



BELIZE

**BANKS AND FINANCIAL INSTITUTIONS ACT
CHAPTER 263**

REVISED EDITION 2000
SHOWING THE LAW AS AT 31ST DECEMBER, 2000

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Laws of Belize, Revised Edition 1980 - 1990.

This edition contains a consolidation of the following laws-

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ARRANGEMENT OF SECTIONS

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BANKS AND FINANCIAL INSTITUTIONS ACT

10

Amendments in force as at 31st December, 2000.



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BANKS AND FINANCIAL INSTITUTIONS

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CHAPTER 263**BANKS AND FINANCIAL INSTITUTIONS**

Commencement.
[1. 1. 1996]
S.I. 130 of 1995.

[26th September, 1995]

PART I*Preliminary*

Short title. 1. This act may be cited as the Banks and Financial Institutions Act.

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

“advertisement” means any form of advertising whether notified, published, mailed or electronically 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 or handbills;
- (d) by an exhibition of photographs or cinematographic films;
- (e) by way of sound broadcasting or television;
- (f) by way of computer networks, satellite, and telephone; or
- (g) by way of solicitation in any form;

“affiliate” in relation to another person means any person which controls, is controlled by or is under common control with, the first person, and includes

any or all of the following-

- (a) a holding company, parent company or subsidiary company of that person;
- (b) a subsidiary of a holding company or parent company of that person; or
- (c) a controlling shareholder of that person (if a company) which, either alone or in association with any person or persons, is entitled to exercise or control the exercise of twenty-five *per centum* or more of the voting power at a general or special meeting of that person;

“appeal board” means the Financial Institutions Appeal Board established by section 70 of this Act;

“assigned capital” means such portion of the capital of a foreign bank or financial institution, consisting of unimpaired assets, as determined by the Central Bank which is specifically invested by that bank or financial institution in its operations in or from within Belize;

“bank” means any company which conducts a banking business in or from within Belize;

“banking business” means the business of receiving money from the public through the acceptance of deposits on current account, deposit account or other similar account which may be withdrawn on demand, by cheque, draft, order or notice by customers and using that money to make advances, loans, extensions of credit, guarantees and investments authorized by law; but does not include any such business conducted solely with persons not resident in Belize exclusively in a currency or currencies other than the dollar under an enactment authorizing the carrying on of such business;

“branch” means any place of business at which a licensee carries on its business in Belize, or any portion thereof, with the public, but does not include the head or executive offices of the licensee;

CAP. 262. “Central Bank” means the Central Bank of Belize established under the Central Bank of Belize Act;

CAP. 250. “company” means a company, registered under the Companies Act or the
CAP. 270. International Business Companies Act, and includes a company incorporated outside Belize;

“control” means the power, directly or indirectly, to appoint or remove a majority of the board of directors or trustees of a company or to exercise twenty-five *per centum* or more of the voting power at a general or special meeting of such company;

“demand deposit” means any deposit payable to a depositor upon the demand of such person, or with a maturity or withdrawable by the depositor upon advance notice of less than seven days, by cheque, draft or other similar means;

“deposit” means:-

- (a) the unpaid balance of money received or held by a company 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 similar obligation;
- (b) money received or held by a company or the credit given for money or its equivalent received or held by a company, 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 company 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 company for immediate application to the satisfaction or reduction of indebtedness to the receiving company; or

- (c) an outstanding draft (including advice or authorization to charge the company's balance at another company), cashier's cheque, money order, or other officer's cheque received by a company and which has been issued by another company 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 other obligations of a company as the Central Bank shall specify by notice in the *Gazette* to be a deposit for purposes of this Act;

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

“director” means an individual occupying the position of director or alternate director of a company by whatever name he may be called and includes a member of a local board of a company whose head office is situated outside Belize or which is incorporated outside Belize;

“dollar” means the Belize dollar;

“financial business” means the business of receiving funds from the public through the obtaining of loans, advances, extensions of credits, investments, sales of securities of any kind and the relending or reinvestment of such funds in loans to the public, advances to the public, shares or securities of any kind; or the business of a trust corporation, or securities brokerage house; as well as the types of

Schedule. businesses set out in the Schedule to this Act, but does not include-

- (a) a banking business or an insurance business; and
- (b) any financial business conducted solely with persons not resident in Belize exclusively in a currency or currencies other than the dollar under an enactment authorizing the carrying on of such business;

“financial institution” means any company which conducts a financial business in or from within Belize;

“foreign bank” means a bank which is incorporated under the laws of another country or place, 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 under the laws of another country or place, and refers to the branch, or branches or other locations in Belize through which such company carries on its financial business in Belize;

“holding company” means any company which has control over any bank or other financial institution that is or becomes a licensee by virtue of this Act. A company has control over a bank or other financial institution if-

- (a) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote twenty-five *per centum* or more of any class of voting shares of the bank or financial institution; or
- (b) the company controls in any manner the election of a majority of the directors or trustees of the bank or financial institution;

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

“local bank” means a bank which is a company incorporated in Belize under the Companies Act; CAP. 250.

“local financial institution” means a financial institution which is a company incorporated in Belize under the Companies Act; CAP. 250.

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

“Minister” means the Minister of the Government of Belize for the time being responsible for Finance;

“officer” means the chairman or deputy chairman of the board of directors, president, vice-president, managing director, manager, financial controller, secretary or treasurer of a company, or any other individual who holds the title or performs any function similar to that of the holder of those offices;

“official” means any person who is a director or officer of any company;

“person” means an individual, sole proprietor, partnership, company, incorporated or unincorporated association, trust, estate, joint venture or any similar entity, organization, company or other body of persons including a political sub-division of Government such as a City Council or a Town Board;

“subsidiary” in relation to another company, means a company in which that other company is entitled to exercise or control the exercise of more than fifty *per centum* of the voting power at a general or special meeting;

“trust corporation” means a company 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 company which acts as a nominee trustee where the custodianship or management of the trust assets is delegated 5 of 1992.

to another 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 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.

PART II

Licensing Requirements

Prohibition on
conduct of
unlicensed
business.

3.-(1) Notwithstanding the provisions of any other law, no banking business or financial business shall, save as provided in section 84, be carried on, in or from within Belize, except by a licensee licensed under this Act.

(2) No person other than a bank licensed under this 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; provided that a financial institution licensed under this Act may use any such word with the prior written permission of the Central Bank.

(3) No person other than a bank or financial institution shall-

- (a) make or continue to make any representation in any billhead, letter, letterhead, circular, paper, advertisement or in any other manner whatsoever that such person is carrying on a banking business or financial business;
- (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.

(4) The Central Bank, may, by written order or directive, require any person which contravenes subsection (1), (2) or (3), 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 38 as liquidator or administrator thereof, and wind up such bank’s or financial institution’s affairs, as provided in this Act.

(5) Wherever the Central Bank has reason to believe that any person is conducting a banking business or financial business in Belize without a valid licence, or has acquired control of a licensee without the prior approval of the Central Bank, 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 control.

(6) Any person who contravenes subsection (1), (2) or (3) or wilfully causes any person to contravene 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 three years, or to both such fine and imprisonment, and in the case of a continuing offence, to a fine of five thousand dollars for each day during which the offence continues. In addition, the court may direct such person to forthwith cease conducting banking business or financial business.

(7) Any person who refuses to comply with any notice delivered under subsection (5) within five business days of the delivery thereof commits an offence and is liable on summary conviction thereof to a fine not exceeding five thousand dollars for every day during which the offence continues.

CAP. 310.
CAP. 313.
CAP. 314.

(8) The requirements of this Act shall not apply to a building society registered under the Building Societies Act, or a society registered or organized under the Cooperative Societies Act or the Credit Unions Act, unless the Minister by order specifically determines which of the provisions of Part VI and VII of this Act shall apply to one or more of such companies or societies.

Licensing of
existing banks and
financial institu-
tions.
CAP. 215,
R.E. 1980-1990.

4.-(1) A bank licensed at the commencement of this Act under the Banking 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.

(2) Notwithstanding anything in this Act, a company which, at the commencement of this Act, was carrying on a financial business without a licence under this Act, shall within six months beginning with that date or such longer period as the Central Bank may allow, apply for a licence under this Act in respect of such financial business. Such company thereafter may continue to conduct such business until a licence is finally refused or the application is withdrawn and shall cease conducting all financial business if it is not issued a licence under this Act.

5.-(1) An application for a licence under this Part 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.

Applications for a licence.

