



VIRGIN ISLANDS

BANKS AND TRUST COMPANIES ACT

Revised Edition

showing the law as at 1 January 2020

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act 2014.

This edition contains a consolidation of the following laws—

BANKS AND TRUST COMPANIES ACT

Act 9 of 1990 .. in force 27 September 1990

Amended by Acts: 2 of 1995 .. in force 12 January 1996

12 of 2001 .. in force 1 January 2002 (S.I. 51/2001)

11 of 2004 .. in force 16 August 2004 (S.I. 57/2004)

14 of 2006 .. in force 15 January 2007

8 of 2010 .. in force 18 November 2010

12 of 2011 .. in force 1 February 2012 (S.I. 3/2012)

5 of 2013 .. in force 15 May 2013

5 of 2018 .. in force 1 October 2018

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SEE STATUTORY INSTRUMENTS BOOKLET



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Published in 2021
On the authority and on behalf of the Government of The Virgin Islands
by
The Regional Law Revision Centre Inc.

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Printed on the authority and on behalf of the Government of The Virgin Islands
by
The Regional Law Revision Centre Inc.
P.O. Box 1626, 5 Mar Building,
The Valley, AI-2640, Anguilla
Authorised Printers for this Revised Edition

BANKS AND TRUST COMPANIES ACT

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BANKS AND TRUST COMPANIES ACT

*(Acts 9 of 1990, 2 of 1995, 12 of 2001, 11 of 2004,
14 of 2006, 8 of 2010, 12 of 2011, 5 of 2013, and 5 of 2018)*

AN ACT TO PROVIDE FOR THE LICENSING AND CONTROL OF BANKING BUSINESS AND TRUST BUSINESS AND RELATED MATTERS.

Commencement

[27 September 1990]

Short title

1. The Act may be cited as the Banks and Trust Companies Act.

PART I

PRELIMINARY

Interpretation

2. (1) In this Act—

“approved form” means a form approved by the Commission in accordance with section 41B of the Financial Services Commission Act, 2001; *(Inserted by Act 14 of 2006 and amended by Act 8 of 2010)*

“auditor” means a person who—

- (a) is qualified to act as an auditor of a licensee in accordance with section 56 of the Regulatory Code; and
- (b) is in good standing with respect to that qualification;
(Substituted by Act 8 of 2010)

“authorised agent” means a person designated as authorised agent by a licensee under section 9(1)(b); *(Amended by Act 14 of 2006)*

“bank” means a person that is licensed to carry on banking business; *(Inserted by Act 8 of 2010)*

“banking business” means the business of accepting deposits of money which may be withdrawn or repaid on demand or after a fixed period or after notice, by cheque or otherwise and the employment of such deposits, either in whole or in part—

- (a) in making or giving loans, advances, overdrafts, guarantees or similar facilities, or
- (b) the making of investments,

for the account and at the risk of the person accepting such deposits;
(Substituted by Act 14 of 2006)

“Commission” means the Financial Services Commission established under section 3 of the Financial Services Commission Act; *(Inserted by Act 12 of 2001)*

“company management” and “company management business” have the meanings specified in the Company Management Act, 1990; *(Inserted by Act 14 of 2006)*

“controlling interest”, in relation to a licensee, means the ownership or interest in the licensee or in any holding company of the licensee by a person of—

- (a) more than 50% of the voting rights of the licensee; or
- (b) a significant interest in the licensee which, although not constituting more than 50% of the voting rights of the licensee (in aggregate or otherwise), gives the person a considerable advantage in the voting rights of the licensee if the remaining votes in the licensee are not voted on;
(Inserted by Act 8 of 2010)

“financial year” means, in relation to a licensee under this Act—

- (a) the period not exceeding 53 weeks at the end of which the balance of the licensee’s account is struck; or
- (b) if no such balance is struck, or if a period in excess of 53 weeks is used, then, a calendar year;

“licence” means a licence granted under section 4(4); *(Substituted by Act 14 of 2006)*

“licensee” means a company holding a licence under this Act;

“prescribed” means prescribed in a Regulatory Code; *(Inserted by Act 14 of 2006)*

“registered agent” means a person who provides registered agent services; *(Inserted by Act 5 of 2018)*

“registered agent services” has the meaning specified in section 9A; *(Inserted by Act 14 of 2006 and amended by Act 5 of 2018)*

“registered office services” means the provision by a person in the Virgin Islands of the registered office of a Virgin Islands company or a limited partnership registered under the Partnership Act; *(Inserted by Act 8 of 2010)*

“Regulatory Code” means a Regulatory Code issued under the Financial Services Commission Act; *(Inserted by Act 14 of 2006)*

“senior officer” means a person appointed to perform such supervisory or managerial functions with respect to a licensee as may be prescribed; *(Inserted by Act 14 of 2006)*

“significant interest”, in respect of a licensee, means a holding or interest in the licensee or in any holding company of the licensee held or owned by a person, either alone or with any other person and whether legally or equitably, that entitles or enables the person, directly or indirectly—

- (a) to control ten per cent or more of the voting rights of the licensee;
- (b) to a share of ten per cent or more in any distribution made by the licensee; or
- (c) to a share of ten per cent or more in any distribution of the surplus assets of the licensee;
(Amended by Act 8 of 2010)

“trust” means the legal relationship created *inter vivos* or on death by a person, known as a settlor or grantor, when assets have been placed under the control of a person, known as a trustee, for the benefit of a person, known as a beneficiary, or for a specified purpose or when a person declares that he or she holds assets as trustee for the benefit of a beneficiary or a specified purpose and—

- (a) the assets constitute a separate trust fund and are not part of the trustee’s own estate;
- (b) title to the trust assets stands in the name of the trustee or in the name of another person on behalf of the trustee; and
- (c) the trustee has the power and the duty, in respect of which he or she is accountable, to manage, employ or dispose of the assets in accordance with the terms of the trust and the special duties imposed on him by law;

“trust business” means the business of—

- (a) acting as a professional trustee, protector or administrator of a trust or settlement; (*Substituted by Act 14 of 2006*)
- (b) managing or administering any trust or settlement; or (*Substituted by Act 14 of 2006*)
- (c) acting, in relation to a Class I trust licence, as trustee under wills and settlements and as executor and administrator of deceased persons; (*Inserted by Act 5 of 2013*)

“Virgin Islands company” means a company that is incorporated, continued or re-registered under the BVI Business Companies Act, 2004; (*Substituted by Act 8 of 2010*)

(1A) (*Repealed by Act 5 of 2018*)

(2) For the purposes of this Act and subject to subsection (5), a company is deemed to be a subsidiary of another if—

- (a) that other, either—
 - (i) is a member of it and controls the composition of its board of directors; or
 - (ii) holds more than ½ in nominal value of its equity share capital; or
- (b) the first-mentioned company is a subsidiary of any company that is the other’s subsidiary.

