

MONTSERAT

BANKING (AMENDMENT) ACT

No. 5 of 2020

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I ASSENT

(Sgd.) Andrew Pearce
Governor

DATE: 7/7/2020

M O N T S E R R A T

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AN ACT TO AMEND THE BANKING ACT (NO. 15 OF 2015).

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat and by the authority of the same as follows:—

1 Short title

This Act may be cited as the Banking (Amendment) Act, 2020.

2 Interpretation

In this Act, “**principal Act**” means the Banking Act (No. 15 of 2015).

3 Section 2 amended

Section 2 of the principal Act is amended—

(a) in subsection (1)—

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- (i) in the definition of “**affiliate**” by deleting paragraph (e) and substituting the following—

“(e) a company which—

- (i) has the same beneficial owner; or
 - (ii) shares common management,
- and has any interlinked business with F.”;

- (ii) in the definition of “**banking business**”, in paragraph (a)(ii), by deleting the word “frequent”;

- (iii) by inserting immediately after the definition of “**borrower group**” the following definition—

““**branch**” means any office or place of business of a licensed financial institution, other than the principal office where a licensed financial institution carries on any banking business and which facilitates the—

- (a) acceptance of deposits and other repayable funds; or
- (b) issuing and administering means of payment including credit cards, travellers’ cheques, bankers’ drafts, and electronic money,

but does not include automatic banking machines and bureaux de exchange”;

- (iv) by inserting immediately after the definition of “**business of a financial nature**” the following definition—

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“**CARICOM national**” means a national of a member of the Caribbean Community including the CARICOM Single Market and Economy established by Article 2 of the Revised Treaty of Chaguaramas signed at Nassau, The Bahamas on 5th July 2001”;

- (v) by deleting the definition of “**capital base**”;
- (vi) in the definition of “**exposure**”, in paragraph (a), by inserting after the word “acceptance” the words “or any other asset recognized by the Central Bank as an exposure”;
- (vii) in the definition of “**financial group**” by deleting the word “conduct” and substituting the words “carry on”;
- (viii) in the definition of “**large exposure**” by deleting the words “the capital base” and substituting the words “tier 1 capital”;
- (ix) in the definition of “**licensed financial holding company**” by inserting after the words “under this Act” the words “and includes a former licensed financial holding company”;
- (x) by deleting the definition of “**licensed financial institution**” and substituting the following definition—

“**licensed financial institution**” means a person or incorporated entity licensed to carry on banking business and includes a former licensed financial institution”;
- (xi) in the definition of “**officer**”—

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- (A) in paragraph (a), by inserting after the words “vice-president,” the words “branch manager, country manager”; and
- (B) in paragraph (b), by deleting the words “by-laws” and substituting the words “bye-laws”;
- (xii) by inserting immediately after the definition of “**officer**” the following definition—
- “**“outsource”** means to enter into a contractual arrangement with a third-party service provider, where the service provider manages functions, business activities, processes or products that are, or could be undertaken by the licensed financial institution”;
- (xiii) by deleting the definition of “**place of business**” and substituting the following definition—
- “**“place of business”** means “a physical location, site, structure, or other similar facility, through which a licensed financial institution or licensed financial holding company transacts its affairs or carries on business”;
- (xiv) by deleting the definition of “**relative**” and substituting the following—
- “**“relative”** means a spouse, son, daughter, stepson, stepdaughter, adopted son, adopted daughter, brother, sister, father or mother”;

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(xv) by inserting immediately after the definition of “**significant shareholder**” the following definition—

“**“spouse**” includes—

- (a) a woman who, for a period of not less than five years, has cohabited with a man as if she were in law his wife; and
- (b) a man who, for a period of not less than five years, has cohabited with a woman as if he were in law her husband”;

(xvi) by inserting immediately after the definition of “**subsidiary**” the following definition—

“**“tier 1 capital**” means the total of—

- (a) paid-up share capital, statutory reserve fund, share premium account, retained earnings and any other capital account approved by the Central Bank, in the case of a local licensed financial institution, or
- (b) such other capital account or similar measure as approved by the Central Bank, in the case of a licensed branch of a foreign financial institution,

less any amount by which that total has been impaired in either case”;

(b) in subsection (2)—

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- (i) in paragraph (a)(iv), by deleting the words “an employee or” and substituting the words “a business”; and
- (ii) in paragraph (b)(iii), by deleting the words “or employee”; and
- (c) by inserting immediately after subsection (2), the following subsection—
 - “(3) For the purposes of the payment of a licence fee, a reference to a local financial institution includes a foreign financial institution that is a CARICOM national.”.

