory authorities of the country responsible for the supervision of that licensee.

(7) Where a foreign bank or foreign financial institution is a foreign licensee or is the holding body corporate of a local licensee, the Central Bank may allow the foreign supervisory or regulatory authorities responsible for the supervision of the foreign bank or foreign financial institution to examine in Belize:

- (a) the branch or branches of the foreign licensee; or
- (b) the local licensee that is the subsidiary of the foreign bank or foreign financial institution.

(8) The Central Bank may assess any licensee it examines under this Part such fees and costs as may be necessary to defray the costs of examination, provided that such fees and costs are determined on a fair and equitable basis taking into account the amount of assets and deposits, and the activities of the licensee being examined, and do not unreasonably discriminate between licensees of a similar character or among classes of similar licensees.

(9) Every director, officer or employee of a licensee, a financial holding company or subsidiary of a licensee who supplies false or misleading reports or information to the Central Bank under this section commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding four years, or to both such fine and term of imprisonment.

81. (1) The Central Bank shall have the authority to obtain particulars of the names and addresses of the ultimate beneficial owners of a licensee who hold shares of a value of five percent or more of its paid-up capital in cases where the shareholders of record are bodies corporate or other entities, or where the Central Bank has reason to believe that the shareholders of record are acting as nominees for or under the directive of any other person, notwithstanding anything to the contrary contained in any other law.

**Central
Bank's
authority to
obtain
information.**

(2) Any licensee that fails to comply with the requirements of this Section commits an offence and shall on summary conviction be liable to pay a fine of twenty five thousand dollars for every day that it fails to supply the information referred to in subsections (1) and (2) following

the date by which the Central Bank, by written request, requires such information to be supplied.

**Special
examinations.**

82. (1) The Central Bank may at any time and without notice appoint one or more of its examiners or other qualified persons to carry out a special examination of the affairs of a licensee or financial holding company whether in Belize or elsewhere:-

- (a) where it has reason to believe that such licensee or financial holding company may be carrying on its business in a manner detrimental to the interests of its depositors, creditors or other customers, or is operating in a manner that in the opinion of the Central Bank poses a threat to the stability of the financial system, or is not operating in a sound financial condition or may have insufficient assets to cover its liabilities to the public or may be, either in Belize or elsewhere, contravening any of the provisions of this Act or regulations made hereunder;
- (b) if the licensee suspends payment to depositors or creditors or informs the Central Bank of its intention to do so;
- (c) if the Central Bank has reasonable grounds to believe that the licensee or financial holding company is involved in fraudulent or criminal activity, or is aiding or abetting others in committing fraudulent or criminal activity or is otherwise conducting its business in a manner detrimental to the public interest; or
- (d) if the Central Bank determines that such an examination is necessary in the public interest.

(2) Every licensee or financial holding company of which an examination has been ordered under subsection

(1) shall produce to the examiners, or other persons appointed under this section, at such times and in such places as the examiners or persons may specify, all records, books, accounts, minutes, cash, securities, vouchers and other documents and assets in whatever form in the possession or custody of the licensee or financial holding company or of which it is entitled to possession or custody relating to its assets, liabilities and business generally, and shall give, within such time as the examiners or persons may specify, such oral information concerning its business as may be required.

(3) As soon as may be practicable after the conclusion of an examination under this section, the examiners or persons appointed to carry out the examination shall submit a full report on such examination to the Central Bank.

(4) The Central Bank may order that all expenses of, and incidental to, a special examination under subsection (1) shall be paid by the licensee or financial holding company examined.

(5) Any director, officer or employee of a licensee or financial holding company who:-

- (a) refuses or fails or neglects to produce or obstructs or delays the production of any record, book, document, asset or information required under this section shall pay to the Central Bank, on being called upon in writing by the Central Bank, a fine not exceeding ten thousand dollars for each day of the failure to comply; or
- (b) produces any record, book, document or information required under this section which is false or misleading in any material particular commits an offence and is liable on summary conviction to a fine not exceeding one hundred

thousand dollars or to imprisonment for a term not exceeding four years, or to both such fine and term of imprisonment.

Central Bank to meet with board of directors.

83. Following any examination of a licensee or financial holding company under this Part, the Central Bank, or a person authorized by the Central Bank, may meet with the board of directors or, in the case of a foreign licensee, with the principal domestic or foreign officer of the licensee, at the determination of the Central Bank, to discuss the findings of the examination and any action required on the part of the directors or principal officer.

Disclosure of information.

84. (1) All information regarding the business or affairs of a licensee, financial holding company, subsidiary of a licensee, members of the financial group, or regarding a person dealing with a licensee, that is obtained by the Central Bank, by any officer, employee or other person acting under the direction of the Central Bank, including, without limitation, an examiner appointed pursuant to section 80 (Central Bank authority to examine and to appoint examiners) or section 82 (Special examinations) and a Statutory Examiner appointed pursuant to section 86 (Appointment of statutory administrator), as a result of the administration or enforcement of this Act or any other law of Belize and all information prepared from that information, is confidential and shall be treated accordingly.

(2) Nothing in subsection (1), in any other provision of this Act or in any other law of Belize, prevents the Central Bank, or a person authorized in writing by the Central Bank from disclosing any information:-

- (a) to such officers of the Central Bank as it may designate;
- (b) to any local or foreign regulatory agency or body, that regulates or supervises financial entities for purposes related to that regulation or supervision;

- (c) that is lawfully required or permitted by any law or court of competent jurisdiction in Belize;
- (d) to the auditors of a licensee appointed under section 75 (Appointment and qualification of auditors) of this Act; or
- (e) in the case of information on the affairs of a depositor or customer of a licensee, to such other person as a court of competent jurisdiction in Belize may order upon an application made pursuant to the provisions of the *Evidence Act* or other relevant law,

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if the Central Bank is satisfied that the information will be treated as confidential by the agency, body or person to whom it is disclosed.

(3) Nothing in this section authorizes the Central Bank or any person acting under the direction of the Central Bank to disclose information about a particular depositor or creditor of a licensee, except where such disclosure is required by any written law or ordered by the Court.

(4) The Central Bank may enter into a Memorandum of Understanding with the entity performing the functions of deposit insurer, the designated authority, or any local or foreign regulatory agency or body that regulates financial entities with respect to sharing information, but the absence of such Memorandum of Understanding shall not prevent the disclosure of information by the Central Bank to such regulatory authority.

(5) In giving effect to subsection (2), the Central Bank shall have regard to the international standards for the supervision of international banking groups and their cross-border establishments referred to in the Second Schedule.

Second
Schedule.

(6) Any person who contravenes this section commits an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment, and in addition shall be liable to disciplinary action or dismissal.

Removal of
director or
officer.

85. (1) The Central Bank may, by order, remove a person from office as a director or officer of a licensee or financial holding company if the Central Bank is of the opinion that the person is not suitable to hold that office:-

- (a) on the basis of the competence, business record, experience, conduct or character of the person;
- (b) because the person is no longer fit and proper pursuant to section 5 (Fit and proper person); or
- (c) because the person has contravened or, by action or negligence, has contributed to the contravention of :-
 - (i) any provision of this Act or the regulations and guidelines made hereunder, including, without limitation, section 47 (Duties of directors and officers);
 - (ii) any order or directive issued under this Act;
 - (iii) a condition or limitation contained in the licence of the licensee; or
 - (iv) any undertaking given by the licensee to the Central Bank.

(2) In forming an opinion under subsection (1), the Central Bank shall consider whether the interests of the depositors and creditors of the licensee have been or are

likely to be prejudiced by the person continuing to hold office as a director or officer.

(3) The Central Bank shall notify the person concerned and the licensee in writing of any removal order that the Central Bank proposes to make under subsection (1) and shall afford them an opportunity within ten days after the date of the notice, or within any longer period that the Central Bank may allow, to make representations to the Central Bank in relation to the matter.

(4) Where the Central Bank is of the opinion that the public interest may be prejudiced by the director or officer continuing to exercise the powers or carry out the duties and functions of that office during the period for making representations specified in subsection (3), the Central Bank may make an order suspending the director or officer, which suspension shall not extend beyond the said period.

(5) The Central Bank shall, without delay, notify the director or officer and the licensee of a removal order or suspension order made under this section.

(6) The director or officer, as the case may be, ceases to hold office as of the date the removal order is made or any later date specified in the order.

(7) The director or officer and the licensee may appeal the matter to the Appeal Board within thirty days after the date of receipt of a notice of the removal order under subsection (5), or within any longer period that the Appeal Board may allow.

(8) The Appeal Board may dismiss the appeal or set aside the removal order, but a removal order is not stayed by an appeal.