(2) In the case of an application for a licence from a foreign bank or foreign financial institution, such application also shall designate in writing to the Central Bank-

- (a) a principal office in Belize;
- (b) by name, one of its officials approved by the Central Bank, to be such applicant's authorized agent in Belize; and
- (c) by name, another of its officials approved by the Central Bank who, in the absence or inability of the official named under paragraph (b) to act, is to be such applicant's authorized agent in Belize.

(3) Upon acceptance of an application under subsection (1), the Central Bank shall promptly cause to be published in the *Gazette* and a newspaper of general circulation in Belize notice of the application for such licence.

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

(5) Upon acceptance of an application under this section, the Central Bank shall conduct such investigation and inquiries as it deems necessary to determine whether the applicant is fit and proper to receive a licence under this Act. In

conducting such investigation and inquiries, the Central Bank shall consider, at a minimum, the background, experience and integrity of the applicant; the financial resources and history of the applicant; the proposed management of the applicant; the adequacy of the applicant's capital; and such other matters as the Central Bank deems appropriate.

(6) Upon receipt of an application by a foreign bank or foreign financial institution under this section, the Central Bank shall promptly notify, consult with and consider the views of the appropriate licensing or supervisory authority in that bank's or financial institution's home country.

(7) Any person who wilfully furnishes any information which is in any material respect false or misleading in connection with an application under this Part commits an offence and shall be liable on summary conviction thereof to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Approval of
licence applica-
tions.

6.-(1) The Central Bank shall act upon any application under section 5 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 5 to determine whether the issuance of a licence satisfies the requirements of this Act. The Central Bank shall, if it is satisfied that the grant of a licence is consistent with the requirements of this Act and will not be against the public interest, submit the application to the Minister for approval. Subject to the provisions of this Act, the Minister shall grant approval for the issuance of a licence under this Act if he is satisfied that the granting of such licence is consistent with the requirements of this Act and will not be against the public interest. No licence shall be issued to any applicant unless the applicant's capital satisfies all applicable capital requirements under section 10 of this Act, and the Minister, after consultation with the

Central Bank, is satisfied that the applicant will be able to operate in compliance with the requirements of this Act.

(3) Upon the approval of the Minister specified in subsection (2), the Central Bank shall issue a licence authorizing the applicant to conduct banking business and/or financial business, and publish in the *Gazette* and a newspaper of general circulation in Belize notice of the issuance of such licence. Such licence shall specify the types of banking business and/or financial business in which the applicant is authorized to engage.

(4) Upon the issuance of a licence to an applicant, the Central Bank forthwith shall transmit one certified copy of such licence to the Registrar of Companies and one certified copy of such licence for the head office and each branch thereof of the licensee.

(5) No licence issued under this Act shall be effective 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 8 of this Act.

(6) Every licensee which is a 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.

(7) The Minister may refuse to grant approval of the issuance of a licence to an applicant, if in his 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 company, firm or business house, whether within Belize or not, or which resembles that name in such a manner as to be calculated to deceive; or
- (b) is calculated to deceive persons into believing that such bank or financial institution has a special status in relation to or de-

rived 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.

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

- (a) it is revoked by the Central Bank by order under this Act or as provided in section 7 of this Act; or
- (b) another licence is granted to the licensee upon approval or notification of any changes specified in subsections (1) and (2) of section 9, whereupon such previous licence thereafter shall cease to have effect.

Revocation or
limitation of
licences.

7.-(1) The Central Bank, with the approval of the Minister, may at any time by order published in the *Gazette* revoke a licence or impose limitations on the terms and conditions subject to which such licence may remain in force-

- (a) for any failure to pay the fee prescribed for the issuance or continuation of such licence within the time specified in section 8;
- (b) for any wilful contravention of any provision of this Act or any other law to which the licensee is subject, or of any regulation made thereunder;
- (c) for any wilful failure to comply with any order or directive issued by the Central Bank under this Act;
- (d) if the licensee fails to comply with any condition 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) if the licensee concerned is insolvent as determined by the Central Bank or goes into liquidation or is wound up or otherwise dissolved;
- (h) if the licensee's assets are inadequate or insufficient to meet its liabilities as they mature or become due; or
- (i) if the licensee fails to comply with the requirements of section 10 pertaining to capital, and the Central Bank determines that the licensee has no substantial prospect of bringing itself into compliance with the requirements of that section.

(2) Before making an order under subsection (1), the Central Bank shall give the licensee concerned twenty-one days prior notice in writing (or such longer time as the Central Bank may specify in writing) of its intention to do so, specifying therein the grounds on which it proposes to revoke or impose limitations on the licence, and shall afford that licensee an opportunity to submit a written statement of objections to the making of the order, specifying the time within which such written statement must be received by the Central Bank. Thereafter, the Central Bank, with the approval of the Minister, shall advise the licensee in writing of its decision on the matter.

(3) Any notice delivered under subsection (2) as to which a written statement of the recipient is not received by the Central Bank in a timely manner shall become final, and the licence of the licensee to which the notice was delivered shall be revoked or limited, as the case may be, twenty-one days (or such

longer time as the Central Bank may have specified in its notice) after the delivery thereof.

(4) 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 in subsection (1) exists.

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

Display of licence
and payment of
fees.

8.-(1) Any licence granted under this Act shall be displayed and kept displayed in a conspicuous place in the public part of the principal premises in Belize in which the licensee carries on its banking or financial 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 such fee as the Central Bank may by regulation prescribe, and shall pay to the Central Bank not later than the second day of January of each succeeding year, such annual licence fee as the Central Bank may by regulation prescribe.

(3) The prescribed initial licence fee and the annual fee shall be as follows-

- (a) in the case of a bank, a minimum fee of \$25,000.00;
- (b) in the case of a financial institution, a minimum fee of \$10,000.00.

Fundamental
changes.

9.- (1) Except with the prior written approval of the Central Bank given after consultation with the Minister, no licensee shall-

- (a) merge or consolidate with any other licensee, or either directly

or indirectly acquire any material portion of the assets of, or assume any material portion of the liabilities of another licensee;

- (b) sell or dispose in whole or any material portion of its banking or financial business by any means;
- (c) engage in any banking business or financial business not specified in its licence;
- (d) repurchase its own shares;
- (e) change its title or name; or
- (f) take any action to reduce or wilfully and materially impair, in any respect, its paid-up capital or assigned capital, as the case may be.

(2) No licensee shall, without thirty days prior notification to the Central Bank-

- (a) establish a branch, representative office or subsidiary in Belize, or relocate its head office or move branches from one location to another in Belize;
- (b) amend its memorandum or articles of association; or
- (c) carry out any other reconstruction of its business operations.

(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 such subsection will adversely affect the condition or operations of the licensee, or be detrimental to the interests of depositors or customers of the licensee.

(4) Upon any changes made in accordance with subsection (1) or (2) the Central Bank may, with the approval of the Minister, 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. Any such licence may be subject to such terms and conditions, if any, as may be specified therein.

(5) Upon the issuance of a new or modified licence to any licensee or resulting licensee under subsection (4), the Central Bank forthwith shall transmit one certified copy of such licence to the Registrar of Companies, and one certified copy of such licence for the head office and each branch thereof to the licensee, which copies thereupon shall be displayed in the manner provided in subsection (1) of section 8.

(6) The taking of any action by the Central Bank under this section shall not affect the validity of any licence existing at the date of such action and which was granted to the licensee which was the subject of such action.

(7) Any licensee which fails to comply with any of the provisions of subsections (1) or (2) or with any requirement of the Central Bank imposed under this section commits an offence and shall be liable on summary conviction thereof to a fine not exceeding twenty-five thousand dollars.

Capital require-
ments.

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

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

- (ii) fully paid-up and unimpaired assigned capital of not less than the equivalent of three million dollars;
- (c) in the case of a local financial institution, fully paid-up and unimpaired capital of not less than the equivalent of one hundred thousand dollars; or
- (d) in the case of a foreign financial institution-
 - (i) total worldwide fully paid-up and unimpaired capital of not less than the equivalent of twenty-five million dollars; and
 - (ii) fully paid-up and unimpaired assigned capital of not less than the equivalent of one hundred thousand dollars.

(2) The Central Bank may require such greater amounts of capital or assigned capital than those amounts specified in subsection (1) which, in its opinion, are deemed necessary and prudent, taking into account the nature of the banking business or financial business which the licensee 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 deposit or other liabilities of the bank or financial institution, provided that the requirements are the same for each bank and each type of financial institution. Notwithstanding any of the foregoing, the Central Bank shall not increase any such amounts of capital without prior consultation with the Minister.

(3) The Central Bank may also require every licensee to maintain fully paid-up and unimpaired assigned capital and reserves 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.