(3) For the purposes of subsection (2), the composition of a company’s board of directors is deemed to be controlled by another company if that other company by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorships.

(4) For purposes of subsection (3), the other company is deemed to have power to appoint to a directorship with respect to which any of the following conditions is satisfied—

- (a) that a person cannot be appointed to it without the exercise in his or her favour by the other company of such a power as is mentioned in subsection (3);
 - (b) that a person's appointment to the directorship follows necessarily from his or her appointment as a director of the other company; or
 - (c) the directorship is held by the other company itself or by a subsidiary of it.
- (5) In determining whether one company is a subsidiary of another—
- (a) any shares held or power exercisable by the other in a fiduciary capacity are to be treated as not held or exercisable by it;
 - (b) subject to paragraphs (c) and (d), any shares held or power exercisable—
 - (i) by any person as nominee for the other except where the other is concerned only in a fiduciary capacity; or
 - (ii) by, or by a nominee for, a subsidiary of the other not being a subsidiary which is concerned only in a fiduciary capacity,are to be treated as held or exercisable by the other;
 - (c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first-mentioned company or of a trust deed securing any issue of such debentures are to be disregarded; and
 - (d) any shares held or power exercisable by, or by a nominee for, the other or its subsidiary, not being held or exercisable as mentioned in paragraph (c), are to be treated as not held or exercisable by the other if the ordinary business of the other or its subsidiary, as the case may be, includes the lending of money and the shares are held or the power is exercisable as above-mentioned by way of security only for the purposes of a transaction entered into in the ordinary course of that business.
- (6) For the purposes of this Act—
- (a) a company is deemed to be another's holding company if the other is its subsidiary; and
 - (b) a body corporate is deemed the wholly-owned subsidiary of another if it has no members except that other and that other's wholly-owned subsidiaries and its or their nominees.

PART II

LICENCES

Prohibition on unauthorized business

3. (1) No person shall carry on any kind of banking business in or from within the Virgin Islands unless the person holds a valid licence authorising him or her to carry on that kind of banking business.

(2) No company shall carry on any kind of trust business in or from within the Virgin Islands unless the company holds a valid licence authorising it to carry on that kind of trust business. *(Inserted by Act 14 of 2006 and amended by Act 8 of 2010)*

(2A) No company shall carry on any kind of company management business in or from within the Virgin Islands unless the company holds a valid licence authorising it to carry on that kind of company management business. *(Inserted by Act 8 of 2010)*

(3) For the purposes of subsections (1) and (2), a Virgin Islands company that carries on banking or trust business outside the Virgin Islands is deemed to be carrying on banking or trust business from within the Virgin Islands. *(Inserted by Act 14 of 2006)*

(4) A person who contravenes subsection (1) or a company that contravenes subsection (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both. *(Inserted by Act 14 of 2006 and amended by Act 8 of 2010)*

Application for licence

4. (1) A licence is obtainable by making written application to the Commission in the approved form. *(Amended by Act 14 of 2006)*

(2) *(Repealed by Act 14 of 2006)*

(3) *(Repealed by Act 14 of 2006)*

(4) The Commission may issue a licence to an applicant if it is satisfied that—

(a) the applicant satisfies the requirements of this Act and the Regulatory Codes in respect of the application and will, upon issuance of the licence, be in compliance with this Act and the Regulatory Codes;

(b) the applicant satisfies the fit and proper criteria prescribed; *(Substituted by Act 8 of 2010)*

(c) the organisation, management and financial resources of the applicant are adequate for the carrying on of the business in respect of which a licence is sought; and

(d) issuing the licence is not against the public interest.

(Substituted by Act 14 of 2006)

(5) A decision to refuse to grant a licence, other than a licence in respect of a business in existence at the date of the commencement of this Act, is final and is not subject to any appeal.

(6) The Commission shall cause notice of the grant of a licence under this Act to be published in such manner as shall be specified in regulations made under section 28. *(Amended by Acts 12 of 2001 and 14 of 2006)*

(7) A licence issued under this Act shall be prominently displayed on the premises where the business is carried on, including at the head office and every branch of the licensee. *(Amended by Act 8 of 2010)*

Fees

4A. Regulations made under section 62 of the Financial Services Commission Act may provide for the fees chargeable and payable under this Act. *(Substituted by Act 8 of 2010)*

Validity of licence

5. A licence is valid until it is suspended, cancelled or revoked by the Commission in accordance with the Financial Services Commission Act. *(Substituted by Act 14 of 2006 and amended by Act 8 of 2010)*

Exemptions

6. (1) A person who is licensed under this Act is not required to be licensed under—

- (a) the Business, Professions and Trade Licences Act to carry on banking business or trust business; or
- (b) the Company Management Act to carry on company management business if he or she holds a Class I or Class IV trust licence or a Class III or Class V licence.

(Substituted by Act 8 of 2010 and amended by Act 5 of 2018)

(2) This Act does not apply to a person licensed under the Company Management Act.

(3) A person who is licensed under the Securities and Investment Business Act as a manager or administrator and whose licence authorises him or her to act as the manager or administrator of one or more unit trusts, is exempted from the requirement to obtain a licence under this Act for the purposes of managing or administering any unit trust that he or she is authorised under his or her licence to manage or administer. *(Inserted by Act 14 of 2006)*

Existing businesses

7. A person who at the commencement of this Act is carrying on banking business or trust business has a period of 3 months to comply with the trust provisions of the Act.