PART X**Statutory Administration****Appointment
of statutory
administrator.**

86. (1) The Central Bank may, with the prior written approval of the Minister, appoint a statutory administrator for a licensee in any of the following circumstances:-

- (a) the Central Bank is of the opinion that the licensee has engaged in any unsafe and unsound practice, in such a manner as to weaken the bank's condition, seriously threaten the interests of depositors, or dissipate the bank's assets;
- (b) a final judgment has been obtained against the licensee or its executive officers for a criminal act;
- (c) the licensee, by resolution of its directors or shareholders, requests the appointment of a statutory administrator;
- (d) the licensee's capital and reserves fall below 50 per cent of the minimum capital requirements pursuant to section 36(2)(Capital requirements);
- (e) the capital and the value of the assets of the licensee have, in the opinion of the Central Bank, reached a level or are eroding in a manner that may detrimentally affect its depositors or creditors, with no reasonable prospects of timely restoration of such capital and value;
- (f) the Central Bank is of the opinion that the realizable value of the assets of the licensee is not sufficient to give adequate protection to the depositors and creditors of the licensee, or is less than its liabilities, or the licensee's financial condition suggests that it will shortly be in that circumstance;

- (g) the Central Bank is of the opinion that the licensee is likely to be unable to meet its liabilities and other obligations as they mature or become due, or pay its depositors' demands in the normal course of business; or
- (h) the licensee has refused to submit to audit or examination of its records or operations by an auditor appointed under section 75 (Appointment and qualifications of auditors) or an examiner appointed under section 80 (Central Bank's authority to examine and to appoint examiners) or section 82 (Special examinations).

(2) The decision by the Central Bank to appoint a statutory administrator shall be promptly notified to the subject licensee in writing and shall specify the grounds upon which such a statutory administrator is appointed. The appointment shall be effective immediately upon the licensee's receipt of notice unless the decision by the Central Bank specifies the effective time of the decision. Notice of the appointment of such person by the Central Bank shall also be simultaneously published in the *Gazette* and in a newspaper of general circulation in Belize.

(3) The statutory administrator shall be appointed by the Central Bank for a term not exceeding six months, as specified by the decision in subsection (2). The term of appointment may be extended by the Central Bank only twice, for a period not exceeding, in each case, three months.

(4) The statutory administrator shall be a person from the private sector or an officer of the Central Bank who meets such qualifications as may be prescribed by the Central Bank.

(5) Section 48 (Conflict of interest) shall apply to a statutory administrator as though a reference to a director

or officer were a reference to a statutory administrator and a reference to any obligation to disclose to the board of directors were a reference to an obligation to disclose to the Central Bank. Any transaction involving the licensee in statutory administration in which the statutory administrator has a material interest or relationship in the matter shall be engaged in only with the prior approval of the Central Bank.

Expenses of the statutory administration and indemnity.

87. (1) The statutory administrator shall receive a remuneration determined by the Central Bank. All costs and expenses incurred on account of the statutory administration shall be borne by and charged to the licensee in statutory administration.

(2) The Central Bank may indemnify the statutory administrator for the costs of any claims, causes of action, judgments, orders, fines, amounts paid in settlement (including attorneys' fees) actually and reasonably incurred by such person in the performance of the functions of administrator or liquidator unless it is shown that such person acted in bad faith and in a manner inconsistent with the performance of his functions and duties or the exercise of his powers under this Act.

Removal of the statutory administrator.

88. (1) Subject to subsection (2), the Central Bank shall have the power to vary or revoke any appointment under section 86 (Appointment of statutory administrator) at any time upon written notice to the person so appointed, and that person immediately shall cease to act as statutory administrator. The Central Bank may appoint a replacement who shall be a person from the private sector or an officer of the Central Bank. The Central Bank must ensure that the licensee shall at all times remain under the control of a duly appointed statutory administrator.

(2) The powers of the Central Bank under subsection (1) to remove a statutory administrator or to appoint a

replacement shall be exercised with the prior approval of the Minister.

89. (1) As of the effective time of appointment of the statutory administrator:—

Effect and objective of appointment of statutory administrator.

- (a) all powers, duties, functions, rights and privileges of the licensee's shareholders, directors and officers responsible for its management shall be immediately suspended and vested in the statutory administrator, unless the statutory administrator requests any shareholder, director or officer to carry out any activity provided under this law; and
- (b) any action or decision taken by or on behalf of the licensee subject to statutory administration shall, unless they are taken by or under the authority of the statutory administrator, be null and void.

(2) The statutory administrator shall be appointed for the purposes of either rehabilitating or restructuring the licensee or to prepare it for liquidation.

90. (1) For the purposes of section 89(2) (Effect and objective of appointment of statutory administrator), the statutory administrator shall have full and exclusive powers to manage and control the affairs of the licensee. The statutory administrator may take such action as necessary or appropriate to:—

Powers and duties of the statutory administrator.

- (a) carry on the business of the licensee;
- (b) preserve and safeguard the assets and property of the licensee; and
- (c) implement a plan of action with respect to the licensee that has been approved by the Central Bank, and where required, the Supreme Court.

(2) The statutory administrator shall act in accordance with the regulations, instructions and guidelines made pursuant to this Act at any time during the statutory administration, and shall be accountable only to the Central Bank for the performance of duties and the exercise of powers as statutory administrator.

(3) The statutory administrator may delegate any of its powers or duties to other persons, in accordance with the instructions issued by the Central Bank.

(4) The statutory administrator shall prepare and deliver to the Central Bank the following reports:-

- (a) within thirty days after its appointment, a report setting out an inventory of the assets and liabilities of the licensee. Such report shall itemize the assets of the licensee according to their different risk profiles and classify the non-performing loans;
- (b) within fifteen days after the appointment, a report on:-
 - (i) the financial condition and future prospects of the licensee subject to statutory administration, which shall include a new balance sheet and an assessment of the amount of assets likely to be realised in a liquidation of the licensee; and
 - (ii) the proposed plan of action which may involve:-
 - (a) a recommendation to return the licensee to compliance with the law by carrying out a plan of corrective action that may include a capital increase;

- (b) an order for the compulsory winding-up of the licensee if there is no reasonable prospect for the return of the licensee to financial soundness through reorganization or otherwise; or
- (iii) any other course of action designed to minimize disruption to depositors and preserve the stability of the banking sector.

(5) The statutory administrator shall promptly provide any additional report or information requested by the Central Bank.

(6) The Central Bank may –

- (a) approve the report or additional report mentioned in subsection (4) or (5) without modification;
- (b) approve the report or additional report mentioned in subsection (4) or (5) subject to such conditions as it deems necessary; or
- (c) refuse to approve the report.

(7) The statutory administrator shall suspend the payment of any dividends or other form of capital distribution to shareholders, as well as any payment to directors other than for salaries or services provided to the licensee upon request of the statutory administrator.

(8) The statutory administrator may employ, at the expense of the licensee in statutory administration, independent attorneys, auditors and consultants to assist the statutory administrator, on such terms as the Central Bank may approve.

(9) If the statutory administrator has reasonable cause to believe that shareholders, directors, officers, attorneys,

auditors or other professionals have engaged or are engaging in criminal activities punishable by imprisonment of one year or more or in any matter involving fraud, it shall immediately notify the Central Bank and shall pursue any civil action seeking damages, restitution and such other relief as the statutory administrator shall deem fit.

(10) All costs and expenses incurred in the civil action under subsection (9) shall be borne by and charged to the licensee.

(11) Not later than sixty days after the statutory administrator has been appointed by the Central Bank, the Central Bank shall apply to the Supreme Court by Fixed Date Claim Form for an order confirming the vesting in the statutory administration of full and exclusive powers to manage and control the affairs of the licensee as set out in subsections (1) through (10).

**Moratorium
and effect of
official
administration
on
proceedings
and
contracts.**

91. (1) The Central Bank may impose a moratorium suspending some or all payments by a licensee in statutory administration.

(2) No person or class of persons shall, without the consent of the Central Bank :-

- (a) commence or continue any legal proceeding, whether in a Court or otherwise, against a licensee in statutory administration;
- (b) exercise any rights under a mortgage, charge or other security over the property of a licensee in statutory management;
- (c) levy any execution, attach any debt, or otherwise enforce or seek to enforce any judgment or order obtained against the licensee; or

- (d) take any step to sell, transfer, assign or otherwise dispose of any property of the bank.

(3) No right or obligation of a third party under any contract to which the licensee in statutory administration is a party may be terminated, crystalized, or modified solely because of the appointment of the statutory administrator or any action taken by the statutory administrator.

92. (1) The Statutory Administrator shall, immediately upon his appointment, secure the properties, offices, assets, books and records of the licensee, and may take all necessary or appropriate steps aimed at such purpose, including without limitation:

**Taking
control of the
bank.**

- (a) changing the locks for external access to the licensee's buildings and offices;
- (b) changing the passwords to the licensee's computers and granting access only to a limited number of employees;
- (c) issuing to authorized employees new type of entrance passes to the licensee's premises and controlling the access of other employees to such premises.

(2) In the course of the statutory administration, the statutory administrator shall have unrestricted access to, and control over, the properties, offices, assets and the books of account and other records of the licensee subject to statutory administration.

(3) For the purposes of subsection (2), the statutory administrator may direct any director, officer, employee or agent of the licensee to make available to the statutory administrator any records and information relating to the

licensee that the statutory administrator shall require and any such director, officer, employee or agent of the licensee shall comply with such direction.