(4) For purposes of this section, fully paid-up and unimpaired 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 11 of this Act;
- (d) any other disclosed reserves created or increased by appropriations of retained earnings;
- (e) published retained earnings of prior years;
- (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 intan-

gible 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.

(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 base of the licensee for purposes of computing the minimum requirements provided in this section.

(6) Any bank or financial institution 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 and unimpaired capital and reserves or assigned capital and reserves, as the case may be, as specified in this section.

11.-(1) Every licensee shall maintain a statutory reserve fund in the amount and manner prescribed in this section.

Statutory
reserve fund.

(2) In the case of a local bank or local financial institution, such local bank or local financial institution shall out of its net profits of each year and before any dividend is declared, transfer to that 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 and outstanding capital of such bank or financial institution.

(3) In the case of a foreign bank or foreign financial institution, such foreign bank or foreign financial institution shall before remitting any local net profits outside of Belize, transfer twenty-five *per centum* of such profits to that reserve fund until the amount of the reserve fund is at least equal to the fully paid-up assigned capital of such bank or financial institution. The amount so transferred to the reserve fund during any financial year shall be at least twenty-five *per centum* of that bank's or financial institution's local profits as reported to the Central Bank.

Acquisitions and
changes in control
of licensees.

12.-(1) No person may, without prior written approval of the Central Bank, given after consultation with the Minister, acquire control of any local licensee. Any person seeking to acquire control of a local licensee shall submit to the Central Bank an application containing such information and in such form as the Central Bank may specify.

(2) In the event that any person acquires control of the holding company of a local licensee such licensee shall notify the Central Bank, in writing, of such acquisition within five working days.

(3) Upon acceptance of any application or notification under this section, the Central Bank shall determine whether the acquiring person is fit and proper to acquire control of a licensee or holding company of such licensee. In making such determination, the Central Bank shall make such investigations and inquiries as it deems necessary, and shall consider the background, experience and integrity of the acquiring person; the terms and conditions of the proposed acquisition; the financial resources and history of the acquiring person; the financial condition and capitalization of the licensee proposed to be acquired; any proposed change in the business, corporate structure, or management of the licensee; the completeness and truthfulness of the information submitted by the acquiring person; and such other matters as it deems appropriate.

(4) In acting on any application or notification under this section, the Central Bank shall take action within one hundred and twenty days of the acceptance thereof. The Central Bank may, upon written notice to the acquiring person that further investigation or inquiry is needed, extend such time period for up to an additional sixty days.

(5) The Central Bank may refuse to accept an application which does not contain all information required under subsection (1).

(6) The Central Bank may specify further procedures for the implementation of this section.

(7) 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 holdings of that group shall be combined and deemed to be the holdings of a single person for purposes of this section.

(8) In every case where the provisions of subsections (1) and (2) have been violated, or the “fit and proper” requirements of subsection (3) have not been satisfied, the Central Bank may issue an order requiring divestment of so much of the offending interest as is necessary to secure compliance with the provisions of subsections (1) and (2).

(9) Any person who acquires control of a holding company of such licensee in contravention of this section commits an offence and shall be liable on summary conviction thereof to a fine not exceeding five thousand dollars for every day the offence continues or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(10) The Central Bank may by notice in writing require any licensee to submit within such period and in such form as may be specified by the Central Bank, a list of shareholders on its register who own five percent or more of any class of its issued share capital. The Central Bank may also require the licensee to provide the names of the ultimate beneficial owners of such shares.

PART III

Cash Reserves and Liquid Asset Requirements

Deposit and other
liability reserves.

13.-(1) Every 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 bank.

(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 liabilities 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 bank, the method to be used in computing the averages specified in subsection (2), provided that such method shall be the same for each bank.

(4) The Central Bank may, by thirty days prior notice in the *Gazette*, require each type of 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 the 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 financial institution.

(5) Any bank or financial institution that contravenes this section may be ordered by the Central Bank in writing to pay a charge equivalent to five *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 the bank or financial institution with the Central Bank.

14.-(1) Every 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 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 under section 13 (2) (b).

(3) The Central Bank may vary, by thirty days prior notice in writing to each bank, the method to be used in computing the averages specified in subsection (2) and such method shall be the same for each 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 banks and financial institutions 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) cheques and other sight drafts drawn on other banks in Belize and in the course of collection;
- (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 company or parent company or any company 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 bank or financial institution 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;
- (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 one hundred and eighty days and which are denominated in currencies freely convertible into dollars; and
- (i) such other liquid assets as the Central Bank may declare after consultation with licensees by notice in the *Gazette* to be approved liquid assets for purposes of this section. The Central Bank may also declare, by notice in the *Gazette* or by thirty days prior notice in writing, any of the assets described in this subsection to have ceased to qualify as approved liquid assets for purposes of this section.

(5) The Central Bank may, by thirty days notice in the *Gazette*, require any type of financial institution to maintain a minimum aggregate holding of approved liquid assets which on average shall be equivalent to such value as the Central Bank may determine, provided that such requirements shall be the same for each type of financial institution so required.

(6) Any bank or financial institution which during any month fails to maintain a minimum aggregate holding of approved liquid assets 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 its

actual aggregate holding of approved liquid assets has fallen short of its required aggregate holdings, 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 bank or financial institution with the Central Bank.

(7) Any bank which at the commencement of this Act would not be able to comply with the requirements of this section shall, within twelve months after the commencement of this Act or such longer period as the Central Bank may allow, comply with such requirements.

PART IV

Directors, Officers and Officials

Limits on officers
and directors.

15.-(1) Except with the written authorization of the Central Bank, no person shall serve or continue to serve as a director or officer of a licensee-

- (a) who has been convicted, or who is hereafter convicted, of any criminal offence involving fraud, deception, dishonesty or a breach of trust;
- (b) whose employment record gives reasonable cause to believe that the person has carried out any act involving fraud, deception, dishonesty or any act involving impropriety in the handling of a banking or financial business;
- (c) who has been a director of, or directly involved in the management of, a bank or financial institution which has had its licence revoked in accordance with the provisions of this Act or which has been wound up by a court;
- (d) who is or becomes bankrupt, suspends payment to or compounds with his creditors;

- (e) who has been convicted of an offence under the provisions of this Act or the Central Bank of Belize Act; CAP. 262.
- (f) who is an approved auditor for the licensee as provided in section 29 of this Act, or an official of a company which is an approved auditor.

(2) Any person who wilfully contravenes this section, and any bank or financial institution which wilfully employs any person described in subsection (1), shall be liable to pay, on being called upon in writing to do so by the Central Bank, a penalty not exceeding five thousand dollars for each day during which this prohibition is violated.

16. Every director and officer of a licensee, in exercising the powers and discharging the duties of that person's office, shall- Duties of directors and officers.

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

17.-(1) A director or officer of a local licensee who- Conflicts of interests.

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

shall disclose in writing to the licensee 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 material 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 material contract between the licensee and any person named in the disclosure, shall be a sufficient declaration of material 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 leave any meeting at which the matter is discussed, and shall refrain from voting on any matter related thereto which becomes the subject of action by the board of directors of the licensee, provided that such an interest, if so disclosed, shall not disqualify the interested person for purposes of constituting a quorum.

(5) For the purposes of subsections (1) and (3), 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 company, partnership or similar entity, is or during the last fiscal year has been an officer, director or partner of such company, partnership or 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 company, partnership or 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 and unimpaired capital and reserves in the case of a local licensee, or the unimpaired 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 request the licensee to suspend the director or officer from office for any period not exceeding one year.

(7) A director or officer who contravenes subsection (1) or (3) 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 six months, or to both such fine and imprisonment.

18. Any official of a licensee who with intent to deceive-

- (i) 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

Compliance duties, false statements by licensee officials and obstruction.

- (ii) obstructs or endeavours 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 a duly authorized examiner appointed by the Central Bank under section 33 or 34 of this Act,

commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

PART V

Regulation of Licensee Activities

Restrictions on payments of dividends.

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

- (a) until all its capitalized expenditures, including formation expenses, organization expenses, share selling commissions, brokerage and other expenses 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; or
- (c) until all sums due and payable to the Central Bank by the licensee have been paid.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.

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

Revaluations of fixed assets.

(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 against such assets as may be specified by the Central Bank.

(3) The revaluation reserve mentioned in subsection (1) of this section shall not be included as capital for purposes of computing the minimum capital requirements as provided in section 10.