Notification of change in particulars of licensee

8. (1) Where a change occurs in the particulars of a licensee as set out in the application for the licence, the licensee shall, within fourteen days, inform the Commission of the change. *(Amended by Acts 12 of 2001 and 14 of 2006)*

(2) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. *(Inserted by Act 14 of 2006)*

Principal office and authorised agent

9. (1) A licence shall not be granted to any person unless the person designates, and notifies to the Commission—

- (a) a principal office in the Virgin Islands; and

- (b) by name, two individuals resident in the Virgin Islands approved by the Commission to be that person's authorised agents. *(Substituted by Act 14 of 2006)*
- (2) The functions of an authorised agent are to—
- (a) act as an intermediary between the licensee and the Commission, except that in the absence or inability of one authorised agent to act, the other authorised agent may carry out the functions of both authorised agents; and
- (b) accept, on behalf of the licensee, service of legal and other process, including any other documents. *(Substituted by Act 5 of 2018)*
- (3) A licensee shall obtain the prior written approval of the Commission for any change of—
- (a) its principal office in the Virgin Islands; or
- (b) any of the persons designated as an authorised agent pursuant to subsection (1)(b). *(Amended by Acts 12 of 2001 and 14 of 2006)*
- (4) Where the Commission has approved a person under subsection (1)(b) or (3)(b) as an authorised agent, it may in writing revoke the approval. *(Amended by Acts 12 of 2001 and 14 of 2006)*
- (5) A licensee who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. *(Inserted by Act 14 of 2006)*

Registered agent and registered agent services

- 9A.** (1) A person provides registered agent services if he or she—
- (a) is licensed under this Act, but excludes a person licensed to provide banking business;
- (b) acts as the registered agent of—
- (i) a company incorporated under the BVI Business Companies Act;
- (ii) a corporation incorporated under or pursuant to an enactment;
- (iii) a foreign company registered under the BVI Business Companies Act; or
- (iv) a limited partnership registered under the Partnership Act; and
- (c) provides registered office services or carries on other company management services under the Company Management Act.
- (2) The Commission may, by an Order published on the Internet site, restrict a registered agent or any class of registered agents from acting as a registered agent of any of the entities listed in subsection (1)(b) unless the person or class of persons meets such conditions as the Commission may specify in the Regulatory Code.

(3) The Commission may specify in the Regulatory Code additional registered agent services or specify the details of any registered agent services as it may consider necessary.

(Inserted by Act 5 of 2018)

Type of licences

10. (1) A license issued under this Act must be in one of the following categories—

- (a) a general banking license, for the purpose of carrying on banking business within and outside the jurisdiction of the Virgin Islands; *(Amended by Act 14 of 2006)*
- (b) a restricted Class I banking licence, for the purpose of carrying on banking business with the restrictions on that business set forth in section 11;
- (c) a restricted Class II banking licence, for the purpose of carrying on banking business with the restrictions on that business set forth in section 11 with the further restriction that the licensee shall not receive or solicit funds by way of trade or business from persons other than those listed in any undertaking accompanying the application for the licence;
- (d) a Class I trust licence, for the purposes of carrying on trust business and company management business; *(Substituted by Act 14 of 2006)*
- (e) a Class II trust licence, for the purposes of carrying on trust business only; *(Substituted by Act 14 of 2006)*
- (f) a Class III licence, for the purposes of carrying on company management business only; *(Substituted by Act 14 of 2006 and amended by Act 5 of 2018)*
- (g) a Class IV trust licence, for the purposes of carrying on trust business and company management business by family offices and other closely held groups; and
- (h) a Class V licence, for the purposes of carrying on company management business only by family and other closely held groups.

(Inserted by Act 5 of 2018)

(1A) Without limiting this section—

- (a) a Class II trust licence may be issued as a restricted Class II trust licence, in which case the holder of the licence shall not undertake trust business other than in connection with those trusts, not exceeding 50, listed in a sworn undertaking; and
- (b) a restricted Class II licence may be issued as a Class III licence, in which case the holder of the licence shall undertake no company management business, other than the provision of directors and officers, and nominee shareholders, for Virgin Islands companies.

(Inserted by Act 14 of 2006 and amended by Acts 8 of 2010 and 5 of 2018)

(1B) Where the Commission considers it necessary to preserve the conduct of company management business pursuant to licences granted under the Company Management Act, it may, notwithstanding anything contained in this Act, restrict the issuing of a Class III licence under this Act. *(Inserted by Act 8 of 2010 and amended by Act 5 of 2018)*

(2) *(Repealed by Act 5 of 2018)*

(3) *(Repealed by Act 5 of 2018)*

(4) *(Repealed by Act 5 of 2018)*

(4A) Where the Commission issues a restricted Class II trust licence, it may provide in a schedule to the licence a list of the trusts in respect of which the licensee may undertake trust business, and that schedule may be amended if approval is obtained in accordance with subsection (6). *(Inserted by Act 8 of 2010)*

(5) The holder of a restricted Class II trust licence that wishes to make any change in the trusts in connection with which it may undertake trust business, may apply to the Commission in the approved form (attaching in the case of new trusts a sworn undertaking) and the Commission may grant or refuse the application.

(Substituted by Act 8 of 2010)

(5) The holder of a restricted Class II trust licence that wishes to make any change in the trusts in connection with which it may undertake trust business, may apply to the Commission in the approved form (attaching in the case of new trusts a sworn undertaking) and the Commission may grant or refuse the application. *(Substituted by Act 8 of 2010)*

(6) Where the Commission issues a Class I or Class III licence under this Act, it may—

(a) restrict the type of company management business the licence may undertake, save that this power shall not be exercised in respect of a Class III licence that is issued as a restricted Class III licence under subsection (1A)(b); *(Amended by Act 5 of 2018)*

(b) limit the carrying on of the company management business within the Virgin Islands only.

(Inserted by Act 8 of 2010)

(7) Where the Commission issues—

(a) a Class IV trust licence, the licensee shall—

(i) be restricted to administering no more than 500 Virgin Islands companies and 50 trusts;

(ii) have a physical presence in the Virgin Islands; and

(iii) not engage in introduced or third party business;

(b) a Class V licence, the licensee shall—

(i) be restricted to administering no more than 300 Virgin Islands companies;

(ii) have a physical presence in the Virgin Islands;

(iii) not engage in any trust business; and

(iv) not engage in introduced or third party business

(8) For the purposes of subsection (1)(g) and (h), the Regulatory Code may make provision defining the nature and scope of family operated business and other closely held group business.