(4) The statutory administrator may request the assistance of law enforcement officials, who shall, if necessary, use force to assist the statutory administrator to gain access to any premises of the licensee, to gain control over and to secure such properties, offices, assets, books and records of the licensee.

**Capital
increase by
existing
shareholders.**

93. (1) On the basis of the report produced under section 90 (Powers and duties of the statutory administrator) and with the approval of the Central Bank, the statutory administrator may take the following action to increase the licensee's capital through the issuance of new shares:

- (a) determine from the licensee's balance sheet the amount of additional capital needed to bring the licensee's capital into compliance with all capital requirements; and
- (b) notify existing shareholders of the amount of additional capital needed to bring the licensee's capital into compliance with all capital requirements and allow such shareholders to subscribe and purchase additional shares, by submitting binding commitments equal to the full amount of additional capital needed, within five business days of such notification.

(2) Existing shareholders of a licensee in statutory administration shall have no preemptive or other rights to purchase additional shares issued except as provided in this section.

**Recapitalization
by new
shareholders.**

94. (1) On the basis of the report produced under section 90 (Powers and duties of the statutory administrator) and

with the approval of the Central Bank, the statutory administrator may take action to increase the licensee's capital through the issuance of shares to new shareholders in the following circumstances:-

- (a) in the event that binding commitments are not submitted in an amount equal to the full amount of additional capital needed by existing shareholders under section 93 (Capital increase by existing shareholders); or
- (b) without offering shares to existing shareholders, if:-
 - (i) the Central Bank determines that:-
 - (a) an expedited resolution of a licensee to maintain financial stability is necessary, or
 - (b) the existing shareholders are no longer suitable to maintain a significant capital position in the licensee; or
 - (ii) there has been a failure to comply timely with the requirement under section 37 (Additional capital requirements) in relation to additional capital.

(2) To carry out a recapitalization by new shareholders, the statutory administrator shall:-

- (a) if not already carried out under section 90 (Powers and duties of the statutory administrator), determine the extent of losses and prepare the licensee's balance sheet covering the amount of such losses through the licensee's profits, reserves and, if necessary, capital;

- (b) if necessary to reflect losses, reduce the par value of outstanding shares, notwithstanding any other provision of law;
- (c) determine the amount and type of funding required to bring the licensee into compliance with all capital requirements under this Act;
- (d) cause the licensee to issue additional shares in the amount necessary and carry out the sale of shares by the licensee and purchase of such shares by new investors.

Mergers,
sales and
other
restructurings

95. (1) Subject to section 92 (Taking control of the bank), on the basis of the report produced under section 90 (Powers and duties of the statutory administrator) and with the approval of the Central Bank, the statutory administrator may carry out a merger of the licensee with another licensee operating under the provisions of this Act or a transfer, in whole or in part, of the licensee's assets or liabilities, or both.

(2) A transfer of the licensee's assets and liabilities may include a transfer to a bridge bank, which is a bank established by the government or the Central Bank for a temporary period for the purpose of resolving the failing licensee.

(3) Subject to section 92 (Taking control of the bank), in accordance with the instructions given by the Central Bank, the statutory administrator may carry out a restructuring of the licensee's liabilities through arrangements with the licensee's creditors, including a reduction, modification, rescheduling and novation of their claims.

Court
sanction for
mergers,
sales and
other
restructurings

96. (1) If a merger, sale of assets and liabilities or restructuring of liabilities of the licensee under section 92 (Taking control of the bank) is proposed, the Central Bank or the statutory administrator shall, prior to such merger, sale

or restructuring, apply to the Supreme Court for approval of the transaction.

(2) Upon an application made under subsection (1), the Supreme Court shall within thirty days:-

- (a) approve the merger, sale or restructuring of the licensee, subject to such terms and conditions as the Supreme Court may determine;
- (b) order the return of the management and control of the licensee to its shareholders, directors and officers, subject to such safeguards or conditions, if any, as the Supreme Court may consider necessary for the purposes of this Act; or
- (c) order the compulsory winding-up of the licensee.

(3) Where an application is made under subsection (1), the Central Bank shall be entitled to be heard on any consideration that may affect the stability of the financial system in Belize and the need for any transaction to be effected expeditiously in the interests of depositors of the licensee.

97. (1) Section 95 (Mergers, sales and other restructurings) shall not be used to:-

**Creditor
safeguards.**

- (a) transfer property against which a liability is secured (under a lien, mortgage or any other type of security interest) unless the liability and the benefit of the security interest is also transferred; or
- (b) transfer only some but not all of the rights and liabilities protected under a netting clause contained in an eligible financial contract.

(2) For these purposes of this section,

- (a) an “eligible financial contract” means any type of financial contract from time to time specified under a regulation made pursuant to this Act for such purpose; and
- (b) a “netting clause” shall mean a clause that enables the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or participants in a settlement system either issue to, or receive from, one or more other participants in that system with the result that only a net claim or a net obligation remains.

**Termination
of statutory
administration.**

98. (1) Subject to subsection (2), the statutory administration shall terminate at the expiry of the term specified in the decision appointing the statutory administrator or any extension of the term of such appointment as provided in section 86 (Appointment of statutory administrator).

(2) Statutory administration shall be terminated prior to the expiry of the term set out in subsection (1) if the Central Bank determines that:

- (a) statutory administration is no longer necessary because the grounds for appointment of the statutory administrator have ceased to exist; or
- (b) the licensee cannot be rehabilitated or restructured and the Central Bank, with the approval of the Minister, issues a decision to revoke the license under section 19 (Revocation of license) and to commence a compulsory winding-up proceeding under section 106 (Compulsory winding-up and appointment of liquidator).

(3) Where the statutory administration is terminated in circumstances mentioned in subsection (1) and the reason

for the appointment of the statutory administrator continues to exist, the Central Bank, with the approval of the Minister, shall issue a decision to revoke the licence under section 19 (Revocation of licenses) and commence a compulsory winding-up proceeding under section 106 (Compulsory winding-up and appointment of liquidator).

(4) In the case of a termination of statutory administration that does not involve a closure of the licensee, the statutory administrator shall carry out the duties of the licensee's executive directors until nomination and/or election of executive directors. Upon nomination and/or election of executive directors, the statutory administrator shall return control of the licensee and its properties, offices, assets, books and records to the competent bodies.

(5) Within five days of the termination of the appointment, the statutory administrator shall prepare and submit to the Central Bank a final report and accounting of the statutory administration.

99. (1) In the case of a licensee that is a foreign bank, Parts X (Statutory Administration) and XI (Winding-up of licensees) of this Act shall be read:-

**Foreign bank
licensee.**

- (a) as though references to the licensee were references to the business, operations and undertaking in Belize of the licensee that is a foreign bank
- (b) as though references to the assets of a licensee were references to the assets in Belize of the licensee that is a foreign bank, including without limitation, assigned capital and any other asset of the licensee in relation to its operations in Belize;
- (c) as though references to depositors, creditors or obligations of a licensee were references to the

depositors, creditors or obligations of the branch or branches in Belize of the licensee that is a foreign bank; and

- (d) with such other similar changes as the Central Bank deems fit.

Part XI

Winding-up of Licensees

Voluntary winding-up and approval of Central Bank.

100. (1) Except with the prior written approval of the Central Bank, no licensee may be wound-up voluntarily.

(2) Subject to subsection (3), approval for a voluntary winding-up of a local licensee or the business in Belize of a foreign licensee may be given by the Central Bank only if it is satisfied that:-

- (a) the licensee is solvent and has sufficient liquid assets to repay its depositors and other creditors in full and without delay;
- (b) the winding-up has been approved by the holders of at least two-thirds of the issued voting shares of the licensee; and
- (c) there are clear procedures in place for repayment of its depositors and creditors within a reasonable period of time.

(3) Where the Central Bank finds in respect of a licensee that there is imminent danger of its insolvency, the Central Bank may waive the requirements under subsection (2) if:-

- (a) the winding-up is to be effected in whole or in part

- (i) through the sale of any of the assets of a local licensee to another licensee; or
 - (ii) through the sale of any of the assets in Belize of a foreign licensee to another licensee; and
- (b) any deposit liabilities of the licensee to be wound-up are to be assumed by that other licensee.

101. (1) When a licensee receives the approval of the Central Bank to its voluntary winding-up, the licensee shall:-

**Voluntary
winding-up
and
surrender of
licence.**

- (a) immediately surrender its licence and all copies thereof to the Central Bank which shall, upon the approval of the Minister, revoke such licence;
- (b) cease to do business, retain only such staff as is necessary for an orderly winding-up, and thereafter exercise its powers only to the extent necessary to effect its orderly liquidation;
- (c) repay in full its depositors and other creditors;
- (d) wind-up:-
 - (i) all operations which were commenced or undertaken prior to the receipt of the approval to wind-up in the case of a local licensee; or
 - (ii) all operations in Belize which were commenced or undertaken prior to the approval to wind-up, in the case of a foreign licensee; and
- (e) provide to the Central Bank confirmation from the external auditor that the winding-up process has been completed.

Voluntary winding-up and notice to depositors and creditors.