4 Section 3 amended

Section 3(5)(a) of the principal Act is amended by deleting the words “financial institution” and substituting the word “corporation”.

5 Section 4 amended

Section 4 of the principal Act is amended—

- (a) in subsection (2), by deleting the word “conduct” and substituting the words “carrying on”; and
- (b) by deleting subsection (4) and substituting the following subsection—
 - “(4) If the High Court issues an order under subsection (2), a police officer who accompanies a named officer of the Central Bank may in the case of resistance break open a door and remove an impediment or obstruction to the entry, search or seizure.”.

6 Section 5 replaced

The principal Act is amended by deleting section 5 and substituting the following section—

“5. Appointment of receiver for failure to hold licence

Despite section 3(5), if a person is found by the High Court to be carrying on business without a licence, the Central Bank may appoint a receiver for the person under section 138(1)(b).”

7 Section 7 amended

Section 7 of the principal Act is amended—

- (a) in subsection (1)(e), by deleting the words “financial holding company” and substituting the words “financial group”; and
- (b) in subsection (2), by inserting immediately after the words “a branch” the words “or a subsidiary”.

8 Section 14 amended

Section 14(1)(j) of the principal Act is amended by deleting the word “conduct” and substituting the words “carry on”.

9 Section 19 amended

Section 19(7), (8) and (9) of the principal Act is amended by deleting the words “electronic banking system”, wherever they occur and substituting the words “automatic banking machine”.

10 Section 42 amended

Section 42(1)(f) of the principal Act is amended by deleting the word “conduct” and substituting the words “carry on”.

11 Section 43A inserted

The principal Act is amended by inserting immediately after the heading “PART V— FINANCIAL REQUIREMENTS AND LIMITATIONS” the following section —

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“43A. Definition of specified asset

In this Part “specified asset” means a freely transferable asset that is free from any charge, lien or encumbrance and includes—

- (a) notes and coins which are legal tender in the Currency Union and such foreign notes and coins as the Central Bank may specify;
- (b) balances at the Central Bank;
- (c) net balances at licensed financial institutions in the Currency Union but if the balances are negative they will be subtracted from the specified assets;
- (d) treasury bills and other securities issued or guaranteed by a Participating Government and securities issued by a statutory corporation wholly owned by a Participating Government and approved by the Central Bank;
- (e) bills of exchange and promissory notes eligible for rediscount by the Central Bank and warehouse warrants or their equivalent securing possession of goods against which the Central Bank may grant advances, within the limits and in accordance with the evaluation fixed by the Central Bank;
- (f) net balances at licensed financial institutions in the monetary areas as the Central Bank may approve and the Central Bank may provide for the treatment to be accorded the balance or any portion in respect of the head office of a licensed financial

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institution organised abroad, and where any balances are negative they will be subtracted from specified assets;

- (g) money at call in monetary areas approved by the Central Bank under paragraph (f), bills of exchange bearing at least two good signatures drawn on and payable at any place in the approved monetary areas, and treasury bills issued by the government of a country in any approved monetary areas and maturing within one hundred and eighty days.”.

12 Section 44 amended

Section 44 of the principal Act is amended—

- (a) in subsections (1), (2) and (3) by deleting the word “Montserrat”, wherever it occurs, and substituting the words “the Currency Union”; and
- (b) by inserting immediately after subsection (4) the following subsection—
- “(5) The Central Bank may approve the holding of assigned capital in the form of specified assets.”