(9) Where prior to the coming into force of this Act (hereinafter referred to as “the 2018 Amendment Act”), a company engaged or approved to engage in a company management or trust business was listed in a schedule of the licence of a Class I or II trust licensee or a Class III licensee as a subsidiary of the licensee, that company shall, no later than 30th June, 2019, submit a written application to the Commission to be separately licensed.

(10) Where a company referred to in subsection (9) fails to comply with the requirement of that subsection by the stipulated deadline—

- (a) the company shall, after the stipulated deadline, be deemed to have ceased to be listed in the schedule of the licence of the Class I or II trust licensee or Class III licensee;
- (b) the Class I or II trust licensee or Class III licensee on whose licence the company was listed shall no later than 31st July, 2019 surrender its licence to the Commission; and
- (c) the Commission shall re-issue the Class I or II trust licensee’s or Class III licensee’s licence without a list of any subsidiary included on the licence.

(11) Upon the coming into force of the 2018 Amendment Act—

- (a) a Class I or II trust licensee or Class III licensee cannot merge into a company that is listed as a subsidiary on the licensee’s licence unless the company has applied for and obtained a separate licence under this Act; and
- (b) a company that is listed as a subsidiary on the Class I or II trust licensee’s or Class III licensee’s licence may, before the end of the deadline stipulated in subsection (9), merge into the licensee.

(12) A company that is listed in the schedule of a Class I or II trust licence or Class III licence that engages in company management or trust business after the deadline stipulated in subsection (9) without obtaining a separate licence commits an offence and is liable on conviction to a fine not exceeding \$50,000.

(Inserted by Act 5 of 2018)

Power to reclassify a trust licence

10A. (1) The Commission may either on an application received from a licensee or, subject to subsection (2), on its own volition, reclassify—

- (a) a Class I trust licence as a Class II, Class III or restricted Class III licence; or *(Amended by Act 5 of 2018)*
- (b) a Class II trust licence as a restricted Class II trust licence.

(2) The Commission shall not on its own volition reclassify a trust licence under subsection (1) unless it—

- (a) gives the licensee concerned at least 28 days notice of its intention to reclassify the licence;

(b) gives the licensee the Commission's reason for its intention to reclassify the licence; and

(c) invites the licensee to make such representation to the Commission with respect to the Commission's intention, being not less than 7 days and not more than 21 days from the date of the notice, as the licensee considers fit.

(3) Where the Commission receives a representation from a licensee under subsection (2)(d), it shall consider the representation before taking a decision to reclassify the trust licence to which the representation relates.

(4) In considering whether or not to reclassify a trust licence under subsection (1), the Commission may consider whether—

(a) the licensee is carrying on the full range of activities granted by the licence;

(b) the licensee has adequate and competent staff to efficiently carry out the range of activities granted by the licence;

(c) having regard to the licensee's compliance culture, it is in the public interest that the licence be reclassified;

(d) there is any other reason which, in the Commission's opinion, justifies a reclassification of the licence.

(Inserted by Act 8 of 2010)

Limitations on restricted banking licences

11. (1) The holder of a restricted Class I or Class II banking licence shall not—

(a) take deposits from any person resident in the Virgin Islands other than another licensee or a company incorporated, continued or re-registered under the BVI Business Companies Act, 2004; *(Amended by Act 8 of 2010)*

(b) invest in any asset that represents a claim on any person resident in the Virgin Islands except a claim resulting from—

(i) a transaction with another licensee; or

(ii) the purchase of bonds or other securities issued by the Government, a statutory corporation or a company in which the Government is the sole or majority beneficial owner; or

(c) without the written approval of the Commission, carry on any business in the Virgin Islands other than the business for which the restricted Class I or Class II banking licence has been obtained. *(Amended by Acts 12 of 2001 and 14 of 2006)*

(2) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$25,000 or to a term of imprisonment for one year or to both. *(Inserted by Act 14 of 2006)*

Capital resources requirement and deposits

12. (1) A company holding a general banking licence shall, at all times—

- (a) maintain capital resources of not less than the prescribed minimum or such greater capital resources as the Commission may require the licensee to maintain; and
- (b) keep deposited or invested such sum as may be prescribed in such manner as may be prescribed.
- (2) A company holding a restricted Class I banking licence or a restricted Class II banking licence shall, at all times—
- (a) maintain capital resources of not less than the prescribed minimum or such greater capital resources as the Commission may require the licensee to maintain; and
- (b) keep deposited or invested such sum as may be prescribed in such manner as may be prescribed.
- (3) A company holding a banking licence shall at all times maintain the prescribed risk weighted capital adequacy ratio, calculated in such manner and by such methods as may be prescribed.
(Inserted by Act 14 of 2006)
- (4) A company holding a Class I, Class II or Class IV trust licence, or a Class III or Class V licence, shall at all times—
- (a) maintain capital resources of not less than the prescribed minimum or such greater capital resources as the Commission may require the licensee to maintain; and *(Inserted by Act 14 of 2006 and amended by Act 8 of 2010)*
- (b) keep deposited or invested such sum of money, not exceeding the prescribed maximum, as may be required by the Commission, in such manner as may be prescribed. *(Inserted by Act 14 of 2006)*
- (Inserted by Act 14 of 2006 and amended by Act 5 of 2018)*
- (5) For the purposes of this section, the definition of “capital resources” and acceptable forms of capital may be prescribed in a Regulatory Code.
(Inserted by Act 14 of 2006)
- (6) A company that contravenes subsection (1)(b), (2)(b) or (4)(b) commits an offence and is liable on summary conviction to a fine not exceeding \$25,000 or to a term of imprisonment not exceeding one year or to both.
(Inserted by Act 14 of 2006)

13. *(Repealed by Act 14 of 2006)*

PART III

TRANSFERABILITY OF SIGNIFICANT INTERESTS

Disposing of or acquiring significant interest in licensee

14. (1) A person owning or holding a significant interest or controlling interest in a licensee shall not sell, transfer, merge, charge or otherwise dispose of his or her interest in the licensee, or any part of his or her interest, unless the

prior written approval of the Commission has been obtained. *(Substituted by Act 14 of 2006 and amended by Acts 8 of 2010 and 5 of 2018)*

(2) A person shall not, whether directly or indirectly, acquire a significant interest in a licensee unless the prior written approval of the Commission has been obtained. *(Substituted by Act 14 of 2006)*

(3) A licensee shall not, unless the prior written approval of the Commission has been obtained—