102. (1) Within ten days of receipt of the approval of the Central Bank to the winding-up of a licensee, a notice of voluntary winding-up, setting out such information as the Central Bank may specify, shall be sent by the licensee in the specified manner or by personal service, to the depositors and creditors of the licensee and other persons having any interest or claims in its funds or other property.

(2) The notice described in subsection (1) shall also be published in the Gazette and in a newspaper of general circulation in Belize, and placed in a conspicuous place on the premises of each office or branch of the licensee to be wound-up.

Voluntary winding-up and depositor and creditor rights.

103. (1) The approval of the Central Bank to the voluntary winding-up of a licensee shall not adversely affect the rights of:-

- (a) a depositor or other creditor of the licensee to settlement in full of his claim;
- (b) any person having an interest in the funds or property of the licensee to settlement of that interest; or
- (c) an owner of funds or other property held by the licensee to the return thereof.

(2) All claims made by persons described in subsection (1) shall be settled by the licensee concerned within such time as the Central Bank may determine.

Voluntary winding-up and distributions.

104. (1) The assets of a licensee being voluntarily wound-up that remain after settlement of all claims of its depositors and other creditors and other persons having an interest in the funds or property of the licensee are to be distributed among the shareholders of the licensee in proportion to their respective rights.

(2) Notwithstanding subsection (1), no distribution of the remaining assets of a licensee may be made:-

- (a) before all claims of depositors and other creditors have been settled, or, in the case of a disputed claim, before the licensee has deposited with the Central Bank sufficient funds to meet any liability that could arise under that claim;
- (b) before any funds that are payable to a depositor or other creditor as disclosed in the records of the licensee who has not made his claim have been deposited with the Central Bank; or
- (c) before any funds or property held by the licensee that could not be returned, in accordance with subsection (1), to the persons who have an interest therein have been deposited with or transferred to the Central Bank, together with the relevant records.

105. If the Central Bank determines that the assets of a licensee that is being voluntarily wound-up are not sufficient for the full discharge of the obligations of the licensee or that the completion of such a winding-up is being unduly delayed, the Central Bank may begin proceedings for the compulsory winding-up of the licensee in accordance with this Part.

Voluntary winding-up and insufficient assets.

106. (1) The Central Bank shall appoint a liquidator for a licensee if:

Compulsory winding-up and appointment of liquidator.

- (a) the Central Bank has revoked the license of the licensee pursuant to section 19 (1) **(h)**, **(j)** or **(m)** (Revocation of licenses); or
- (b) where the statutory administration is terminated pursuant to section 98(2)**(b)** (Termination of statutory administration).

(2) The Central Bank may appoint a liquidator for the licensee if the Central Bank has revoked the license of the licensee pursuant to section 19(1)(a), (b), (c), (d), (e), (f), (g), (i) or (l) (Revocation of licenses).

(3) In the event of a revocation of the licence of a licensee under subsection (1)(a) or the termination of a statutory administration under subsection (1)(b), the Central Bank shall simultaneously take possession and control of the licensee through the appointment of a liquidator.

(4) The liquidator shall be a person from the private sector or an officer of the Central Bank who meets such qualifications as may be prescribed by the Central Bank.

(5) The Central Bank shall have the power to vary or revoke the appointment of the liquidator at any time upon written notice to the person so appointed, and that person immediately shall cease to act as liquidator. The Central Bank shall appoint a replacement who shall be a person from the private sector or an officer of the Central Bank who meets such qualifications as may be prescribed by the Central Bank.

(6) The terms of the liquidator's compensation shall be set by the Central Bank and may include incentives for meeting the objectives described in section 109 (Powers and duties of liquidator) and may include penalties for failure to meet such objectives.

(7) The compensation of the liquidator and experts that he engages, reimbursement of their expenses and expenses of the Central Bank in execution of provisions of this Part with respect to a licensee shall be paid from the assets of the licensee. Payments to the liquidator shall be made on a current basis if in the judgment of the liquidator and upon approval of the Central Bank, there are sufficient liquid assets. Any moneys owing to the liquidator at the

end of the term of liquidation shall be paid from the proceeds from the sales of the licensee's assets with the priority described in section 116 (Priority of claims).

(8) The Central Bank may indemnify the liquidator for the costs of any claims, causes of action, judgments, orders, fines, amounts paid in settlement (including attorneys' fees) and reasonably incurred by such person in the performance of the functions of a liquidator unless it is shown that such person acted in bad faith and in a manner inconsistent with the performance of his functions and duties or the exercise of his powers under this Act.

107. (1) The decision of the Central Bank appointing a liquidator for a licensee shall be effective as of the date of its issuance, unless such decision provides otherwise.

Notice of
liquidation.

(2) The liquidator shall immediately post in each branch of the licensee a notice announcing the revocation of the license and appointment by the Central Bank, specifying the effective date and time of possession by the liquidator and specifying that:

- (a) authorizations of persons to engage in the financial responsibility of the licensee have been cancelled;
- (b) persons who previously had authorization to give instructions on behalf of the licensee with respect to payment or transfer of the licensee's assets or assets managed by the licensee are no longer so authorized; and
- (c) the licensee's license has been revoked.

(3) Notice of the appointment of a liquidator by the Central Bank shall be published in the *Gazette* and in a newspaper of general circulation in Belize. The liquidator shall arrange for the publication of such notice each week for the next four weeks.

(4) Within sixty days after the appointment of a liquidator, the liquidator shall:-

- (a) deliver a notice to all known depositors, creditors and lessees of safe-deposit boxes held by the licensee;
- (b) publish in the *Gazette* and newspaper of general circulation in Belize a notice specifying a manner and time, not being earlier than sixty days from the date of delivery or publication of the notice, by which any claim against the licensee shall be filed with the liquidator.

Prohibition against accepting deposits while insolvent.

108. (1) A licensee that receives any deposit while insolvent shall, on being called upon in writing by the Central Bank, pay a fine not exceeding fifty thousand dollars and a sum of ten thousand dollars for each day that the failure continues.

(2) Any director or officer of a licensee described in subsection (1) who knows or, in the proper performance of his duties, should know of the insolvency of such bank, and who receives, or authorizes the acceptance of a deposit shall, on being called upon in writing by the Central Bank, pay a fine not exceeding twenty five thousand dollars and a sum of ten thousand dollars for each day that the failure continues.

Powers and duties of liquidator.

109. (1) Where a liquidator is appointed under section 106, (Compulsory winding-up and appointment of liquidator) the liquidator shall become the sole legal representative of the licensee, and subject to subsection (7), shall succeed to all rights and powers of the shareholders and directors and officers responsible for the management of the licensee.

(2) Without prejudice to the generality of subsection (1) and subject to subsection (4), such rights and powers of the liquidator shall include:-

- (a) holding title to the books, records, and assets of the licensee;
- (b) managing, operating and representing the licensee;
- (c) marshalling assets and claims;
- (d) transferring or disposing of assets and liabilities; and
- (e) taking such other action as is necessary for the efficient liquidation of the licensee and to obtain the maximum amount from the sale of assets, including without limitation:-
 - (i) continuing or interrupting any operation of the licensee;
 - (ii) borrowing money guaranteed with its assets or without guarantee;
 - (iii) suspending or limiting the payment of debts subject to the approval of the Central Bank as provided below;
 - (iv) hiring specialists, experts or professional consultants;
 - (v) administering the licensee's accounts;
 - (vi) collecting the debts due to the licensee and recovering goods owed by the third parties;
 - (vii) employing or dismissing any officer, employee or advisor;
 - (viii) initiating or defending the licensee in any legal proceeding and executing any relevant instrument in the name of the licensee; and

- (ix) restructuring the licensee's liabilities through arrangements with the licensee's creditors, including through a reduction, modification, rescheduling and novation of their claims, up to the amount determined by the Central Bank.

(3) The liquidator shall act in accordance with the regulations and guidelines made pursuant to this Act at any time in the course of the liquidation, and shall be accountable only to the Central Bank for the performance of duties and the exercise of powers as liquidator.

(4) A liquidator may not take any new deposits. A liquidator may extend credit only to an existing customer in accordance with the terms of an agreement in force at the time of the appointment of the liquidator and with the prior approval of the Central Bank.

(5) The liquidator shall have unrestricted access to and control over the offices, books of account and other records, and other assets of the licensee and its subsidiaries.

(6) The liquidator may request the assistance of law enforcement officials, who shall, if necessary, use force to assist the liquidator to gain access to any premises of the licensee, to gain control over and to secure such properties, offices, assets, books and records of the licensee.

(7) Any person who willfully interferes with a liquidator's access to or control over the offices, books of account and other records, and other assets of a licensee commits an offence and shall be liable on summary conviction thereof to fine not exceeding one hundred thousand dollars or to imprisonment for a term of not less than one year nor more than five years or to both, and in the case of a continuing offence, to an additional fine not exceeding ten thousand dollars for each day during which the offence continues.

(8) The Central Bank shall approve or deny a merger of the licensee with another licensee, or sale of substantially all the licensee's assets or liabilities, or both, to any one licensee.