(4) Any person who contravenes any of the provisions of this section commits an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

21.-(1) The aggregate of unsecured loans, advances and extensions of credit granted by a bank to a person and not secured by collateral having a marketable value as determined by reliable and current valuations at least equal to the total amount of loans, advances and extensions of credit shall not exceed fifteen per centum of the fully paid up and unimpaired capital and reserves in the case of a local bank, or the unimpaired assigned capital and reserves in the case of a foreign bank.

Single borrower limits of banks.

(2) Except with the permission in writing of the Central Bank given after consultation with the Minister, total loans, advances and extensions of credit by a bank to a person shall not exceed twenty-five *per centum* of the fully paid-up

and unimpaired capital and reserves in the case of a local bank, or the unimpaired assigned capital and reserves in the case of a foreign bank. In addition, the aggregate of total loans, advances and extensions of credit approved pursuant to this subsection shall not exceed six times the fully paid-up and unimpaired capital and reserves in the case of a local bank, or the unimpaired assigned capital and reserves in the case of a foreign bank. These limitations shall be separate and in addition to the limitations contained in subsection (1).

(3) For the purposes of subsections (1) and (2) above-

- (a) the term “loans, advances and extensions of credit” shall include all loans, advances, overdrafts, holdings of papers and all direct and indirect obligations of the borrower as well as off-balance sheet commitments, such as 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; and
- (b) the term “person” shall include any group of persons which is under the control of one and the same person.

(4) The limitations contained in subsections (1) and/or (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.

(5) A licensee shall not grant any loans, advances or extensions of credit against the security of its own shares.

22.-(1) A bank shall not grant or permit to be outstanding unsecured loans, advances and extensions of credit of an aggregate amount in excess of two *per centum* of the aggregate of the fully paid-up unimpaired capital and reserves in the case of a local bank, or the unimpaired assigned capital and reserves in the case of a foreign bank, or give any financial guarantees in excess of such amount without security, or incur any other liability in excess of such amount without security-

Extensions of credit to insiders.

- (a) to or on behalf of any one of its directors, officers or principal shareholders, whether such loans, advances and extensions of credit are obtained by or on account of such director, officer or principal shareholder jointly or severally; or
- (b) to or on behalf of any partnership, company or any similar entity or organization in which the bank or any one or more of its directors, officers or principal shareholders as described in subsection (2) is interested whether as a partner, director, officer or guarantor.

(2) For purposes of this section, “principal shareholder” means a person who directly or indirectly or acting through or in concert with one or more persons, owns, controls or has the power to vote more than ten *per centum* of the voting power at any general or special meeting of a bank. Shares owned or controlled by a spouse, son, daughter, mother or father of a person are considered to be held by that person.

(3) The aggregate of all loans, advances and extensions of credit described in this section shall not exceed fifty *per centum* of the fully paid-up and unimpaired capital and reserves in the case of a local bank, or the unimpaired assigned capital and reserves in the case of a foreign bank.

(4) A bank shall not grant or permit to be outstanding to any of its officials unsecured loans, advances or extensions of credit which in the aggregate amount for any one official exceeds one year's emolument of such official.

Transition period
for certain
transactions,
offences, and
enforceability of
transactions.

23.-(1) Any bank to which sections 21 and 22 are applicable that, prior to the commencement of this Act, entered into any transaction which does not comply with the said sections shall, within six months after the commencement of this Act, 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 but in no case more than three years from the commencement of this Act.

(2) Any person who contravenes the provisions of section 21 or 22 commits an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars, and in the case of a continuing offence, to a fine not exceeding five thousand dollars for each day during which the offence continues.

(3) Nothing in section 21 or 22 shall be deemed to prevent a bank from enforcing any transaction referred to therein against any person who is a party thereto or against whom it could have been otherwise enforced.

Restrictions on
activities of banks.

24.-(1) A bank shall not engage in any type of banking business or financial business not specified in its licence.

(2) No bank shall engage, whether on its own account or on a commission basis, in wholesale or resale trade, including the import or export trade, or otherwise have a direct interest in any commercial, agricultural, industrial or other undertaking except as permitted under paragraph (c) of subsection 3

and except in so far as may be necessary with respect to such interests as a bank may acquire in the course of the satisfaction of debts due to it; but all such interests shall be disposed of at the earliest suitable moment.

(3) No bank shall acquire or hold to an aggregate value exceeding twenty-five *per centum* of the sum of its fully paid-up and unimpaired capital and reserves in the case of a local bank, or its unimpaired assigned capital and reserves in the case of a foreign bank, any part of the share capital of any financial, commercial, agricultural, industrial or other undertaking except such shareholding as a bank may acquire in the course of the satisfaction of debts due to it, which shareholding shall, however, be disposed of at the earliest suitable moment. This paragraph shall not apply to any of the following shareholdings as shall be specifically approved in writing by the Central Bank-

- (a) shareholdings in a subsidiary bank or financial institution;
- (b) shareholdings in a subsidiary company formed by a bank for the execution of nominee, executor, trustee functions or other functions incidental to a banking business; or
- (c) shareholdings in a Government controlled company as may be approved by the Central Bank.

(4) No bank shall purchase, acquire or lease real estate except as may be necessary for the purpose of conducting its banking business or housing its staff or providing amenities for its staff, having regard to any reasonable requirements for future expansion of its banking business or staff; but in the event of any debt due to a bank which is in default or in danger of default and which is secured by any real or other property, the bank may acquire such property which shall, however, be resold or disposed of at the earliest suitable moment.

(5) No bank, and no official of any bank, shall-

- (a) exercise any undue pressure or influence in any manner what-

soever 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.

(6) Any person who contravenes the provisions of this section commits an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars, and in the case of a continuing offence to a fine not exceeding five thousand dollars for each day during which the offence continues.

Regulation of
financial and trust
business.

25.-(1) A financial institution may not engage in any type of financial business not specified in its licence.

(2) No financial institution shall engage, in any manner, in a banking business.

(3) The Central Bank may, after consultation with the licensees, prescribe or specify regulations, policies and procedures specifically governing the operations of licensees engaged in a financial business, taking into account the nature of the business in which such licensees engage. Such regulations, policies or procedures may address the following matters including (but not limited to)-

- (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.

(4) 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 paragraphs (3)(g) and (4) (a);
- (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 official of the licensee.

(5) 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 as might affect its best judgment in engaging in such transaction.

(6) Any person who contravenes, or causes the contravention of this section commits an offence and shall be liable upon summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

Regulation of holding companies and transactions with affiliates.

26. Where the Central Bank is of the opinion that a transaction relating to the business and financial relationship between a licensee and its holding company or an affiliate of such licensee may be detrimental to the interest of depositors or customers of such licensee, it may, after discussions with the relevant 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.

PART VI

Returns, Accounts and Audits

Reports and returns and reports of criminal activity.

27.-(1) Every licensee under this Act shall, in relation to its operations in or from within Belize, submit to the Central Bank such financial and other statements of condition, income, accounts, reports, schedules and other information within such a period and in such form as may be specified by the Central Bank from time to time.

(2) The Central Bank may from time to time request any information which it may require for the purposes of this Act from any licensee with respect to its operations and those of its affiliates in Belize, or abroad, where in relation to its affiliates in Belize or abroad, such information pertains directly to the business and financial relationship between the licensee and such affiliate in Belize or abroad and such information shall be submitted within such period and in such manner as the Central Bank may require.

(3) Any statement, return or information submitted by a licensee to the Central Bank under this section shall be regarded as confidential, except that 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 or return furnished under subsection (1). The Central Bank may also publish in a newspaper of general circulation in Belize, information in such form as may be approved by the Central Bank after consultation with licensees, on the assets and liabilities and income and expenses of each licensee furnished under subsection (1). No information shall be published in accordance with this subsection 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.

(4) Any licensee or person which has reasonable cause to believe that any official or other person participating in the affairs of the licensee may have committed or aided in the commission of an offence punishable under the Criminal Code or other laws of Belize shall submit a report thereof to the Central Bank within such time and in such manner, and containing such information, as the Central Bank may specify.

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

28.-(1) A local 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, 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, copies of its audited financial statements as may be specified by the Central Bank in respect of its business in Belize, and the full and correct name of every director of the licensee. The financial statements as may be specified by the Central Bank shall be published along with the complete certification or opinion of an approved auditor in accordance with sections 29 and 30. A copy of the auditor's full report, including any management letter which the auditor may provide, shall be furnished to the

Publication of
audited financial
statements.

Central Bank not later than one month after it becomes available.

(2) A foreign 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, 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, copies of its audited financial statements as may be specified by the Central Bank.

(3) In the case of a licensee which is controlled by a holding company, the consolidated financial statements of the holding company expressed in Belize dollars or in United States dollars and in the English language, shall be furnished to the Central Bank promptly after they become available.