(a) cause, permit or acquiesce in a sale, transfer, merger, charge or other disposition referred to in subsection (1); *(Substituted by Act 14 of 2006 and amended by Act 5 of 2018)*

(b) issue or allot any shares or cause, permit or acquiesce in any other reorganisation of its share capital that results in—

(i) a person acquiring a significant interest or controlling interest in the licensee; or *(Substituted by Act 14 of 2006 and amended by Act 5 of 2018)*

(ii) a person who already owns or holds a significant interest or controlling interest in the licensee, increasing or decreasing the size of his or her interest. *(Inserted by Act 14 of 2006 and amended by Act 5 of 2018)*

(4) An application to the Commission for approval under subsection (1), (2) or (3) shall be made by the licensee. *(Substituted by Act 14 of 2006)*

(5) The Commission shall not grant approval under subsection (1), (2) or (3) unless it is satisfied that following the acquisition or disposal—

(a) the licensee will continue to meet the criteria for licensing specified in section 4(4); and

(b) any person who will acquire a significant interest or controlling interest in the licensee satisfies the fit and proper criteria prescribed. *(Substituted by Act 14 of 2006 and amended by Acts 8 of 2010 and 5 of 2018)*

(5A) In the case of a merger where the licensee is not the surviving company and the surviving company is not or will not be licensed under this Act, the reference in subsection (5)(a) to “the licensee” shall be restricted to the licensee that is licensed under this Act;

(Inserted by Act 5 of 2018)

(6) An approval under subsections (1), (2) or (3) may be granted by the Commission on such conditions as it considers appropriate.

(7) A person who contravenes subsection (1) or (2) and a licensee that contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

(Substituted by Act 14 of 2006)

(8) Without prejudice to subsection (7), where a person acquires, sells, transfers, merges, charges or otherwise disposes of a significant interest or controlling interest in a licensee contrary to any requirement of this section, the Commission may—

- (a) in the case of an acquisition, require the licensee to rescind the acquisition, notwithstanding anything to the contrary that may be contained in the licensee's constitutional documents or contractual arrangements;
- (b) in the case of a sale, transfer, merger, charge or other disposition, require the person to—
 - (i) rescind or reverse the sale, transfer, merger, charge or other disposition;
 - (ii) modify the sale, transfer, merger, charge or other disposition in such manner as the Commission may direct; or
 - (iii) suspend or rescind any activity that is contingent on the sale, transfer, merger, charge or other disposition until otherwise advised by the Commission.

(Inserted by Act 8 of 2010 and amended by Act 5 of 2018)

(9) No liability consequent upon a decision taken by the Commission under subsection (8) shall arise in respect of the Commission or, subject to subsection (7), of a licensee or other person acting on the directive of the Commission. *(Inserted by Act 8 of 2010)*

(10) No action taken by the Commission under subsection (8) shall be construed as a bar to a licensee or other person seeking approval under this section for the acquisition, sale, transfer, merger, charge or other disposition of a significant interest or controlling interest. *(Inserted by Act 8 of 2010 and amended by Act 5 of 2018)*

Power to grant exemption

14A. The Commission may exempt a licensee from the provisions of section 14, or any of them, on such conditions as it considers appropriate. *(Inserted by Act 14 of 2006)*

PART IV

ADMINISTRATION

15. *(Repealed by Act 14 of 2006)*

Use of word “bank” etc

16. (1) No person, other than a licensee, shall except with the approval of the Commission—

- (a) use or continue to use the words “bank”, “savings”, “savings and loans”, “trust”, “trustee”, “trust company”, “trust corporation” or “fiduciary” or any of their derivatives, either in English or in any other language, in the name, description or title under which that person is carrying on business from within the Virgin Islands, whether or not the business is carried on within or outside the Virgin Islands; *(Amended by Acts 12 of 2001 and 14 of 2006)*

(b) make or continue to make any representation in any advertisement, billhead, circular, letter, letterhead, notice, paper or in any other manner that that person is carrying on banking business or trust business; or

(c) in any manner solicit or receive deposits from the public.

(2) No company incorporated in the Virgin Islands shall, except with the approval of the Commission, be registered, or continue to be registered, by a name which contains “bank”, “savings”, “savings and loan”, “trust”, “trustee”, “trust company”, “trust corporation” or “fiduciary” or any of their derivatives, either in English or in any other language, in the description or title under which the company is carrying on business within or outside the Virgin Islands. *(Amended by Acts 12 of 2001 and 14 of 2006)*

(3) The Commission may, before giving its approval under subsection (1) or (2), require the production of such references and such information and particulars as may be prescribed. *(Amended by Act 12 of 2001)*

(4) The Commission may withdraw any approval given under subsection (1) where it considers it to be in the public interest. *(Amended by Act 12 of 2001)*

(5) A person who contravenes subsection (1) and a company that contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or a term of imprisonment not exceeding 2 years or to both. *(Substituted by Act 14 of 2006)*

Prohibition against shell banks, etc.

16A. (1) The establishment of a shell bank in the Virgin Islands is prohibited and no licence shall be granted to a shell bank.

(2) A licensee shall not keep or maintain an anonymous account or an account in a fictitious name, whether or not on its own behalf or on behalf of a customer or otherwise.

(Inserted by Act 8 of 2010)

Maintaining liquid assets

16B. A licensee that holds a banking licence shall at all times maintain a minimum level of liquid assets, and in such amount, as prescribed. *(Inserted by Act 8 of 2010)*

Licensee to keep financial records

17. (1) A licensee shall keep financial records that—

- (a) are sufficient to show and explain its transactions;
- (b) will, at any time, enable its financial position to be determined with reasonable accuracy;
- (c) will enable it to prepare the financial statements and make the returns required under this Act and any Regulatory Code; and
- (d) will enable its financial statements to be audited in accordance with this Act and the Regulatory Code.

(2) A licensee shall retain all financial records for a period of at least 5 years after the termination of the business relationship to which they relate and, for the purpose of this subsection, “business relationship” shall be construed in accordance with the definition of that term in the Anti-money Laundering Regulations, 2008. *(Substituted by Act 8 of 2010)*

(3) Subject to subsection (4), a licensee shall—

- (a) keep its financial records in the Virgin Islands; and
- (b) if its financial records, or any of them, are kept at a place other than its principal office in the Virgin Islands, notify the Commission in writing of the place where those financial records are kept.