(9) The powers of the shareholders and directors and officers responsible for the management of the licensee shall be terminated during a liquidation; provided, however, that directors or officers may be instructed by the liquidator to exercise specified functions for the licensee; and further provided, that such persons shall be subject to dismissal by the liquidator from their positions at the licensee and shall thereupon cease to receive compensation from the licensee.

(10) The liquidator shall secure the property, offices, books, records, and assets of the licensee to seek to prevent their dissipation by theft or other improper action, by taking actions including, but not limited to, the following:

- (a) changing the locks and limiting access to the new keys on external entrances to the licensee's offices and on doors to internal offices which contain financial assets or information or equipment which could enable a person to gain unlawful access to financial assets;
- (b) changing or establishing access codes to the licensee's computers and granting access only to a limited number of trustworthy employees;
- (c) issuing new photo identification passes for entrance of authorized employees to the licensee's premises and controlling the access of others to the licensee's premises;
- (d) cancelling authorizations of persons to engage the financial responsibility of the licensee and issuing new authorizations, as appropriate, and notifying third parties;

- (e) informing correspondent licensees, registrars and transfer agents of securities, and external asset managers of the licensee's assets that persons who previously had authorization to give instructions on behalf of the licensee with respect to dealing in the licensee's assets or assets held in trust by the licensee are no longer so authorized and that only the liquidator, and persons authorized by the liquidator have such authority; and
- (f) suspending the payment of capital distributions in general and payment of any kind to directors, officers and principal shareholders; provided, however, that base compensation may be paid to directors and officers for services rendered in their capacity as directors and officers of the licensee.

(11) The liquidator shall establish a new balance sheet for the licensee, based on his determination of liquidation values of the licensee's assets with a corresponding reduction in the value of the licensee's liabilities in the reverse order of priority in payment of distributions in a liquidation of a licensee's assets. Liabilities shall be deemed due and payable and interest shall cease to accrue as of the date of the appointment of the liquidator. Unmatured liabilities shall be discounted to present value at the rate of interest determined by the Central Bank.

(12) Within one month of taking possession of a licensee, the liquidator shall make an inventory of the assets and property of the licensee and transmit a copy thereof to the Central Bank which shall make a copy available for examination by the public.

(13) As of the date of appointment of a liquidator:-

- (a) any term, statutory, contractual or otherwise, on the expiration of which a claim or right of the

licensee would expire or be extinguished, shall be suspended;

- (b) the calculation of interests and penalties against licensee's obligations shall be suspended and no other charge or liability shall accrue on the obligations of the licensee;
- (c) all legal proceedings against the licensee are stayed and the exercise of any right on the licensee's assets shall be suspended;
- (d) no right can be exerted over assets during the licensee's liquidation, except rights given to liquidator;
- (e) no creditor may attach, sell or take possession of any assets of the licensee as a means of enforcing his claim or initiate or continue any legal proceeding to recover the debt or perfect security interests in the licensee's assets;
- (f) any attachment or security interest (except one existing six months prior to the effective date of the liquidation) shall be vacated, and no attachment or security interest, except one created by the liquidator in the application of this section shall attach to any of the assets or property of the licensee so long as such liquidation continues;
- (g) shareholders' rights shall be extinguished except for the right to receive proceeds, if any, under section 116 (Priority of claims); and
- (h) the liquidator may sell the assets of the licensee or arrange for the assumption of liabilities of the licensee on terms he considers fair.

(14) If the liquidator has reasonable cause to believe that shareholders, directors, officers, attorneys, accountants or other professionals have engaged or are engaging in criminal activities punishable by imprisonment of one year or more or in any matter involving fraud, he shall immediately notify the Central Bank and shall pursue any civil actions seeking damages, restitution and such other relief as the liquidator shall deem fit.

(15) The procedures for determination of the validity of claims and for liquidation of licensee assets and return of licensee customers' property shall be prescribed by the Central Bank; provided however that the sale of licensee's assets shall be accomplished in a transparent and commercially reasonable manner.

(16) The liquidator shall report, on a monthly basis, to the Central Bank on the progress of the liquidation in such form as may be prescribed by the Central Bank and provide any other information upon the request of the Central Bank.

(17) The liquidator may, upon the prior written approval of the Central Bank and according to its guidelines, pursue the following activities:

- (a) dispose of a licensee's assets and liabilities through a purchase and assumption transaction; or
- (b) organize a restructuring of the licensee's assets and liabilities or continue viable or necessary operations through a bridge bank.

**Termination
of certain
contracts.**

110. (1) Within thirty days from the date of appointment, the liquidator can repudiate any unfulfilled or partially fulfilled contract, to the extent that the fulfillment of such contract is determined to be burdensome for the licensee and the repudiation would promote the orderly administration

of the licensee's affairs and protect depositors' interest. Notwithstanding any other law, any liability arising from the repudiation shall be determined as of the date of repudiation and shall be limited to actual direct damages incurred and shall not include any damage for lost profits or opportunity or non-monetary damages.

(2) Subject to any law of Belize governing conditions of employment, the liquidator of a licensee may terminate, not later than three months after his appointment:-

- (a) any employment contract of the licensee;
- (b) any contract for services to which the licensee is a party; and
- (c) any obligations of the licensee as a lessee of property.

(3) A lessor of any property referred to in subsection (1):-

- (a) must be given notice of not less than thirty days of the intended termination of the obligations of a licensee;
- (b) has no claim for rent other than rent accrued up to and including the date of the termination of the obligation of the licensee; and
- (c) has no right to consequential or other damages which arise by reason only of any termination of the obligations of the licensee, notwithstanding any term of the lease to the contrary.

111. (1) When the contents of any safe-deposit boxes maintained by a licensee that is being compulsorily wound-up have not been withdrawn before the expiration of the

**Safe-deposit
boxes.**

period specified in a notice under section 107 (Notice of liquidation), the safe-deposit boxes may be opened in the manner specified by the Central Bank.

(2) The contents of a safe-deposit box opened under subsection (1), together with any inventories pertaining thereto, shall be turned over to the Central Bank and held by it for ten years unless sooner claimed by a person entitled thereto.

(3) On the expiration of ten years from the day any property was turned over to the Central Bank under subsection (2), the property becomes abandoned property.

**Notice of
claims.**

112. (1) Not later than ninety days after the last day specified in the notice for filing claims against a licensee being compulsorily wound-up, the liquidator shall:-

- (a) reject any claim of which it doubts the validity;
- (b) determine the amount, if any, owing to each known depositor or other creditor, and the priority of his claim under this Act;
- (c) prepare for filing with the Central Bank a schedule of the actions proposed to be taken for the purpose of the compulsory winding-up of the licensee;
- (d) notify each person whose claim is allowed in full; and
- (e) publish, once a week for three consecutive weeks, in the *Gazette* and in a newspaper of general circulation in Belize:-
 - (i) a notice of the date and place where the schedule referred to in paragraph (c) will be available for inspection; and

- (ii) the last date, not being earlier than thirty days from the date of publication, on which the liquidator will file that schedule with the Central Bank.

113. (1) Within twenty days of the filing of a schedule under section 112 (Notice of claims), a depositor or other creditor or shareholder of the licensee concerned, or other interested person, may file with the Central Bank any objection that person has to any action proposed in such schedule.

Objections.

(2) After notice served on the liquidator and such interested parties as the Central Bank may require, the Central Bank shall hear the objection and make such order thereon as it considers just in the circumstances.

(3) When the Central Bank allows an objection, the order shall set out the manner in which the schedule referred to in section 112 (Notice of claims) is to be modified.

114. (1) When a schedule has been filed under section 112 (Notice of claims) in respect of a licensee, the liquidator may make a partial distribution to the claimants against the licensee whose claims are undistributed or allowed by the Central Bank, if the liquidator establishes an adequate reserve for the payment of disputed claims against the licensee.

Distributions.

(2) As soon as practicable after all objections against the distribution proposed by the liquidator have been heard and determined, final distribution of the assets of the licensee concerned shall be made by the liquidator.

115. (1) The liquidator may declare void a transaction based on a forged or fraudulent document that the licensee has executed to the detriment of creditors within five years prior to the effective date of the liquidation.

Avoidance of pre-liquidation transfers.

(2) The liquidator may declare void the following transactions affecting the assets of the licensee or to recover from third parties the transfers by the licensee :-

- (a) gratuitous transfers to, or to persons related to, directors and officers and principal shareholders of or holders of significant interests in the licensee made within five years prior to the effective date of the liquidation;
- (b) gratuitous transfers to third parties made within three years prior to the effective date of the liquidation;
- (c) transactions in which the consideration given by the licensee considerably exceeded the received consideration, made within three years prior to the effective date of the liquidation;
- (d) any act done with the intention of all parties involved to withhold assets from the licensee's creditors, or otherwise impair their rights, within five years prior to the effective date of the liquidation; and
- (e) transfers of property of the licensee to, or for the benefit of, a creditor on account of a debt incurred within six months prior to the effective date of the liquidation which has the effect of increasing the amount that the creditor would receive in a liquidation of the licensee; provided however that payment of deposits in an amount equal to or less than two thousand dollars per depositor shall not be subject to this provision.