(4) Any licensee or 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 upon being called on in writing to do so by the Central Bank pay a penalty not exceeding five 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.

29.-(1) Every local licensee shall appoint annually an auditor satisfactory to the Central Bank. Such auditor shall-

- (a) be in good standing as a member of the Institute of Chartered Accountants of Belize and hold a practising certificate of the institute or other similar body approved by the Central Bank as a reputable auditing association; and
- (b) have knowledge and experience in the audits of banks or financial institutions satisfactory to the directors of the licensee and the Central Bank.

(2) Notwithstanding the provisions of subsection (1), no person having any financial relationship with a licensee other than as a depositor, and no official of a licensee, shall be appointed to act as an auditor for that licensee under this section. Any person so acting upon the commencement of this Act shall promptly resign his position as auditor and cease to act as such. Any person appointed as auditor who shall, after such appointment, acquire any such relationship or becomes an official of such licensee shall forthwith cease to be such auditor.

(3) If a licensee fails to appoint an auditor satisfactory to the Central Bank, the Central Bank shall have the power to appoint an auditor for such licensee. The remuneration of the auditor so appointed shall be determined by the Central Bank and paid by the licensee.

(4) Upon the appointment of an auditor as specified in subsection (1), the licensee forthwith shall give written notice to the Central Bank of such appointment. The Central Bank, if it has reason to believe that the auditor fails to satisfy the criteria of subsection (1), may disapprove the appointment and notify in writing the licensee of this fact. The licensee, upon receipt of such notice, promptly shall remove that auditor and appoint a replacement for the auditor in accordance with the requirements of this section.

30.-(1) The duties of an auditor appointed under section 29 shall consist of the following-

Duties of
auditors.

- (a) to make a full review of the licensee's records and accounts in accordance with generally accepted auditing standards, and to make to the directors and shareholders of the licensee 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

in accordance with generally accepted accounting principles, and requirements as to the format and content specified by the Central Bank, and in any case in which the auditor has called for information or explanation from the officials or agents of the licensee, whether a satisfactory response was received;

- (b) to make a full review of the licensee's internal control structure, information and loan classification, reserving systems, capital adequacy and procedures for financial reporting, and make a full and fair report of the same to the directors of the licensee; and
- (c) to make a full review of the licensee's procedures for compliance with the requirements of this Act, and make a full and fair report of the same to the directors of the licensee.

(2) Prior to making its reviews and reports under subsection (1), the auditor for the licensee shall request for review from the institution, a copy of the most recent report of examination for that institution prepared by the Central Bank, and any orders, directives or other action taken by the Central Bank under section 36 of this Act.

(3) The reports required under subsection (1) shall be delivered to the licensee and the Central Bank as soon as they are available but not later than one hundred and twenty days after the close of the licensee's financial year. The periods of time specified in this subsection may be extended by the Central Bank for up to ninety additional days upon good cause shown in writing to the Central Bank.

(4) 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 which-

- (a) may pose a substantial risk to the financial condition of the

licensee;

- (b) may result in a significant loss to the licensee;
- (c) may seriously prejudice the interests of the licensee's depositors or customers;
- (d) is a violation of any provision of this Act or any regulations made hereunder;
- (e) indicates involvement in fraudulent or criminal activity; or
- (f) indicates that the licensee 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 and the Central Bank.

31.-(1) A licensee shall forthwith give notice to the Central Bank if the licensee-

Removals and
resignations of
auditors.

- (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 institution otherwise than in consequence of such a resolution.

(2) An auditor of a licensee appointed under section 29 shall forthwith 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; or
- (c) decides to include in his report on the licensee's accounts 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.

(3) A licensee or auditor who fails to comply with this section commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.

Auditors' protection from liability.

32.-(1) 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 opinion pursuant to an obligation of the auditor under this Act.

(2) This section applies to any matter of which an auditor becomes aware in the auditor's capacity as auditor and which relates to the business or affairs of the licensee or any affiliate of the licensee.

PART VII

Examination and Audit

Central Bank's authority to examine.

33.-(1) The Central Bank shall have the power to examine every licensee as often as the Central Bank shall deem necessary. The Central Bank also shall have the power to conduct an examination of any holding company or affiliate of the licensee only in so far as shall be necessary to examine the business, managerial and financial relationships between each licensee and its affiliates, and the effect of such relationships on the financial condition and operations of

the licensee.

(2) The Central Bank may appoint examiners to carry out the performance of its functions under this section. An examiner making the examination of a licensee, under subsection (1), shall have the power to require the production of any books, records, accounts, writings and documents of any kind, as well as any data or information held, stored or transmitted by electronic means. The Central Bank 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, holding company or affiliate of a licensee and every officer or agent of a licensee, holding company or affiliate shall be required to produce 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 subsections (1) and (2).

(4) Any licensee, holding company or affiliate of a licensee or any official of such licensee, holding company or affiliate, who contravenes the requirements of subsection (3) or obstructs or impedes the performance by any examiner or official appointed by the Central Bank of the duties specified in subsections (1) and (2), commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(5) Any examiner appointed by the Central Bank or other official who contravenes subsection (1) of section 35 commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, and in addition shall be liable to disciplinary action or dismissal.

(6) The Central Bank may examine the affairs of any foreign branch and office of a licensee organized under the laws of Belize in accordance with the powers and functions specified in subsections (1), (2) and (3). Nothing in this section, however, shall be construed to authorize the examination of the business affairs conducted outside of Belize of any foreign company which is a licensee without the permission or consent of the banking or financial institution's supervisory or regulatory authorities of the country responsible for the supervision of that company.

(7) The Central Bank may allow the banking or financial institution's supervisory or regulatory authorities responsible for the supervision of a foreign bank or financial institution to examine the branch or branches of that bank or financial institution located in Belize.

(8) The Central Bank may assess any licensee it examines under this section 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.

Special examinations.

34.-(1) The Central Bank may appoint one or more persons whom it deems to be qualified to conduct a special examination of the affairs of a licensee where-

- (a) the Central Bank has reason to believe that a licensee is carrying on its business in a manner detrimental to the interests of its depositors or customers, is in material violation of the provisions of this Act or any regulation, order or directive issued thereunder, or the licensee may have insufficient assets to satisfy its liabilities or may be unable to satisfy its obligations as they mature or become due; or

- (b) a licensee informs the Central Bank that there is a serious risk that it may become insolvent or be unable to satisfy its outstanding liabilities or may be unable to satisfy its obligations as they mature or become due; or
- (c) where the Central Bank, after consultation with the Minister, determines that such an examination is necessary in the public interest.

(2) The Central Bank, in the case of any examination conducted under subsection (1), may assess the fees and costs of such examination to the licensee being examined and require the payment of such fees and costs by the licensee.

35. Any information received or report prepared by the Central Bank or an examiner or employee of the Central Bank in the performance of the duties specified in subsections (1), (2), (3), and (6) of section 33 and section 34, shall not be disclosed to any person other than-

Disclosure of information.

- (a) such officers of the Central Bank as it may designate to receive such information;
- (b) the banking or financial institution's supervisory or regulatory authorities of a foreign country for their lawful supervisory or regulatory purposes;
- (c) the licensee's auditors appointed under section 29 of this Act; or
- (d) in the case of information on a depositor's affairs, 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.

CAP. 95.

Power to issue orders and directives.

36.-(1) Where the Central Bank has reasonable grounds to believe that a licensee, a holding company, an affiliate or an official of such a licensee (hereinafter the “subject person”), in conducting the business of the licensee, holding company or affiliate, is committing or pursuing or is about to commit or pursue any act or course of conduct that is detrimental to the interests of its depositors or customers or a violation of this Act, or any regulation, circular, order, directive, notice or condition imposed in writing by the Central Bank, the Central Bank may direct the subject person to do any or all of the following-

- (a) cease or refrain from doing the act or pursuing the course of conduct; or
- (b) perform such acts as, in the opinion of the Central Bank, are necessary to rectify the situation. In particular, but without limiting the generality of the foregoing, the Central Bank may-
 - (i) require the subject person to refrain from adopting or perusing a particular course of action or to restrict the scope of its business in a particular way;
 - (ii) impose any limitation on the subject person’s acceptance of deposits, the granting of credit or the making of investments;
 - (iii) prohibit the subject person from soliciting deposits either generally or from persons who are not already depositors;
 - (iv) require the revision of any contract to which the subject is a party, or order the subject person to make restitution or recompense to any person aggrieved by its actions; or

- (v) require the suspension or removal from office of any director, officer, official or other subject person.