(4) A licensee that is not a Virgin Islands company shall—

- (a) keep accounting records in the Virgin Islands sufficient to comply with subsection (1) in respect of the business it undertakes in the Virgin Islands; and
- (b) notify the Commission in writing of the place, whether in or outside the Virgin Islands, where its financial records, other than those specified in paragraph (a) are kept.

(5) A licensee that holds a trust licence shall comply with such rules as may be prescribed concerning—

- (a) the segregation of its assets from trust assets and any client assets that it holds;
- (b) the segregation of trust assets of one trust from those of another and from other client assets;
- (c) the maintenance of separate bank and other accounts with respect to different trusts and clients;
- (d) accounting rules and procedures to be applied with respect to trust and client assets.

(6) A licensee that contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year or to both.

(Substituted by Act 14 of 2006)

Meaning of “financial statements”

17A. (1) In this Act, “financial statements” in relation to a licensee and to a financial year, means—

- (a) a statement of the financial position of the licensee as at the last date of the financial year;
- (b) a statement of the financial performance of the licensee in relation to the financial year;
- (c) a statement of cash flows for the licensee in relation to the financial year;
- (d) such statement relating to the prospects for the licensee’s business as may be prescribed or as may be required by the accounting

standards in accordance with which the accounts are prepared;
and

(e) such other statements as may be prescribed,

together with any notes or other documents giving information relating to the matters specified in paragraphs (a), (b), (c), (d) or (e).

(Inserted by Act 14 of 2006)

Preparation of financial statements

17B. (1) A licensee shall prepare financial statements for each financial year that comply with generally accepted accounting standards or such other accounting standards as may be prescribed.

(2) If, in complying with the accounting standards in accordance with which they are prepared, the financial statements do not give a true and fair view of the matters to which they relate, the notes to the financial statements shall contain such information and explanations as will give a true and fair view of those matters.

(3) The financial statements prepared under subsection (1) shall be—

(a) approved by the directors of the licensee; and

(b) following approval under paragraph (a), signed by at least one director on behalf of all the directors.

(4) The director signing the financial statements shall state the date when the financial statements were approved by the directors and the date when he or she signs the financial statements.

(Inserted by Act 14 of 2006)

Submission of financial statements to the Commission and publication

17C. (1) The financial statements signed by a director in accordance with section 17B shall be submitted to the Commission within 6 months of the end of the financial year to which they relate accompanied by—

(a) a directors' certificate attesting to the matters outlined in section 17B(3) and (4); *(Amended by Act 8 of 2010)*

(b) an auditor's report;

(c) any report on the affairs of the licensee made to the members of the licensee in respect of the relevant financial year;

(d) a certificate of compliance issued by the auditor that the information set out in the application for a licence, as modified by any subsequent notification of change in accordance with section 8, remains correct and gives an accurate summary of the business of the licensee; and

(e) such other documents as may be prescribed.

(Inserted by Act 14 of 2006)

(2) Unless accompanied by the certificates, reports and documents specified in subsection (1), the financial statements referred to in subsection (1) are deemed not to have been submitted to the Commission.

(3) A licensee that holds a banking licence shall publish its financial statements, together with the auditors report, within 6 months of the end of the financial year to which they relate, in at least 2 newspapers published and circulating in the Virgin Islands.

(Inserted by Act 14 of 2006)

(3A) Where the licensee is a parent bank of a Virgin Islands branch, the licensee shall publish the audited financial statements and auditor's report in respect of the parent bank. *(Inserted by Act 8 of 2010)*

(3B) The Commission may by written notice require a licensee that is a parent bank of a Virgin Islands branch to provide the Commission with audited or unaudited financial statements of the Licensee's Virgin Islands branch within such time and in relation to such period as the Commission may provide in the notice. *(Inserted by Act 8 of 2010)*

(4) A licensee who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

(Inserted by Act 14 of 2006)

Submission of quarterly financial statements and report

17D. (1) A licensee that holds a banking licence shall, in respect of each quarter, submit to the Commission, within such time period as shall be prescribed—

- (a) financial statements, that may be unaudited;
- (b) a return in the approved form;
- (c) such other information and documentation as may be prescribed.

(2) In this section, "financial statements" has the meaning specified in section 17A with the substitution of "quarter" for "financial year".

(3) A licensee who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

(Inserted by Act 14 of 2006)

Extension of time

17E. (1) The Commission may, on the application of a licensee, extend the time for compliance with section 17C or section 17D for a period of, or where it grants more than one extension for an aggregate period not exceeding 3 months.

(2) An extension under subsection (1) may be granted subject to such conditions as the Commission considers appropriate.

(Inserted by Act 14 of 2006)

Amendment of financial statements

17F. (1) If the Commission considers that any document submitted by a licensee under section 17C or 17D is inaccurate or incomplete or is not prepared in accordance with this Act or a Regulatory Code, it may by written notice require the licensee to amend the document or to submit a replacement document.

(2) If a licensee fails to comply with a notice under subsection (1), the Commission may reject the document.

(Inserted by Act 14 of 2006)

Licensee to appoint auditor

17G. (1) A licensee shall appoint an auditor, which in the case of a licensee that is a Virgin Islands company, shall be an auditor approved by the Commission, for the purposes of auditing its financial statements.

(2) The Commission shall not approve the appointment of an auditor under subsection (2) unless it is satisfied that he or she has sufficient experience and is competent to audit the financial statements of the licensee.

(3) A licensee shall make such arrangements as are necessary to enable its auditor to audit its financial statements in accordance with this Act.

(4) The approval of the Commission is not required where the auditor appointed in respect of a financial year acted as the auditor of the licensee in the previous financial year.

(5) A licensee shall, within 14 days of the appointment of its auditor, submit a notice of appointment in the approved form to the Commission.

(6) A licensee shall not change its auditor without the prior written approval of the Commission.

(7) A licensee who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

(Inserted by Act 14 of 2006)

Audit report

17H. (1) Upon completion of his or her audit of the financial statements of a licensee, the auditor shall provide an audit report to the licensee complying with the Regulatory Codes.

(2) The Commission may at any time, by notice in writing, direct a licensee to supply the Commission with a report, prepared by its auditor or other person nominated by the Commission, on such matters as the Commission may determine which may include an opinion on the adequacy of the accounting and control systems of the licensee.