(3) Transactions with persons related to the licensee conducted within one year prior to the effective date of the liquidation, if detrimental to the interest of depositors and

other creditors, may be declared void by the liquidator and recovered from such persons.

(4) An action to declare a transfer void may be brought by the liquidator within one year following the effective date of the liquidation.

(5) Notwithstanding the foregoing subsections, the liquidator may not declare void a payment or transfer by the licensee if it was made in the ordinary course of the licensee's business, or if it was part of a contemporaneous exchange for reasonably equivalent value, or to the extent that following the transfer the recipient extended new unsecured credit to the licensee which had not been satisfied by the licensee as of the effective date of the liquidation.

(6) The liquidator may recover property or the value of property transferred by the licensee from a transferee of an initial transferee only if the second transferee did not give fair value for the property and knew or reasonably should have known that the initial transfer could be set aside.

(7) The liquidator may order that notice of the filing of an action to declare void a transfer is to be recorded in the public records for real estate ownership and any other rights in property and a person taking title to or acquiring any security interest or other interest in such property after the filing of such a notice takes his or her title or interest subject to the rights of the licensee to recover the property.

(8) A lessor of the licensee's premises or a utility company or other provider of utility services including, without limitation, a company that supplies electricity, natural gas, water or telephone services, may not alter, refuse or discontinue such services to a licensee because of its liquidation or because the licensee has failed to pay for services prior to its liquidation; provided however that upon request of a lessor of the licensee's premises or a utility

company, the licensee shall place a security deposit in a commercial bank as a condition to the lessor's or utility company's duty to continue to provide services during the liquidation, and any such deposit shall not be required in an amount greater than the cost of services provided to the licensee during the month immediately prior to the effective date of the liquidation.

(9) Notwithstanding subsection (1):-

- (a) irrevocable money and securities transfer orders entered by a licensee into a payment or securities settlement system recognized as such by the Central Bank shall be legally enforceable and binding on third parties, even upon a decision revoking the licensee's license and appointing a liquidator, but only if the transfer orders become irrevocable before such decision takes effect; or
- (b) where a licensee enters irrevocable money or securities transfer orders into a payment or securities settlement system after the decision revoking the licensee's license and appointing a liquidator takes effect and the transfer orders are carried out on the day of such decision, the transfer orders shall be legally enforceable and binding on third parties, unless the liquidator proves that the system operator was aware of the decision before the transfer orders became irrevocable.

(10) No law, regulation or practice on the setting aside of contracts and transactions issued or adopted before the decision revoking the licensee's license and appointing a liquidator takes effect shall lead to the unwinding of a netting by a payment or securities settlement system recognized as such by the Central Bank because of that decision.

(11) For the purposes of subsections (9) and (10):-

- (a) a transfer order entered into a money or securities settlement system becomes irrevocable at the time defined by the regulations of that system; and
- (b) “netting” means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or participants in a settlement system either issue to, or receive from, one or more other participants in that system with the result that only a net claim or a net obligation remains.

(12) Nothing in this Act and no decision made under this Act shall prevent or prohibit the set off by operation of law of obligations between a licensee being subject to the liquidation proceedings under this Act and its counterparties.

(13) In determining the rights and obligations between the licensee and its contractual counterparties, effect shall be given to the termination provisions of eligible financial contracts between them. The net termination value determined in accordance with an eligible financial contract between them shall be a claim of the licensee on the counterparty or shall be admitted after its validation as a claim of the counterparty on the licensee. For the purposes of this paragraph:-

- (a) “eligible financial contract” means any of the following agreements:
 - (i) a currency or interest rate swap agreement;
 - (ii) a basis swap agreement;
 - (iii) a spot, future, forward or other foreign exchange agreement;

- (iv) an agreement providing for a cap, collar or floor transaction;
- (v) a commodity swap agreement;
- (vi) a forward rate agreement;
- (vii) a repurchase or reverse repurchase agreement;
- (viii) a spot, future, forward or other commodity agreement;
- (ix) an agreement to buy, sell, borrow or lend securities, to clear or settle securities transactions or to act as a depository for securities;
- (x) any derivative, combination or option in respect of, or agreement similar to, an agreement referred to in sub-paragraphs (i) through (ix);
- (xi) any master agreement in respect to an agreement referred to in sub-paragraphs (i) through (x);
- (xii) any master agreement in respect of a master agreement referred to in sub-paragraph (xi);
- (xiii) a guarantee of the liabilities under an agreement referred to in sub-paragraphs (xii); and
- (xiv) any agreement of a kind prescribed by regulation or guideline made pursuant to this Act; and

- (b) “net termination value” means the net amount obtained after setting off the mutual obligations between the parties to an eligible financial contract in accordance with its provisions.

(14) Except as provided under this subsection and subject to subsection (15), no set-off shall be allowed with respect to claims acquired towards the licensee after the decision on the revocation of the license and the appointment of a liquidator takes effect or within three months before such decision.

(15) Claims towards the licensee arising from deposits shall be set-off against any sum due by a depositor to the licensee as of the date on which the license is revoked and the liquidator is appointed:-

- a) automatically if such sum is matured or past due;
- b) at the option of the depositor, if the sum is not matured or past due.

116. (1) In any liquidation of a licensee’s assets, allowed secured claims shall be paid to the extent of the realization of the security or the security shall be delivered to the secured creditor.

Priority of claims.

(2) The following unsecured claims have priority against the general assets of a licensee being compulsorily wound-up under this Act, namely:-

- (a) firstly, credits extended to the licensee by the Central Bank until the appointment of the liquidator;
- (b) secondly, credits extended to the licensee prior to the appointment of the liquidator and under collateral whose object are the licensee’s assets and to the extent of such collateral;

- (c) thirdly, the necessary and reasonable expenses incurred by the statutory administrator or liquidator, including professional fees in carrying out its functions under this Act;
- (d) fourthly, the wages and salaries of the officers and employees of the licensee (whether or not earned wholly or in any part by way of commission) including any amount payable by way of allowance or reimbursement under any contract of employment or award or agreement regulating conditions of employment, that accrued during the three months immediately preceding the appointment of a statutory administrator or liquidator under this Act, provided that such amount does not exceed five thousand dollars;
- (e) fifthly, all deposits in amounts not exceeding five thousand dollars per depositor, respectively;
- (f) sixthly, all taxes due and other imports owing to the Government of Belize;
- (g) seventhly, the fees, debts and assessments owing to the Central Bank of Belize;
- (h) eighthly, credits extended to the licensee after the appointment of the liquidator;
- (i) ninthly, all other deposits;
- (j) tenthly, all other unsecured claims of creditors;
- (k) eleventhly, subordinated debt.

(3) After payment of all other claims against the licensee, with interest at such rate as the Central Bank determines, all remaining claims against the licensee that

were not filed within the time limited therefore under this Act may then be paid.

(4) Where the amount available to pay the claims of any class of claimant specified in this section in respect of priorities is not sufficient to provide payment in full to all claimants in that class, the amount available shall be distributed by the liquidator on a *pro rata* basis among the claimants in that class.

(5) The assets of a licensee being compulsorily wound-up that remain after the final distribution to claimants pursuant to subsection (3) shall be distributed by the liquidator among the shareholders of the licensee in proportion to their respective rights.

117. (1) Any funds of a licensee being compulsorily wound-up under this Act that remain unclaimed after the final distribution under section 116 (Priority of claims) and not subject to distribution under any other provision under this Act shall be deposited with the Central Bank.

**Unclaimed
funds.**

(2) Funds deposited with it under subsection (1) must be held by the Central Bank for ten years unless earlier claimed by a person entitled thereto.

(3) On the expiration of the ten years referred to in subsection (2) in respect of any funds, those funds remaining unclaimed become abandoned property and shall be transferred to the Government of Belize as the Minister may direct.

118. (1) When all assets of a licensee being wound-up have been distributed or dealt with as required by this Act, the liquidator shall render a report that includes an audited statement of income and expense and sources and uses of funds during the period of liquidation, to the Central Bank.

**Final
reporting.**

CAP 250.
CAP. 270.

(2) If the Central Bank is satisfied with the report rendered by the liquidator a notice of the winding-up shall be published in the *Gazette*, and in the case of a local licensee, the Central Bank may inform the Registrar of Companies or the Registrar of International Business Companies who shall immediately strike the name of the local licensee from the Register of Companies under the *Companies Act* or the Register of International Business Companies under the *International Business Companies Act*, as applicable, and publish notice thereof in the *Gazette*.

(3) Upon publication of the notice referred to in subsection (2), the liquidator shall be relieved of any further obligation in connection with the licensee that has been wound-up.

Miscellaneous
liquidation
provisions.

119. Professional employees appointed to represent or assist a liquidator or the Central Bank in connection with a liquidation shall not be paid amounts greater than are payable to employees or agents of licensees for similar services, except that the Central Bank may authorize payment at higher rates, if the Central Bank determines that paying such higher rates is necessary in order to recruit and retain necessary personnel.

PART XII

Abandoned Property

Abandoned
property in
general.