(2) Where any licensee fails to satisfy the requirements of section 10 pertaining to capital, or the requirements of section 13 or 14 pertaining to reserves, the Central Bank may, by written order or 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 time-frame for implementation of the plan;
- (b) increase the licensee's capital or reserves;
- (c) suspend the licensee's payment of dividends;
- (d) restrict the licensee's asset growth;
- (e) prohibit transactions with the holding company or 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 10, 13 or 14.

(3) Any order or directive given under subsection (1) or (2) shall be given by notice in writing to the subject person. Such order or directive may be varied by further written orders or directives; and any order or directive may be revoked by the Central Bank by notice in writing to the subject person.

(4) Prior to the issuance of any order or directive under subsection (1) or (2), the Central Bank shall cause to be served on or delivered to the licensee or

subject person a notice containing a statement of the actual or proposed action or course of conduct referred to in subsection (1), or of the failure to satisfy the requirements referred to in subsection (2), and specifying a time and place (not less than thirty days after the service or delivery of the notice) at which the Central Bank shall hear objections and determine why an order or directive should not be issued, and if the Central Bank so decides a copy of every such order or directive shall promptly be served on the subject person.

(5) If the Central Bank determines that the acts or course of conduct in question may pose a serious risk to the condition of a licensee, cause a significant financial loss to a licensee or personal gain arising from the foregoing to the person which is the subject of the order or directive, or otherwise seriously prejudice the interest of a licensee's depositors or customers, the Central Bank may issue a summary order or directive which shall take effect promptly on delivery to the subject person affected, who shall be afforded the opportunity to present his views to the Central Bank within ten days after the delivery of the order or directive on whether the order or directive in question should be removed or varied.

(6) Within ten days of the issuance of an order or directive under this section, the person who is the subject of the order or directive may appeal such order or directive to the Appeal Board.

(7) Any person who fails to comply with any order or directive made by the Central Bank under this section, and of which that person has received notice in writing, commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(8) The authority conferred on the Central Bank under this section shall be in addition to any other authority, power or duty conferred on the Central Bank under this Act or any other law.

PART VIII

Insolvency and Winding-up of Licensees

37.-(1) Unless permitted to continue operations under an order or directive issued by the Central Bank under section 36 of this Act, a bank that receives any deposit while insolvent commits an offence, and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.

Prohibition
against accept-
ing deposits
while insolvent.

(2) Any officer of a bank 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, commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

38.-(1) Upon the seizure of any licensee under section 45, the Central Bank may appoint any person it deems suitably qualified to properly carry out the functions of an administrator or liquidator to perform the responsibilities assigned to administrators or liquidators under the provisions of this Act with respect to any licensee. Such person thus appointed shall have full power to perform the functions of an administrator or liquidator for that licensee without further action of the Central Bank, and with such legal rights and responsibilities under the laws of Belize as may be held by the Central Bank acting in such capacity.

Appointment of
statutory
administrator.

(2) Notice of the appointment of such person by the Central Bank shall be given to the Supreme Court upon the appointment thereof, and simultaneously published in the *Gazette* and in a newspaper of general circulation in Belize.

(3) The Central Bank may indemnify such person 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 if such person acted in

good faith and in a manner consistent with the purposes of this Act.

(4) The Central Bank shall have the power to revoke any appointment under this section at any time upon written notice to the person so appointed, and that person forthwith shall cease to act as administrator or liquidator. The Central Bank may elect to carry out such functions on its own behalf or appoint a successor to act as administrator or liquidator.

(5) For purposes of this Part, the person appointed as administrator or liquidator under this section shall be referred to as the Statutory Administrator.

Voluntary winding-up and approval of Central Bank.

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

(2) Approval for a voluntary winding-up of a licensee may be given by the Central Bank only if it is satisfied that-

- (a) the licensee is solvent and has sufficient assets to repay its depositors and other creditors in full and without delay; and
- (b) subject to subsection (3), the winding-up has been approved by the holders of at least two-thirds of the issued voting shares of the licensee.

(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 requirement for shareholder approval of the winding-up of the licensee voluntarily, if-

- (a) the winding-up is to be effected in whole or in part through the sale of any of the assets of the licensee to another licensee; and
- (b) the deposit liabilities of the licensee to be wound-up are to be assumed by that other licensee.

40. 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 to the Central Bank, cease to do business immediately, 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;
- (b) repay its depositors and other creditors; and
- (c) wind-up all operations which were commenced or undertaken prior to the receipt of the approval to wind-up.

41.-(1) Within thirty 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.

Voluntary winding-up and notice to depositors and creditors.

(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.

42.-(1) The approval of the Central Bank to the voluntary winding-up of a licensee shall not adversely affect the rights of a depositor or other creditor of the licensee to settlement in full of his claim, nor the rights of any person having an interest in the funds or property of the licensee to settlement of that interest.

Voluntary winding-up and depositor and creditor rights.

(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.

43.-(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.

Voluntary winding-up and insufficient assets.

44.-(1) 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 seize the management and control of the licensee as provided in section 45.

(2) When the Central Bank seizes the management and control of the licensee under subsection (1), it shall immediately begin proceedings for the compulsory winding-up of the licensee or its re-organization in accordance with this Part.

45.-(1) With the prior written approval of the Minister, the Central Bank may seize the management and control of a licensee in any of the following circumstances-

Seizure of
Licensees.

- (a) when the capital of the licensee is substantially reduced below the capital requirements under this Act with no reasonable prospects of its timely restoration;
- (b) when, in the opinion of the Central Bank, the realizable value of the licensee's assets is less than its liabilities, or the licensee's financial condition suggests that it will shortly be in that circumstance;
- (c) when, in the opinion of the Central Bank, the licensee is or 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;
- (d) when its business is being conducted in a manner detrimental to its depositors or customers or is not being conducted in accordance with this Act;
- (e) when the licensee refuses to submit to audit or examination of its records or operations by an auditor appointed under section 29 or an examiner appointed under section 33 or 34;
or

(f) when its licence has been revoked or limited under this Act.

(2) A seizure of the management and control of a licensee under this section is effected by placing a notice to that effect on the premises of the licensee and by putting officials of the Central Bank into the offices of the licensee or by designating officials of the licensee to be officials of the Central Bank, or by both such measures.

(3) Upon the seizure of the management or control of a licensee under this section, the Central Bank thereupon may, in its discretion, appoint a Statutory Administrator as provided in section 38.

(4) Within thirty days after the date of a seizure by the Central Bank under this or the preceding section, a licensee may institute proceedings in the Supreme Court to have the seizure terminated on the grounds that none of the circumstances specified in subsection (1) of this or the preceding section exists or is likely to occur.

Proceedings after
seizure and notice.

46.-(1) Within thirty days after the Central Bank has seized the management and control of a licensee under this Act, the Central Bank or Statutory Administrator shall begin proceedings in the Supreme Court-

(a) for the compulsory winding-up of the licensee;

(b) for the re-organization of the licensee.

(2) Proceedings under subsection (1) in respect of a licensee may be by way of application to the Supreme Court which, thereupon, may order-

(a) the compulsory winding-up of the licensee;

(b) the re-organization of the licensee subject to such terms and conditions as the Supreme Court may determine; or

- (c) 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.

(3) Forthwith after it makes an application to the Supreme Court under subsection (2) in relation to a licensee, the Central Bank or Statutory Administrator shall give notice of the application-

- (a) to the directors and shareholders of the licensee; and
- (b) to the depositors and other creditors of the licensee.

47.-(1) In respect of the licensee which the Central Bank has seized or for which a Statutory Administrator has been appointed, the Central Bank or Statutory Administrator, as the case may be, has the exclusive power to manage and control the affairs of the licensee.

Powers after seizure.

(2) Without limiting its powers or duties under subsection (1), the Central Bank or Statutory Administrator may, in respect of the licensee-

- (a) continue or discontinue the licensee's operations;
- (b) stop or limit the payment of the licensee's obligations;
- (c) employ staff to participate in the operations or control of the licensee;
- (d) execute any instrument in the licensee's name;
- (e) initiate, defend and conduct in the licensee's name any action or proceeding to which the licensee is or might be a party;

- (f) end the seizure of the licensee by restoring it to its directors and shareholders;
- (g) re-organize or wind-up the licensee in accordance with this Act.

Reports by
Statutory Admin-
istrators.

48. The Statutory Administrator shall make such reports and provide such information to the Central Bank as the Central Bank may require with respect to the performance of any functions and duties conferred under section 38.

Inventory.

49.-(1) Forthwith after assuming the management and control of a licensee, the Central Bank or Statutory Administrator shall make an inventory of the licensee's assets and forward a copy of the inventory to the Registrar of the Supreme Court.