13 Section 45 amended

Section 45 of the principal Act is amended by—

- (a) deleting subsection (2) and substituting the following subsection—
- “(2) A licensed financial institution or licensed financial holding company shall not declare, credit or pay any dividend or make any other transfer from profits if the declaration, credit, payment or transfer would result in—

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- (a) an impairment of the capital required under section 44;
 - (b) inadequate and inappropriate forms of liquidity contrary to section 48; or
 - (c) negative retained earnings or accumulated deficit”; and
- (b) inserting immediately after subsection (2) the following subsections—
 - “(3) Subject to subsections (4) and (5), a licensed financial institution or licensed financial holding company shall not, except with prior written approval of the Central Bank, declare, credit or pay any dividend or make any other transfer from profits if the licensed financial institution or licensed financial holding company realises a net loss for that financial year.
 - (4) A licensed financial institution or licensed financial holding company shall seek the approval of the Central Bank under subsection (3) at least fifteen days before the intended declaration, credit, payment or transfer.
 - (5) The Central Bank may grant approval under subsection (3) on terms and conditions the Central Bank deems fit.”.

14 Section 49 amended

Section 49(1) and (6) of the principal Act is amended by deleting the words “capital base” and substituting the words “tier 1 capital”.

15 Section 50 amended

Section 50(4) of the principal Act is amended by deleting the words “capital base” and substituting the words “tier 1 capital”.

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16 Section 51 amended

Section 51 of the principal Act is amended by deleting subsections (3) and (4) and substituting the following subsections—

- “(3) A licensed financial institution shall not, except with the prior written approval of the Central Bank, grant or permit to be outstanding to its employees any unsecured advances or credit facilities which in the aggregate amount for any one employee exceeds the annual remuneration of such employee.
- (4) The Central Bank may grant approval under subsection (3) on terms and conditions the Central Bank deems fit.”.

17 Section 53 amended

Section 53 of the principal Act is amended—

- (a) in subsection (2) by deleting the word “conduct” and substituting the words “carry on”; and
- (b) by deleting the words “the capital base” wherever they occur and substituting the words “tier 1 capital”.

18 Section 54 amended

Section 54 of the principal Act is amended—

- (a) by inserting immediately after subsection (1) the following new subsection (1A):
 - “(1A) A licensed financial institution shall not own a subsidiary company that does not engage solely in permissible activities.”;
- (b) by inserting immediately after subsection (4) the following subsection—
 - “(5) For the purposes of this section “permissible activities” includes business

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- of a financial nature and any other activities that the Central Bank may determine”; and
- (c) by deleting the words “capital base” wherever they occur and substituting the words “tier 1 capital”.

19 Section 55 amended

Section 55 of the principal Act is amended—

- (a) by deleting subsections (1) and (2) and substituting the following subsections—

“(1) A licensed financial institution shall not directly or indirectly, except with the prior approval of the Central Bank, purchase, acquire or lease real or immovable property unless it is necessary for the purpose of carrying on its business as a licensed financial institution including provision for future expansion and housing its officers and employees.

(2) If a licensed financial institution holds any real or immovable property held or leased by it before the commencement of this Act for purposes other than for carrying on its business as a licensed financial institution, the licensed financial institution shall comply with this section within a period of three years or a further period as may be determined by the Central Bank.”; and

- (b) by inserting immediately after subsection (3) the following subsection—

“(4) The Central Bank may grant approval to a licensed financial institution under subsection (1) on terms and conditions the Central Bank may deem fit.”.

20 Section 57 amended

Section 57 of the principal Act is amended by deleting subsection (7).

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21 Section 60 amended

Section 60 of the principal Act is amended—

- (a) in subsection (2), by—
 - (i) deleting the word “six” and substituting the word “nine”; and
 - (ii) deleting the word “three” and substituting the word “six”; and
- (b) by deleting subsection (3) and substituting the following subsection—

“(3) A person who has served the maximum period under section 60(2) may not be re-appointed as the external auditor until after a period of five years has elapsed since the last appointment ended.”.

22 Section 69 amended

Section 69 of the principal Act is amended by deleting subsection (5) and substituting the following subsection—

- “(5) Subject to section 91, if a licensed financial institution or a licensed financial holding company fails to comply with the requirements of—
- (a) subsection (1) within six months of the end of its financial year;
 - (b) subsections (2) to (4),
- the licensed financial institution or a licensed financial holding company is liable to a penalty of \$50,000 and \$3,000 for every day of the default.”.