120. (1) Subject to subsection (2), the items listed in paragraphs (a), (b), (c), (d) and (e) which are held or owing by a licensee under this Act shall be presumed to be abandoned upon the passage of ten years from the last date of deposit, payment of funds or issuance of instruments with respect to such item:-

- a) any general deposit (demand, savings or matured time deposit) made in Belize with a licensee,

together with any interest or dividend, but excluding any lawful charges thereon;

- b)* any sum payable on cheques certified in Belize or on written instruments issued in Belize on which a licensee is directly liable;
- c)* any contents of a safe-deposit box upon which the lease or rental has expired and concerning which notice of the intention of the licensee to deliver the contents thereof into the custody of the Central Bank has been sent by registered letter to the last known address of the lessee and to which the lessee has failed to respond;
- (d)* any cash contents of a safe-deposit box upon which the lease or rental has expired and concerning which notice of the intention of the licensee to deliver the contents thereof into the custody of the Central Bank has been sent by registered letter to the last known address of the lessee and to which the lessee has failed to respond; and
- e)* any other item as may be specified by the Central Bank from time to time;

(2) The items enumerated in paragraph *(a)* of subsection (1) shall not be presumed to be abandoned if the owner has within ten years of the date of deposit or payment of funds, as the case may be:-

- (a)* increased or decreased the amount of the deposit or funds or presented the passbook or other record for the crediting of interest in respect of the items enumerated in paragraph *(a)* of subsection (1);

- (b) corresponded in writing with the licensee concerning the items; or
- (c) otherwise indicated an interest in the items as evidenced by a memorandum concerning them written by the licensee.

(3) For the purpose of this section and sections 121 (Reports and payments to Central Bank) to 125 (Claims) inclusive, the items enumerated in paragraphs (a), (b), and (d) of subsection (1) are referred to as “monetary items” and the items enumerated in paragraph (c) are referred to as “non-monetary items”.

**Reports and
payment to
Central
Bank.**

121. (1) Every licensee holding any of the items enumerated in section 120 (Abandoned property in general) shall within ninety days after the end of its financial year report such holdings to the Central Bank, and pay or deliver to the Central Bank all monetary items and non-monetary items presumed to be abandoned that are listed in the report in such manner as the Central Bank may specify.

(2) Upon paying or delivering monetary items and non-monetary items presumed to be abandoned into the custody of the Central Bank, a licensee shall be relieved of all liability for any claim in respect thereof.

(3) Notwithstanding subsection (2), a licensee shall retain all signature cards and signing authorities or copies thereof for five years from the date of such transfer relating to any deposit or instrument in respect of which the licensee has paid an amount to the Central Bank pursuant to subsection (1) until the Central Bank notifies the licensee that they need no longer be retained.

(4) Except with the approval of the Central Bank, on such terms and conditions as it may specify, no reduction in the amount of interest payable and no charges in excess

of those made in respect of comparable active accounts shall be made by a licensee either during the period of inactivity with respect to the monetary items referred to in section 120 (Abandoned property in general) or at the time payment and delivery of them under subsection (1) is required.

(5) Within thirty days after the end of its financial year but before the filing of the report to the Central Bank required by subsection (1), a licensee shall publish, in the *Gazette* and in a newspaper of general circulation in Belize, the name of the owner and particulars concerning the abandoned monetary items and non-monetary items and shall mail a notice to the owner at his last known address containing particulars concerning the abandoned items.

122. (1) A licensee may sell at public sale all non-monetary items presumed to be abandoned after the expiration of forty-five days from the last date of publication or mailing required by section 121 (Reports and payments to Central Bank) following such advertisement of the sale as the Central Bank may specify.

Public sale.

(2) Any purchaser shall receive title to the non-monetary items free from all claims of the owner or prior holder and from all persons claiming through or under him.

(3) A licensee shall deposit with the Central Bank the proceeds of the sale of the non-monetary items in accordance with subsection (1) less all reasonable costs incurred by it in connection with the sale, mailing of notices and service, as it may deem appropriate to assure the prompt payment of claims which may subsequently be made and approved by the Central Bank.

(4) Any non-monetary items remaining unsold shall be delivered to the Central Bank and shall be disposed of by the Central Bank.

**Transfer by
Central
Bank.**

123. (1) Where the Central Bank has held property transferred to it by a licensee pursuant to section 121 (Reports and payments to Central Bank) or section 122 (Public sale) for five years from the date of such transfer, it shall transfer the property referred to as monetary items to a special fund which will be administered by the Central Bank and shall publish in the *Gazette* and in a newspaper of general circulation in Belize, the names of the owners and particulars concerning the property referred to as non-monetary items. Thereafter, all non-monetary unclaimed items shall be disposed of at the discretion of the Central Bank.

(2) The Central Bank shall not be liable for any claim on any property once it has been transferred to the special fund or disposed of pursuant to subsection (1).

**Fees to be
charged by a
licensee.**

124. A licensee may charge a fee for retaining and administering the documents related to abandoned property as prescribed by the Central Bank.

Claims.

125. (1) Any person claiming an interest in any monetary item or non-monetary item or in the proceeds from the sale thereof, which has been delivered into the custody of the Central Bank pursuant to section 121 (Reports and payments to Central Bank) or section 122 (Public sale) may file a claim thereto with the licensee and after an appropriate hearing by the licensee, the decision of which shall be communicated to the claimant, the Central Bank may deliver up such property or make payment to such person.

(2) Any person aggrieved by a decision of the licensee pursuant to subsection (1) may commence an action in the Supreme Court to establish his claim within thirty days following the decision of the licensee.

126. Where the Central Bank has held abandoned property for a period of five years from the date of such transfer, no person may make any claim on such property and all such property shall be transferred to the Government of Belize as the Minister may direct.

No further claims and transfer of abandoned property to Government of Belize.

127. Any licensee that fails to publish, or file any report, or pay or deliver any property presumed to be abandoned into the custody of the Central Bank in accordance with section 121 (Reports and payments to Central Bank) or 122 (Public sale) shall, on being called upon in writing by the Central Bank, pay a fine not exceeding five thousand dollars per day for every day of such failure to comply.

Offences.

PART XIII

Domestic Banks and Financial Institutions Appeal Board

128. (1) The Minister shall cause to be appointed a Domestic Banks and Financial Institutions Appeal Board (referred to in this Act as the “Appeal Board”) to hear and determine all appeals in respect of matters which may be referred under this Act to the Appeal Board.

Appointment of Domestic Banks and Financial Institutions Appeal Board.

(2) The Appeal Board shall consist of three persons:-

- (a) the Chief Justice or other Judge of the Supreme Court nominated by the Chief Justice, who shall be the Chairman of the Board;
- (b) two other members nominated by the Public Services Commission from among persons who have knowledge of banking, finance, economics or other related disciplines.

(3) No person who is a serving staff member or director of the Central Bank or of any other bank or financial

institution in Belize shall be appointed as a member of the Appeal Board.

(4) The terms of office of the members appointed under paragraph (b) of subsection (2) shall be three years in the first instance but they shall be eligible for reappointment.

Appeals
against
Central
Bank
decision.

129. Any person who is aggrieved by a decision of the Central Bank:-

- (a) to refuse an application for a licence;
- (b) to revoke a licence otherwise than in a case in which revocation is mandatory under section 19 (1) (*h*) (Revocation of license) or section 101 (Voluntary winding up and surrender of license);
- (c) to appoint a statutory administrator under section 86 (Appointment of statutory administrator) or liquidator under section 106 (Compulsory winding-up and appointment of liquidator);
- (d) to restrict a licence in any particular manner or to vary any restrictions of a licence;
- (e) which in the opinion of a licensee might be contrary to any provision of this Act, or adversely affects its operations;
- (f) made under section 29 (10) (Acquisition and holding of shares in a licensee);
- (g) made under section 20 (Restriction of licence);
- (h) to disqualify any person under section 42 (1) (Limits on directors and officers) being a director, or officer on the ground that he is not a fit and proper person; or

(i) to impose any penalty,

may appeal against the decision to the Appeal Board.

130. (1) The Appeal Board may make rules to regulate its procedure for hearing appeals, provided that such procedure shall comply with the rules of natural justice.

Procedure for hearing appeals.

(2) In the event of any doubt or dispute arising on any question of practice and procedure, it may be settled by the Chairman of the Appeal Board, whose decision shall be final.

131. The quorum at any sitting of the Appeal Board shall be two members, one of whom shall be the Chief Justice or the Judge nominated by him.

Quorum.

132. At any meeting of the Appeal Board, a decision may be taken by a majority of its members, provided that the members constituting the majority shall include the Chief Justice or the Judge nominated by him.

Decisions by majority.

133. (1) Upon an appeal under the Act, the Appeal Board may affirm or set aside the decision appealed against or may make any other decision which the Central Bank could have made.

Powers of the Appeal Board.

(2) The Appeal Board may give such directives as it thinks fit for the payment of costs or expenses by any party to the appeal.

134. An appeal to the Appeal Board against a decision of the Central Bank shall not have the effect of suspending the execution of such decision, unless on an inter partes application made to the Chairman of the Appeal Board, the Chairman having heard both sides, is of the opinion that exceptional circumstances exist that warrant the grant of a stay of any further action by the Central Bank.