(3) A report prepared under subsection (2) shall be at the cost of the licensee.

(Inserted by Act 14 of 2006)

Obligations of auditors

17I. (1) Notwithstanding anything to the contrary in any other enactment, the auditor of a licensee shall—

(a) provide the Commission with a copy of the audit report provided to a licensee under section 17H;

(b) report immediately to the Commission any information relating to the affairs of a licensee that he or she has obtained in the course of acting as its auditor that, in his or her opinion, suggests—

- (i) that the licensee is insolvent or is likely to become insolvent or is likely to be unable to meet its obligations;
- (ii) that a criminal offence has been or is being committed by the licensee or in connection with its business;
- (iii) that the licensee is in breach of any provision of this Act or any Regulatory Code with respect to capital resources, liquidity or any other matter that may be prescribed;
- (iv) that serious breaches of this Act or any Regulatory Code or such enactments, regulations or Codes relating to money laundering or the financing of terrorism as may have been prescribed have occurred in respect of the licensee or its banking or trust business;
- (v) that the licensee has significant weaknesses in internal controls which render it vulnerable to significant risks or exposures that have the potential to jeopardise the licensee's financial viability.

(2) Where the appointment of an auditor is terminated, the former auditor shall—

- (a) forthwith inform the Commission of the termination of his or her appointment and disclose to the Commission the circumstances that gave rise to such termination; and
- (b) if, but for the termination of his or her appointment, he or she would have—
 - (i) sent an audit report to the Commission under subsection (1)(a); or
 - (ii) reported information to the Commission under subsection (1)(b),

he or she shall send a copy of the report to the Commission, or report the information concerned to the Commission, as if his or her appointment had not been terminated.

(3) The Commission may require an auditor of a licensee to discuss any audit he or she has conducted or commenced with, or provide additional information regarding the audit to, the Commission.

(4) Where, in good faith, an auditor or former auditor provides a report or any information to the Commission under subsections (1), (2) or (3), he or she is deemed not to be in contravention of any enactment, rule of law or professional code of conduct to which he or she is subject and no civil, criminal or disciplinary proceedings shall lie against him in respect thereof.

(5) The failure, in good faith, of an auditor or former auditor to provide a report or any information to the Commission under subsections (1), (2) or (3) does not confer upon any other person a right of action against the auditor which, but for that failure, he or she would not have had.

(Inserted by Act 14 of 2006)

Powers of Commission with regard to appointment of auditor

17J. (1) Where the Commission is satisfied that the auditor of a licensee has failed to fulfil his or her obligations under this Act or any Regulatory Code, or is otherwise not a fit and proper person to act as the auditor of a licensee, it may, by written notice to the licensee, revoke the approval of the appointment of the auditor and the licensee shall appoint a new auditor in accordance with section 17G.

(2) A notice revoking the appointment of an auditor under subsection (1) shall be given to the auditor.

(3) If a licensee fails to appoint an auditor in accordance with section 17G, the Commission may appoint an auditor of the licensee.

(4) An auditor appointed under subsection (3) is deemed for the purposes of this Act to have been appointed by the licensee.

(Inserted by Act 14 of 2006)

Group accounts

17K. (1) Where a licensee is a member of a group of companies, the Commission may require the licensee to submit group accounts.

(2) The Commission may require that the group accounts are audited by the auditor of the licensee or by another auditor approved by the Commission.

(3) The Regulatory Codes may prescribe the form and content of group accounts to be submitted under this section.

(Inserted by Act 14 of 2006)

Certain approvals required

18. (1) A licensee shall not change its name or incorporate or operate inside or outside the Virgin Islands any subsidiary, branch, agency or representative office without the prior written approval of the Commission. *(Amended by Acts 12 of 2001, 14 of 2006 and 8 of 2010)*

(1A) A licensee shall not close down or cease operations in any of its existing places of business unless, at least 28 days prior to such intended closure or cessation of operations, the licensee so notifies the Commission in writing stating its reason.

(1B) Subsection (1) does not apply in the event of a *force majeure* or court decision which makes compliance with subsection (1A) impossible or difficult, but the licensee shall nevertheless notify the Commission the reason for its inability to comply with the requirement of subsection (1A).

(1C) Subsections (1A) and (1B) are without prejudice to the Commission's power to suspend, cancel or revoke the licence of a licensee under section 38 of the Financial Services Commission Act.

(Inserted by Act 8 of 2010)

(2) A licensee who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year or to both. *(Inserted by Act 14 of 2006)*

Number and approval of directors

19. (1) A licensee shall at no time have less than 2 directors.

(2) A licensee shall, before the appointment of a director or other senior officer, apply to the Commission for its written approval of the appointment. *(Amended by Act 12 of 2001)*

(3) Notwithstanding subsection (2), the Commission may exempt a licensee from the requirements specified in that subsection but such an exemption—

(a) *ipso facto* lapses if the director or senior officer becomes bankrupt, makes an arrangement or composition with his or her creditors or is convicted of an offence involving dishonesty; and

(b) may be revoked by the Commission. *(Amended by Act 12 of 2001)*

(4) A licensee who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. *(Inserted by Act 14 of 2006)*

19A. *(Repealed by Act 12 of 2011)*

20. *(Repealed by Act 14 of 2006)*

21. *(Repealed by Act 14 of 2006)*

22. *(Repealed by Act 14 of 2006)*

PART V

MISCELLANEOUS

Power of Commission to require insurance

23. (1) The Commission may require a licensee to effect a policy of insurance with a reputable insurance company against—

(a) losses arising out of claims of negligence or breach of duty by the licensee or any employee;

(b) the dishonesty of employees or of the licensee;

(c) loss of documents; and

(d) such other risks as the Commission may from time to time stipulate,

in such amount and of such a nature as the Commission may determine to be fit and proper, having due regard to the nature and type of business carried on by the licensee; and in the event that the insurance is withdrawn, cancelled or not renewed, the licensee shall immediately notify the Commission. *(Amended by Acts 12 of 2001 and 14 of 2006)*

(2) A licensee who fails to effect a policy of insurance as required by the Commission under subsection (1), commits an offence and is liable on summary conviction to a fine not exceeding \$10,000. *(Inserted by Act 14 of 2006)*

Vesting provisions

23A. (1) For the purposes of this section, the term “operations” refers to any activity of a licensee which the licensee engages in as part of its normal business.