23 Section 80 replaced

The principal Act is amended by deleting section 80 and substituting the following section—

“80. Failure to comply with remedial actions

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- (1) A licensed financial institution or an affiliate of a licensed financial institution that fails to comply with a requirement or prohibition the Central Bank imposes on the licensed financial institution under this Part, is liable to a penalty of \$100,000 and a further penalty of \$10,000 for each day of the default.
- (2) A director, officer, employee or significant shareholder of a licensed financial institution who fails to comply with a requirement or prohibition the Central Bank imposes on the director, officer, employee or significant shareholder under this Part, is liable to a penalty of \$50,000 and to a further penalty of \$5,000 for each day of the default.”.

24 Section 88 replaced

The principal Act is amended by deleting section 88 and substituting the following section—

“88. Notification of removal of directors and officers

- (1) If an action under this Part requires the removal of a director or officer of a licensed financial institution, the Central Bank shall serve on the licensed financial institution and on the director or officer concerned written notice of the intended removal.
- (2) The licensed financial institution and the director or officer served with a notice under subsection (1) may, within fourteen days commencing from the day after which the notice is served, make written representations and a request for face to face representation to the Central Bank.

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- (3) If the Central Bank receives a request for a face to face representation under subsection (2), the face to face representation shall take place within fourteen days of receipt of the request.
- (4) The Central Bank shall take the representations into account in deciding whether to remove the director or officer.
- (5) If the Central Bank is of the opinion that the public interest may be prejudiced by the director or officer continuing to exercise the powers or carry out the duties and functions of that office during the period for making representations specified in subsections (2) and (3), the Central Bank may make an order suspending the director or officer and the suspension shall not extend beyond the period for making representations.
- (6) If the Central Bank decides to remove the director or officer, the Central Bank shall, within seven days of the written or face to face representation notify the director or officer and the licensed financial institution of the removal order made under this Part.
- (7) The director or officer ceases to hold office on the date the removal order is made or a later date specified in the removal order.
- (8) If the director, officer or licensed financial institution is aggrieved by the decision of the Central Bank under subsection (6), the director, officer or the licensed financial institution may, within fourteen days of the decision, appeal to the High Court but the appeal shall not operate as a stay of the decision under this section unless the High Court directs otherwise.”.

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25 Section 89 amended

Section 89(3)(c) of the principal Act is amended by deleting the words “capital base” and substituting the words “tier 1 capital”.

26 Section 92 amended

Section 92 of the principal Act is amended by inserting immediately after the words “disclosure shall be made”, the words “to the Central Bank”.

27 Section 97 amended

Section 97(2) of the principal Act is amended—

- (a) in paragraph (g), by deleting the word “and”;
- (b) in paragraph (h), by deleting the word “.” and substituting the words “; and”; and
- (c) by inserting immediately after paragraph (h) the following paragraph—
 - “(i) whether the person is a director or officer of, or directly or indirectly concerned in the management of a corporation locally or abroad, that is compounding with or suspending payments to its creditors.”.

28 Section 101 amended

The principal Act is amended by deleting section 101 and substituting the following section—

“101. Notification of removal of directors and officers

- (1) A licensed financial institution or licensed financial holding company shall give written notice to the Central Bank of the proposed appointment or election of a director or officer at least sixty days prior to the appointment or election of the director or officer.

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- (2) On receipt of the notice under subsection (1) the Central Bank shall conduct an investigation to determine whether the proposed director or officer satisfies the fit and proper criteria in section 97.
- (3) On completion of its investigation, the Central Bank shall inform the licensed financial institution or licensed financial holding company in writing that—
 - (a) the requirements of section 97 have been satisfied and it has no objections to the proposed appointment or election of the director or officer; or
 - (b) the requirements of section 97 have not been satisfied, the manner in which the requirements have not been met and that it objects to the appointment.
- (4) Despite subsection (1), if prior notification of the appointment or election of a director or officer of a licensed financial institution or licensed financial holding company is not possible, the licensed financial institution or licensed financial holding company—
 - (a) may appoint or elect the director or officer, conditional on the Central Bank's confirmation under subsection (3) that the director or officer satisfies the requirements of section 97; and
 - (b) shall within five days of the appointment or election give written notice to the Central Bank of the conditional appointment or election of the director or officer specifying the reasons for the appointment or election of the director or officer without prior approval.