Effect of appeal.

Appeals to
the Court of
Appeal.

135. (1) Any party aggrieved by a decision of the Appeal Board may appeal to the Court of Appeal on the ground that the decision was erroneous on a point of law.

(2) On any such appeal, the Court of Appeal may affirm or set aside the decision appealed against and may remit the matter to the Appeal Board for rehearing and determination by it.

(3) An appeal to the Court of Appeal against a decision of the Appeal Board shall not have the effect of suspending the execution of such decision.

CAP. 90.

(4) For the purposes of this section, the determination of the Appeal Board shall be deemed to be a final judgment or order of the Supreme Court, and Part III of the Court of Appeal Act (Civil Appeals) shall apply to the procedure and determination of such appeal by the Court of Appeal.

PART XIV

Miscellaneous

Transitional.

136. Unless otherwise expressly provided to the contrary herein, the provisions of this Act shall apply with full force and effect at the commencement thereof to all persons subject thereto.

General
penalty for
offences.

137. Every person who commits an offence against this Act or any regulations made hereunder for which no penalty is specifically provided is liable on summary conviction to a fine not exceeding twenty five thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, and, if the offence is a continuing offence, to a further fine not exceeding ten thousand dollars for every day during which the offence continues.

138. Where the Central Bank is empowered under this Act or any regulations and guidelines made hereunder, to impose a fine or other penalty for failure to comply with any provisions of this Act or any regulations or guidelines made hereunder, the Central Bank may, without prejudice to any other remedies available to it under the law and after due process has been concluded, recover such fine or other penalty from the deposit maintained by the licensee with the Central Bank under section 39 (Deposit and other liability reserves) of this Act.

Fines, etc., to be placed to the credit of the Central Bank.

139. (1) The Minister, the Governor of the Central Bank, any director, officer or employee of the Central Bank, any examiner appointed under section 80 (Central Bank's authority to examine and to appoint examiners) or section 82 (Special examinations), any statutory administrator appointed under section 86 (Appointment of statutory administrator) or any liquidator appointed under section 106 (Compulsory winding up and appointment of liquidator) shall not be liable in damages to any person for anything done or omitted in the discharge or purported discharge of their respective functions under this Act, unless it is shown that the act or omission was done in bad faith.

No liability for certain acts.

(2) This section shall continue to apply to any person referred to in subsection (1) after that person has left the office in question.

140. (1) No licensee shall engage in advertising which is likely to mislead the public concerning:-

Unlawful advertising practices and solicitation of business.

- (a) the relation of the licensee to the Central Bank or any department or officer thereof;
- (b) the interest rate paid on deposits, securities or other similar instruments or charged on credit;
- (c) the effective annual percentage rate charged on loans and other extensions of credit;

(d) the insured or guaranteed status of deposits or other liabilities of the licensee; or

(e) the financial condition of the licensee.

(2) A licensee shall not advertise or solicit business, directly or indirectly, for a foreign bank or foreign financial institution.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars for each contravention.

Applicability of this Act to certain persons and precedence.

CAP. 266.
CAP. 262.

141. (1) Nothing in this Act shall apply to the Government Savings Bank constituted under the *Savings Bank Act*, nor to the Central Bank established under the *Central Bank of Belize Act*, except insofar as the Central Bank is expressly required by this Act to do any act or thing.

CAP. 250.

(2) This Act shall have effect notwithstanding anything to the contrary in the *Companies Act* and the provisions of that Act, insofar as they relate to licensees or the carrying on of banking business or financial business in or from within Belize, shall have effect only subject to the provisions of this Act.

Central Bank to be a public authority.

CAP. 31.

142. The Central Bank shall be deemed to be a public authority for the purpose of the *Public Authorities Protection Act*.

Procedure where none is laid down.

143. In the event that any act or step is required or permitted to be done under this Act, and no form is prescribed or procedure laid down in this Act or regulations or guidelines made pursuant to this Act for doing the same, the Central Bank may, either in response to application made to it, or on its own motion, give directions as to the manner in which the same may be done, and any act or step done or taken in accordance with its directions shall be a valid performance of such act or step.

144. (1) No prosecution in respect of any offence committed under this Act or the regulations made hereunder shall be instituted except by, or with the consent in writing of, the Central Bank or the Director of Public Prosecutions.

**Authority for
and
limitation of
proceedings.**

(2) All prosecutions, actions, suits, or other proceedings brought for any offence, or for the recovery of any fines, penalties or forfeitures, under this Act or the regulations and guidelines made hereunder, shall be brought within five years after the date of the offence committed or the cause of action accrued.

145. (1) The Central Bank may issue to any person who, there is reasonable cause to believe, has committed an offence under this Act or any regulations made hereunder, a Notice offering the person the option to discharge any liability to conviction in respect of that offence by payment of the fixed penalty specified for the offence in the Regulations made under this Act.

**Option to pay
a fixed
penalty in
lieu of
criminal
proceedings.**

(2) The fixed penalty referred to in subsection (1) above shall not be greater than the maximum penalty prescribed for that offence in this Act.

(3) Where a person is given a Notice under this section, criminal proceedings shall not be taken against him for the offence specified in the Notice until the expiration of twenty-one days commencing from the day after which the Notice was served.

(4) Where a person fails to pay the fixed penalty referred to in subsection (1) or where he continues to commit the offence after the expiration of twenty-one days following the date of receipt of the Notice referred to in subsection (1), that person is liable on summary conviction for the original offence committed.

(5) Payment of a fixed penalty under this section shall be made to the Central Bank and in any criminal

proceedings against an offender referred to in this section, a certificate that payment of the penalty was or was not made to the Central Bank by the specified date shall, if the certificate purports to be signed by the Governor, be admissible as evidence of the facts stated therein.

(6) A Notice under subsection (1) shall –

- (a) specify the offence alleged;
- (b) give such particulars of the offence as are necessary for giving reasonable information of the allegation; and
- (c) state –
 - (i) that criminal proceedings shall not be laid until the expiration of twenty-one days from the date of receipt of the Notice where payment of the fixed penalty is made and the commission of the offence is discontinued; and
 - (ii) the amount of the fixed penalty and the fact that it is to be paid to the Central Bank.

(7) In any proceedings for an offence to which this section applies, no reference shall be made to the giving of any notice under this section or to the payment or non-payment of a fixed penalty thereunder unless in the course of the proceedings or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such a Notice, or, as the case may be, to such payment.

(8) The Central Bank may, by Regulations, provide for any matter incidental to the operation of this section, and in particular, any such Regulations may prescribe –

- (a) the form of Notice under subsection (1); and
- (b) the nature of the information to be furnished to the Central Bank along with any payment.

146. Nothing in this Act shall affect any civil remedy that any person may have against a licensee in respect of any matter.

Civil remedies not affected.

147. (1) Every document filed with the Registrar of Companies or with the Central Bank, and all records and accounts required to be kept under this Act shall be in the English language.

English to be the authentic text.

(2) Where a document is not in the English language it shall be accompanied by an authentic English translation and in the event of any conflict in meaning between the foreign language and the English version, the English version shall prevail.

148. (1) This Act shall come into force on such day as the Minister may, by Order published in the Gazette, appoint.

Commencement and Repeal.

(2) On the commencement of this Act, *the Banks and Financial Institutions Act* shall stand repealed.

CAP. 263.

(3) The repeal of the said Act shall not affect -

- (a) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act; or
- (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Act; or
- (c) any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment.

(4) Any such investigation, legal proceeding or remedy as aforesaid may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the said Act had not been repealed.

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FIRST SCHEDULE**(Section 2)**

Financial Business

CLASS	ACTIVITIES
1. Finance House or Finance Company	Financing of Hire Purchase and Instalment Credit, Financing Accounts Receivables, Trade and Inventory Financing, Factoring, Block Discounting and Lease Financing
2. Leasing Corporation	Lease financing
3. Merchant Bank or Investment Bank	Trading, floating and underwriting stocks, shares, bonds and all other types of securities Loan syndication Providing consultancy and investment management services and corporate advisory services Acceptance credit Project financing Lease financing Foreign exchange dealing Inter-Bank financing
4. Mortgage Institutions	Mortgage lending
5. Unit Trust	Providing facilities for the participation by persons as beneficiaries under a trust or other scheme, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatever.

6. Debit or Credit Card Business
Issuing payment, credit or debit card and, in cooperation with such others including other financial institutions, operating a payment, credit or charge card plan.

7. Trust Company
Managing trust funds
Performing duties of trustees, executor or administrator and attorney
Administration of Pension Fund

SECONDSCHEDULE**[Section 84(5)]**

International Standards for the supervision of foreign banking groups and their cross-border establishments.

1. All foreign banks must be supervised by a home country authority that capably performs consolidated supervision.
2. Creation of a cross-border banking establishment should receive the prior consent of both the host country and the home country authority.
3. Home country authorities should possess the right to gather information from their cross-border banking establishment.
4. If the host country supervisory authority considers that any of those three standards is not being met, it could impose restrictive measures or prohibit the establishment of banking offices.