(2) The copy of the inventory forwarded to the Registrar shall be kept available at all reasonable times for the examination of interested persons.

Seizure and
continuance of
obligations.

50. When the administration and control of a licensee is seized under this Act a transfer of any assets of the licensee that is made after, or in contemplation of its insolvency or seizure with intent to effect a preference, shall be void.

Claims against
assets.

51. No execution may be levied against the assets of a licensee whose management or control has been seized under this Act except such execution effected pursuant to a judgment that was rendered before the seizure for an amount not exceeding ten thousand dollars.

Re-organization.

52.-(1) Where the re-organization of a licensee has been ordered by the Supreme Court, the Central Bank or Statutory Administrator shall develop a plan of re-organization and deliver a copy thereof to each of the depositors and other creditors of the licensee who under the plan would not receive full restitution or payment of their claims.

(2) The copy of the re-organization plan must be accompanied by a notice requiring that objections to the plan be delivered to the Central Bank or Statutory Administrator not later than thirty days after the last of the copies have been delivered under subsection (1).

(3) If within the time provided under subsection (2) the Central Bank or Statutory Administrator does not receive objections in writing to the re-organization from persons who in the aggregate hold at least one-third of the total amount of deposits and other liabilities of the licensee, the Central Bank or Statutory Administrator may carry out the re-organization plan referred to in subsection (1).

(4) When an objection to the re-organization plan is received from one-third or more of the persons described in subsection (3), the Central Bank or Statutory Administrator shall submit further re-organization plans in like manner until such time as fewer than one-third of the persons described in subsection (3) object within the time provided under subsection (2), or it may refer the matter back at any time to the Supreme Court for further directions.

(5) The Supreme Court may extend the time limit imposed by subsection (2), and upon cause shown may exempt the Central Bank or Statutory Administrator from delivering the plan to some or all of the persons mentioned in subsection (1).

53. A re-organization plan developed by the Central Bank or Statutory Administrator of a licensee must, so far as it is practicable to do so—

Terms of plans.

- (a) be equitable to all classes of depositors;
- (b) provide for bringing in new funds in such manner and in such amounts as to restore the licensee to full compliance with all requirements pertaining to capital and reserves under sections 10, 13 and 14 within such time as is reasonable under the circumstances; and

- (c) provide for the removal of any officials responsible for the circumstances that led to the seizure of the licensee.

Inability of
execution.

54. If, in the course of the re-organization of a licensee, it appears to the Central Bank or Statutory Administrator that circumstances render the plan or its execution undesirable, the Central Bank or Statutory Administrator may apply to the Supreme Court for an order-

- (a) to modify the plan; or
- (b) to wind-up the licensee compulsorily.

Compulsory
winding-up and
powers and duties.

55.-(1) Where the Supreme Court under section 46 or 54 orders the compulsory winding-up of a licensee, the Central Bank or Statutory Administrator appointed therefor may, subject to subsection (2), perform the functions of the licensee.

(2) The Central Bank or Statutory Administrator of a licensee may not, without an order of the Supreme Court to do so-

- (a) sell any assets or transfer any property of the licensee that has a value exceeding one hundred thousand dollars;
- (b) create a security interest in any assets or property of the licensee in favour of a creditor who extends new credit to the licensee;
- (c) compromise or release any claim the amount of which exceeds one hundred thousand dollars; and
- (d) pay any claim other than one in respect of an obligation incurred by the Central Bank or Statutory Administrator in the exercise of its winding-up functions before the schedule referred to in subsection 59 (c) has been approved by the Supreme Court.

56.-(1) Subject to any law of Belize governing conditions of employment, the Central Bank or Statutory Administrator of a licensee that has been ordered by the Supreme Court to be compulsorily wound-up shall terminate, not later than nine months after the order of the Supreme Court-

Termination of certain contracts.

- (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.

(2) A lessor of any property referred to in subsection (1)-

- (a) must be given notice of not less than ninety days of the intended termination of the obligations of a licensee thereunder;
- (b) has no claim for rent thereunder 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.

57.-(1) Within sixty days after the granting of an order for the compulsory winding-up of a licensee, the Central Bank or Statutory Administrator shall deliver a statement of account to any depositors and other creditors and lessees of safe-deposit boxes held by the licensee.

Notices.

(2) Such statement of account shall be a statement of the nature and amount for which a claim of a person described in subsection (1) is shown on the books of the licensee.

(3) A notice specifying that any objection to the statement of account is to be made on a date specified in the notice, not being later than sixty days after the delivery of the notice, must accompany the statement of account and invite the lessees of safe-deposit boxes to withdraw their property from the licensee in person.

(4) The Supreme Court on application of the Central Bank or Statutory Administrator for cause shown may exempt the Central Bank or Statutory Administrator from delivering a statement of account to any person mentioned in subsection (1).

Safe-deposit
boxes.

58.-(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 period specified in a notice under section 57, the safe-deposit boxes may be opened in the manner specified by the Central Bank or Statutory Administrator.

(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.

Filing of claims.

59. Not later than ninety days after the last day specified in the notice for filing claims against a licensee being compulsorily wound-up, the Central Bank or Statutory Administrator 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 Supreme Court 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 date, not being earlier than thirty days from the date of publication, on which the Central Bank or Statutory Administrator will file that schedule with the Supreme Court.

60.-(1) Within twenty days of the filing of a schedule under section 59 (c), a depositor or other creditor or shareholder of the licensee concerned, or other interested person, may file with the Supreme Court any objection that person has to any action proposed in such schedule. Objections.

(2) After notice served on the Central Bank or Statutory Administrator and such interested parties as the Supreme Court may require, the Supreme Court shall hear the objection and make such order thereon as it considers just in the circumstances.

(3) When the Supreme Court allows an objection, the order shall set out the manner in which the schedule referred to in section 59 (c) is to be modified.

Distributions.

61.-(1) When a schedule has been filed under section 59 (*c*) in respect of a licensee, the Central Bank or Statutory Administrator may make a partial distribution to the claimants against the licensee whose claims are undistributed or allowed by the Supreme Court, if the Central Bank or Statutory Administrator establishes an adequate reserve for the payment of disputed claims against the licensee.

(2) As soon as practicable after all objections against the distribution proposed by the Central Bank or Statutory Administrator have been heard and determined, final distribution of the assets of the licensee concerned shall be made by the Central Bank or Statutory Administrator.

Priority of
unsecured claims.

62.-(1) The following unsecured claims have priority against the general assets of a licensee being compulsorily wound-up under this Act, namely-

- (a) firstly, the necessary and reasonable expenses incurred by the Central Bank or Statutory Administrator in carrying out its or his functions under this Act;
- (b) secondly, the wages and salaries of the officers and employees of the licensee that accrued during the three months immediately preceding the seizure of the licensee under this Act;
- (c) thirdly, all taxes due and other imposts owing to the Government of Belize;
- (d) fourthly, the fees, debts and assessments owing to the Central Bank;
- (e) fifthly, all deposits in amounts not exceeding five thousand dollars per depositor, respectively;
- (f) sixthly, all other deposits; and

(g) seventhly, all other unsecured claims of creditors.

(2) After payments of all other claims against the licensee, with interest at such rate as the Supreme Court determines, all remaining claims against the licensee that were not filed within the time limited therefor under this Act may then be paid.

(3) 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 Central Bank or Statutory Administrator on a *pro rata* basis among the claimants in that class.

(4) 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 Central Bank or Statutory Administrator among the shareholders of the licensee in proportion to their respective rights.

63.-(1) Any funds of a licensee being compulsorily wound-up under this Act that remain unclaimed after the final distribution under section 62 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 (1) in respect of any funds, those funds remaining unclaimed become abandoned property.

64.-(1) When all assets of a licensee being wound-up have been distributed or dealt with as required by this Act, the Central Bank or Statutory Administrator shall render an audited statement to the Supreme Court. Final accounting.

CAP. 250.

(2) If the Supreme Court is satisfied with the audited statement rendered by the Central Bank or Statutory Administrator in respect of a licensee being wound-up it may by order direct the Registrar of Companies to strike the name of the licensee from the Register of Companies under the Companies Act and publish notice thereof in the *Gazette*.

(3) When its name is struck off the Register of Companies, the licensee is thereupon dissolved and its licence under this Act is revoked. Thereafter, the Central Bank or Statutory Administrator shall be relieved of any further obligation in connection with the licensee being wound-up.

PART IX

Abandoned Property

Abandoned
property in
general.