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- (5) If the Central Bank receives a notice under subsection (4) and is not satisfied that a director or officer meets the requirements of section 97, the Central Bank—
- (a) shall direct the removal of the director or officer; and
 - (b) may notify in writing the person whose removal is required by serving on the person a copy of the direction under paragraph (a).”.

29 Section 103 amended

Section 103 of the principal Act is amended—

- (a) in subsection (1)(a), by deleting the words “two-thirds of”; and
- (b) by deleting subsection (2) and substituting the following subsections—
 - “(2) Subject to subsection (2A) and prudential standards issued by the Central Bank, a person who—
 - (a) has been declared bankrupt;
 - (b) has been sentenced for an offence involving, a term of imprisonment exceeding six months or sentenced to imprisonment in default of the payment of a fine;
 - (c) has been a director or officer of a company which has been wound up by a court or has been placed in receivership;
 - (d) has been a director or officer of, or directly or indirectly concerned in the management of a former licensed financial institution or body corporate

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locally or abroad, the licence of which
has been revoked,

shall not, without the prior approval of the
Central Bank, act or continue to act as a
director or officer of, or be directly or
indirectly concerned in any way in the
management of any licensed financial
institution or licensed financial holding
company.

(2A) Subsection (2)(d) does not apply if the
revocation of the licence was due to—

- (a) its amalgamation with another licensed
financial institution or licensed financial
holding company or other company; or
- (b) its voluntary winding up.”.

30 Section 104 amended

The principal Act is amended by deleting section 104
and substituting the following section—

**“104. Notification of removal of directors and
officers**

- (1)** A licensed financial institution or licensed
financial holding company to which a
direction is given and a person who is
served a copy of the direction under section
101(5) or section 103(4) may, within
fourteen days commencing from the day
after which the direction is given, make
written representations and a request for a
face to face representation to the Central
Bank.
- (2)** If the Central Bank receives a request for a
face to face representation under subsection
(1), the face to face representation shall
take place within fourteen days of receipt
of the request.

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- (3) The Central Bank shall take the representations into account in deciding whether to confirm the direction.”.

31 Section 105 amended

The principal Act is amended by deleting section 105 and substituting the following section—

“105. Notice of confirmed removal

- (1) If the Central Bank decides to confirm the direction it shall, within seven days of the written or face to face representation as the case may be, serve written notice of the confirmation on the licensed financial institution or the licensed financial holding company and the person whose removal is required.
- (2) If the licensed financial institution, the licensed financial holding company or the person whose removal is required is aggrieved by the decision of the Central Bank under subsection (1), the licensed financial institution, the licensed financial holding company or the person whose removal is required may, within fourteen days of the decision, appeal to the High Court, but the appeal shall not operate as a stay of the decision under this section unless the High Court directs otherwise.”.

32 Section 107 amended

Section 107 of the principal Act is amended by deleting the words “section 101(2)” and substituting the words “section 101(5)”.

33 Section 108 amended

Section 108 of the principal Act is amended by deleting the words “section 101(2)” and substituting the words “section 101(5)”.

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34 Section 109 amended

The principal Act is amended by deleting section 109 and substituting the following section—

“109. Failure to comply with section 103

- (1) A licensed financial institution which fails to comply with section 103 is liable to a penalty of \$100,000 and \$10,000 for each day of the default.
- (2) A director or officer of a licensed financial institution who fails to comply with section 103 is liable to a penalty of \$50,000 and \$5,000 for each day of the default.”.

35 Section 131 amended

Section 131(1)(b) of the principal Act is amended by deleting the words “three business days” and substituting the words “ten business days”.

36 Section 137 amended

Section 137(2) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph—

“(b) the licensed financial institution or licensed financial holding company cannot be rehabilitated and the Central Bank issues a decision to commence receivership and liquidation proceedings under Part X.”.