(2) A licensee shall not sell, transfer or otherwise dispose of any of its operations, unless it notifies, and obtains the approval of the Commission.

(3) Where a licensee sells, transfers or otherwise disposes any of its operations, it shall—

(a) enter into a written agreement with the person to whom the operations are sold, transferred or otherwise disposed, setting out the terms and conditions (if any) of the sale, transfer or disposal; and

(b) ensure that the agreement specifies—

(i) the type and nature of the operations and whether the sale, transfer or disposition relates to the whole or only a part of the operations;

(ii) the rights and liabilities that arise in relation to the sale, transfer or disposition of the operations;

(iii) in case of a transfer, whether—

(aa) the transfer is conditional upon a specified event or situation occurring or arising, or not occurring or arising; and

(bb) a breach of the condition re-vests the operations to the licensee and what consequences, if any, arise from the breach;

(iv) how any powers, provisions and liabilities in respect of the operations are to be exercisable or have effect;

(v) how any subsisting rights and interests of third parties in relation to the operations are to be preserved or effected without adversely affecting those third parties; and

(vi) any other matter that, having regard to the operation and its nature and scope, it is reasonable to provide for.

(4) An agreement under subsection (2) may provide—

(a) that any other agreement made or other thing done by or in relation to the licensee to be treated as made or done by or in relation to the person to whom the operations are sold, transferred or otherwise disposed; and

(b) for continuity of contracts of employment from the licensee to the person to whom the operations are sold, transferred or otherwise disposed, subject to the provisions of the Labour Code.

(5) Where the sale, transfer or disposition of the operations—

- (a) comply with the requirements outlined in subsections (2) and (3), the rights and liabilities consequent upon the sale, transfer or disposition shall vest in the person to whom the operations are sold, transferred or otherwise disposed;
- (b) fail to comply with the requirements outlined in subsections (2) and (3), any sale, transfer or disposition or purported sale, transfer or disposition of the operations shall be void.

(Inserted by Act 8 of 2010)

24. *(Repealed by Act 12 of 2001)*

24A. *(Repealed by Act 12 of 2001)*

Offences

25. (1) *(Repealed by Act 14 of 2006)*

(2) *(Repealed by Act 14 of 2006)*

(3) Any licensee who advertises inviting either directly or indirectly other parties to commit breaches of the laws of the country in which the advertisement appears or to which such advertisement is directed is guilty of an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or both.

(4) Where a limited liability company is convicted of an offence against subsection (3), every director and every officer concerned with the management of the company is liable to be convicted for that offence unless he or she satisfies the court that the offence was committed without his or her knowledge or consent and that he or she took all reasonable steps to prevent the commission of the offence.

(5) Any person who—

- (a) fails to comply with a request made of him by the Commission or by any other person acting under this Act;
- (b) assaults or obstructs an officer of the Commission or other person in the performance of his or her functions under this Act;
- (c) uses any insulting language to an officer of the Commission or other person in the performance of his or her functions under this Act;
- (d) by the offer of any gratuity, bribe or any other inducement prevents or attempts to prevent an officer of the Commission or other person from performing his or her functions under this Act;
or
- (e) contravenes any provision of this Act for which no punishment is specifically provided,

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or both. *(Amended by Act 12 of 2001)*

Appeals

26. An appeal lies to the Financial Services Appeals Board (established under the Financial Services Commission Act) from any decision of the Commission—

- (a) *(Repealed by Act 14 of 2006)*;
- (b) withdrawing any approval under section 16(4);
- (c) *(Repealed by Act 14 of 2006)*.

(Substituted by Act 12 of 2001)

27. *(Repealed by Act 12 of 2001)*

Regulations

28. The Cabinet may, on the advice of the Commission, make regulations generally for carrying the purpose and provisions of this Act into effect. *(Amended by Acts 12 of 2001, 14 of 2006 and 8 of 2010)*

Regulatory Codes

28A. (1) Without limiting section 41 of the Financial Services Commission Act, the Commission shall issue Regulatory Codes under that section of the Act with respect to banking business and trust business. *(Inserted by Act 14 of 2006 and amended by Act 8 of 2010)*

(2) Without limiting subsection (1), a Regulatory Code issued under that subsection may—

- (a) require a licensee that engages in banking business to—
 - (i) formulate appropriate policies and processes for identifying and managing the licensee's problem assets;
 - (ii) review, on a periodic basis, the licensee's problem assets and provide for asset classification, provisioning and write-offs, taking into account off-balance sheet exposures;
 - (iii) provide appropriate policies and processes to ensure that provisions and write-offs of the licensee reflect realistic repayment and recovery expectations; and
 - (iv) increase the licensee's levels of provisions and reserves, including its overall financial strength, where the Commission considers the licensee's level of problem assets to be of concern; *(Amended by Act 5 of 2018)*
- (b) provide appropriate policies and processes for the consolidated supervision of licensees that engage in banking business, including—
 - (i) a review of the overall activities of the licensee's group and the supervision of the licensee's foreign activities;
 - (ii) a mechanism for the evaluation of the risk that a licensee's non-banking activities or banking group may pose to the licensee or its banking group;

- (iii) the prudential standards that should be applied on a consolidated basis in respect of the licensee's banking group; and
 - (iv) limitations on the range of activities a licensee's consolidated group may conduct and the location of its activities; and
(Inserted by Act 8 of 2010 and amended by Act 5 of 2018)
- (c) require a licensee, who is not the holder of a banking licence, to—
- (i) fully disclose the terms upon which the licensee holds the assets of its clients, including trust assets;
 - (ii) segregate its assets from the assets of its clients and ensure that the latter's assets are held in separate and distinct accounts;
 - (iii) adopt appropriate measures to ensure that any payment of client monies is, at the minimum, effected through a dual signature mechanism;
 - (iv) reconcile the accounts of its clients in a prompt and responsible manner; and
 - (v) establish policies, procedures and controls to prevent the misuse of client monies for the settlement of the licensee's fees and other disbursements.
(Inserted by Act 5 of 2018)

29. *(Repealed by Act 12 of 2001)*

30. *(Omitted)*

31. *(Omitted)*

SCHEDULE 1

(Repealed by Act 14 of 2006)

SCHEDULE 2

(Repealed by Act 14 of 2006)