65.-(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 funds paid in Belize towards the purchase of shares or other interests in a licensee, together with any interest or dividend, but excluding any lawful charges thereon;
- (c) any sum payable on cheques certified in Belize or on written instruments issued in Belize on which a licensee is directly liable;
- (d) any contents of a safe-deposit box upon which the lease or rental has expired and concerning which notice of the inten

tion 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 paragraphs (a), (b) and (c) of subsection (1) shall not be presumed to be abandoned if the owner has within ten years of the date of deposit, payment of funds or issuance of instruments, 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 or dividends in respect of the items enumerated in paragraphs (a) or (b) 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 a licensee.

66.-(1) Every licensee holding any of the items enumerated in section 65 shall within ninety days after the end of its financial year report such holdings to the Central Bank, and thereafter pay or deliver to the Central Bank all property presumed to be abandoned listed in the report in such manner as the Central Bank may specify. Reports.

(2) Upon paying or delivering property presumed to be abandoned into the custody of the Central Bank a licensee shall be relieved of all liability to the extent of the value of the property for any claim in respect thereof.

(3) Except with the approval of the Central Bank, on such terms and conditions as it may specify, no reduction in the amount of interest or dividends 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 of the items set out in section 65 or at the time payment and delivery of them under subsection (1) is required.

(4) 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 property and shall mail a notice to the owner at his last known address containing particulars concerning the abandoned property.

Public sale.

67.-(1) A licensee may sell at public sale all property other than money presumed to be abandoned after the expiration of sixty days from the last date of publication or mailing required by section 66 following such advertisement of the sale as the Central Bank may specify.

(2) Any purchaser shall receive title to the property free from all claims of the owner or prior holding and from all persons claiming through or under him.

(3) A licensee shall deposit with the Central Bank the proceeds of the sale of property in accordance with subsection (1) less all reasonable cost 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 property remaining unsold shall be delivered to the Central Bank and shall be disposed of by the Central Bank.

Claims.

68.-(1) Any person claiming an interest in any property which has been paid to, or delivered into the custody of the Central Bank or in the proceeds from the sale thereof, may file a claim thereto with the Central Bank and after an

appropriate hearing, the decision of which shall be communicated to the claimant and made a public record, the Central Bank may deliver up such property or make payment to such person.

(2) Any person aggrieved by a decision of the Central Bank may commence an action in the Supreme Court to establish his claim within thirty days following the decision of the Central Bank.

69. Any licensee who wilfully fails to file any report or to pay or deliver any property presumed to be abandoned into the custody of the Central Bank in accordance with section 66 or 67 commits an offence, and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars. Offences.

PART X

Appeal Board

70.-(1) The Minister shall cause to be appointed a 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 Appeal Board.

(2) An Appeal Board for the purpose of this Act shall be constituted of-

- (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 appointed by the Minister from among persons who have knowledge of banking, finance or other related disciplines:

Provided that no serving member of the Central Bank or of any other bank or financial institution in Belize shall be appointed as a member of the Board.

(3) The terms of office of the members appointed under paragraph (b) of subsection (2) shall be such as may be specified in their instruments of appointment.

Appeals against
Central Bank
decisions.

71. 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 sections 7 (1) (g) and 40 (1);
 - (c) to restrict a licence in any particular manner or to vary any restrictions of a licence;
 - (d) which in the opinion of a licensee might be contrary to any provision of this Act, or adversely affects its operations;
 - (e) made under section 36;
 - (f) to disqualify any person under section 15 (1) from being a director, controller or manager on the ground he is not a fit and proper person,

may appeal against the decision to the Appeal Board.

Procedure for
hearing appeals.

72.-(1) The Appeal Board may, with the approval of the Minister, make rules to regulate its procedure for hearing appeals, provided that such procedure shall comply with the rules of natural justice.

(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.

73. The quorum at any sitting of the Appeal Board shall be two members, one of which shall be the Chief Justice or the Judge nominated by him. Quorum.
74. At any meeting of the 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.
- 75.-(1) Upon an appeal under this 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 Board.
- (2) The Appeal Board may give such directions as it thinks fit for the payment of costs or expenses by any party to the appeal.
76. 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.
- 77.-(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. Appeals to the Court of Appeals.
- (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.

PART XI

Miscellaneous

78. Unless otherwise expressly provided to the contrary herein, the Transitional.

provisions of this Act shall apply with full force and effect at the commencement thereof to all persons subject thereto.

Regulations and notices to prevent evasions of this Act.

79. The Central Bank may make such regulations, orders or notices as may be required from time to time for carrying into effect the provisions of this Act, or to prevent evasions of the requirements of this Act.

Wilful refusals to produce and confidentiality

80.-(1) Any person who wilfully alters, conceals, withholds or refuses to provide any notice, report, statement, application or other document which that person is required to produce under this Act 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.

(2) Any official of a licensee, or other person conducting business with such licensee, who discloses any information concerning the accounts, loans, deposits or personal or business affairs of a customer acquired in the course of such customer's affiliation or relationship with the licensee, commits an offence and shall be liable upon 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.

(3) The provisions of subsection (2) shall not apply to disclosure of any information-

- (a) to the Central Bank or any other person in the proper performance of its duties as is required by or in accordance with this Act;
- (b) in response to a lawful subpoena or compulsory demand issued by or with the consent of a court of competent jurisdiction;
- (c) with the prior written consent of the customer; or

- (d) in court proceedings for purposes of a claim asserted by or against the licensee.

81.-(1) The Central Bank, after consultation with licensees, may by regulation published in the *Gazette* or by publication of written circulars delivered to all licensees, 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)-

Regulations of
the Central
Bank.

- (a) minimum licensing requirements;
- (b) capital adequacy ratios and solvency standards;
- (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) risks relating to foreign exchange transactions, sectoral and business risks, off-balance sheet transactions;
- (k) information required in published financial statements;
- (l) new financial instruments;

- (m) relationships with parent, subsidiaries and affiliates;
- (n) payment of dividends and management fees;
- (o) opening hours of licensee;
- (p) duties and responsibilities of directors and officers of licensees;
- (q) fees and commissions charged to customers by commercial banks;
- (r) license fees for banks and financial institutions;
- (s) 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 regulation 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) Any regulations made by the Central Bank under this section may provide that a contravention or breach thereof shall be punishable on summary conviction by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment, and in addition, by a fine of five hundred dollars for every day 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.

82. Neither the Minister, the Governor of the Central Bank nor any director or official of the Central Bank shall be liable in damages 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.

Liability for certain acts.

83.-(1) No licensee shall engage in advertising which is likely to mislead the public concerning-

Unlawful advertising practices.

- (a) the relation of the licensee to the Central Bank or any department or official thereof;
- (b) the interest rate paid on deposits, securities or other similar instruments or charged on credit;
- (c) the insured or guaranteed status of deposits or other liabilities of the licensee; or
- (d) the financial condition of the licensee.

(2) Any person which contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars for each contravention.

84.-(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.

Applicability of this Act to certain persons and precedence. CAP. 266. CAP. 262.

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.

CAP. 31. (3) The Central Bank shall be deemed to be a public authority for the purpose of the Public Authorities Protection Act.

Authority for and
limitation of
proceedings. 85.-(1) No prosecution in respect of any offence committed under this Act or the regulations made thereunder shall be instituted except by, or with the consent in writing of, the Central Bank or the Director of Public Prosecutions.

(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 made thereunder, shall be brought within five years next after the date of the offence committed or the cause of action accrued.

SCHEDULE

(Section 2)

Financial Business

	CLASS	ACTIVITIES
1.	Finance House or Finance Company	Financing of Hire Purchase and Instalment Credit, Financing Accounts Receivable, 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 Loans syndication Providing consultancy and investment management services and corporate advisory services Acceptance credit Project Development Lease financing Foreign exchange dealing Inter-Bank financing
4.	Mortgage Institutions	Mortgage lending
5.	Collective Investment	A scheme carried on by a company, Schemes a partnership or a unit trust that issues equity interests, the

purpose or effect of which is the pooling of investor funds with the object of spreading investment risks and enabling investors in the scheme to receive profits or gains from the acquisition, holding, management or disposal of investments, provided that the pooling of funds by banks and insurance companies shall not be deemed to be within this definition.

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| 6. | Credit Card Business | Issuing payment, credit or charge cards and, in cooperation with others including other financial institutions, operating a payment, credit or charge card plan. |
| 7. | Financial Services | Providing financial services relating to forward contracts, futures contracts or options in relation to foreign exchange and commodities and all other contracts or instruments commonly known as financial derivatives where the underlying assets are commodities, foreign exchange, securities, indices, etc. |