37 Section 138 amended

Section 138 of the principal Act is amended by deleting subsection (1) and substituting the following subsection—

“(1) The Central Bank may appoint a receiver for—

- (a) a licensed financial institution or licensed financial holding company if:

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- (i) it is insolvent;
- (ii) it is not viable;
- (iii) its capital is impaired or its condition is otherwise unsound;
- (iv) it has experienced substantial dissipation of assets or earnings due to any of the grounds for action by the Central Bank under section 75(1);
- (v) it or its directors, officers, employees, or significant shareholders wilfully violate or fail to comply with an order or direction of the Central Bank under sections 75 to 87;
- (vi) its business is being conducted in an unlawful or imprudent manner;
- (vii) the continuation of its activities is detrimental to the interests of its depositors;
- (viii) it conceals or refuses to submit any of its records or its operations for examination as provided for in section 74, or has otherwise obstructed such examination;
- (ix) its licence has been revoked in accordance with sections 14 or 76;
- (x) official administration is terminated pursuant to section 137(2)(b); or
- (xi) it is a bridge financial institution and its designation as a bridge financial institution terminated pursuant to section 186(3)(a) or the Central Bank initiates receivership pursuant to section 186(5); or

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- (b) a person who is found by the High Court, pursuant to an application under section 4(2), to be carrying on banking business without a licence.”.

38 Section 138A inserted

The principal Act is amended by inserting immediately after section 138 the following section—

“138A. Receivership and compulsory liquidation in respect of a person under section 138(1)(b)

Section 138(2) and sections 139 to 157 apply with the necessary modifications to a person under section 138(1)(b).”

39 Section 140 amended

Section 140 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “and revocation of licence”;
- (b) in subsection (3), by deleting the words “revocation of the licence and”
- (c) by deleting subsection (4) and substituting the following subsection:

“(4) The notice shall also specify that—

- (a) authorisations of persons to engage the financial responsibility of the licensed financial institution or licensed financial holding company have been cancelled; and
- (b) persons who previously had authorisation to give instructions on behalf of the licensed financial institution or licensed financial holding company with respect to payment or transfer of the licensed financial institution’s or licensed financial

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holding company's assets or assets managed by the licensed financial institution or licensed financial holding company are no longer so authorised.”.

40 Section 147 amended

Section 147(1)(g) of the principal Act is amended by deleting the word “\$100,000” and substituting the word “\$200,000”.

41 Section 168 amended

Section 168(1) of the principal Act is amended by deleting the words “ninety days” and substituting the words “three months”.

42 Section 169 replaced

The principal Act is amended by deleting section 169 and substituting the following section—

“169. Abandoned property to vest in the Crown

- (1) Any abandoned property paid into the custody of the Central Bank under section 168(1) shall vest in the Crown fifteen years from the date on which it was paid into the custody of the Central Bank.
- (2) Any abandoned property paid into the custody of the Central Bank prior to the commencement of this Act shall vest in the Crown fifteen years from the date of commencement of this Act.”.

43 Section 174 replaced

The principal Act is amended by deleting section 174 and substituting the following section—

“174. Failure to file report or to pay property

A licensed financial institution or licensed financial holding company which fails to

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comply with section 168(1) and (4) and section 170(2) is liable to a penalty of \$5,000 and for a further penalty of \$1,000 for each day of default.”.

44 Section 178 amended

Section 178 of the principal Act is amended by deleting subsection (2) and substituting the following subsection—

“(2) Despite subsection (1), nothing shall prevent—

- (a) a licensed financial institution or any individual referred to above, from providing to a person, upon a legitimate business request, a general credit rating, a summary of which will be provided to the depositor or customer upon request; or
- (b) a licensed financial institution or a director, officer, secretary, employee, agent, auditor, receiver, official administrator or official liquidator of the licensed financial institution, from providing access to confidential information of the licensed financial institution that is necessary to conduct due diligence in connection with a potential acquisition of assets and liabilities of the licensed financial institution, whether through direct transfer or through a merger or similar corporate transaction.”.

45 Section 180 amended

Section 180 of the principal Act is amended by deleting subsection (1) and substituting the following subsection—

“(1) The penalties imposed under sections 9(3), 19(9), 19(10), 44(4), 56(2), 57(8), 68, 69(5), 80, 96, 109 and 174 shall be paid to the Central Bank.”.

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46 Section 186 replaced

The principal Act is amended by deleting section 186 and substituting the following section—

“186. Bridge financial institutions and asset management vehicles

- (1) A Participating Government may establish a bridge financial institution for the purpose of acquiring and managing the assets and liabilities of a licensed financial institution that is subject to official administration or receivership under Part IX or Part X for a period of up to twelve months.
- (2) The Central Bank may grant an extension of the period referred to in subsection (1) for up to four consecutive periods of twelve months each.
- (3) The designation of a licensed financial institution as a bridge financial institution shall terminate if—
 - (a) the period under subsection (1) and any subsequent extensions under subsection (2) expire;
 - (b) the bridge financial institution—
 - (i) is sold to another person, or licensed financial institution or licensed financial holding company, that is not a bridge financial institution; or
 - (ii) amalgamates with another licensed financial institution that is not a bridge financial institution; or
 - (c) satisfies the capital requirements of sections 44 and 46.

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- (4) If the designation of a licensed financial institution as a bridge financial institution terminates pursuant to subsection (3)(a) the bridge financial institution shall be placed into receivership and liquidated.
- (5) The Central Bank may initiate receivership of a bridge financial institution in accordance with Part X, prior to the expiration period identified in subsection (3)(a).
- (6) A bridge financial institution established under subsection (1) shall be licensed under this Act and shall be subject to all of the provisions of this Act, except the capital requirements of sections 44 and 46.
- (7) A Participating Government may establish an asset management company for the purpose of acquiring, managing, and disposing of problem assets of a financial institution pursuant to Part IX or Part X.”.

47 Section 192 amended

Section 192(2)(a) of the principal Act is amended by inserting immediately after the words “legislation made”, the words “or continued in force”.

48 Schedule I replaced

The principal Act is amended by deleting Schedule I and substituting the following—

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“SCHEDULE I

(sections 7(1), 8(5), 9(1), 36(1), 38(2))

Fees for Licensed Financial Institution

Description	Non Refundable Application Fee	Initial Licence Fee	Annual Licence Fee
Branch – Foreign Financial Institution	\$20 000	\$120 000	\$120,000
Local Licensed Financial Institution	\$20 000	\$80 000	\$80,000
Licensed Financial Holding Company – Foreign	\$20 000	\$60 000	\$60,000
Licensed Financial Holding Company – Local	\$20 000	\$40 000	\$40,000
Branch – Local Licensed Financial Institution	-	-	\$20,000
Additional Branch – Foreign Financial Institution	-	-	\$30,000”.

49 Schedule III replaced

Schedule III of the principal Act is deleted and the following is substituted—

“SCHEDULE III

(section 181)

Offences in respect of which liability to conviction may be discharged by payment of a fixed penalty

Offence	Section	Fixed penalty
Carrying on banking business without a licence	3(5)	\$250,000

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Offence	Section	Fixed penalty
Refusal to make relevant documents available for examination	4(5)	\$2,500
Use of restricted words, names and practices	16(5)	\$125,000
Failure to disclose transfer	31(1)	\$1,000
Failure to disclose acquisition of interest	31(2)	\$2,500
Failure to disclose and allow access to books and records	74(3)	\$25,000
Providing information that is false in any material particular	74(4)	\$25,000
Restriction on advertising likely to mislead the public	93(2)	\$25,000
Failure to declare related interest	110	\$5,000
Deceiving statements and obstruction of audit or authorised examination	111	\$15,000
Failure of management to comply with the law	112	\$7,500
Failure to assist the official administrator	129(5)	\$7,500
Interference with receivers access to or control over office, books of accounts and other records	145(4)	\$7,500 ^o .

(Sgd.) Teresina Bodkin

SPEAKER

Passed by the Legislative Assembly this 24th day of June, 2020.

(Sgd.) Judith Baker

CLERK OF THE LEGISLATIVE ASSEMBLY