BANKING ACT

Act 35 of 2004 – 10 November 2004
(*unless otherwise indicated*)

Amended 9/11; 20/11; 38/11; 24/12 (cio 10/11/12); 27/12 (cio 22/12/12); 27/13 (cio 21/12/13; NIF); 9/15 (cio 14/5/15); 18/16 (7/9/16; 20/10/16 (P 48/16)); 10/17 (cio 24/7/17); 11/18 (cio 9/8/18; 14/6/18); 11/18 (P 22/18 – cio 1/9/18); 9/19 (cio 29/5/19); 17/18 (P2/19 (cio 31/1/19); 13/19 (cio 25/7/19); 21/18 – P7/19 (cio 1/3/19); 5/2020 (cio 9/7/2020); 7/2020 (cio 7/8/2020); 15/21 (cio 5/8/21); 15/22 (cio 2/8/22); 12/23 (cio 16/1/23); 1/19 – P 30/23 (cio 15/12/23); 20/23 – P 10/24 (cio 29/3/24); 11/24 (cio 27/7/24); 10/24 (cio 25/7/24); 18/25 (cio 9/8/25); 3/26 (cio 18/4/26); 13/26 (cio 13/8/26);

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BANKING ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Banking Act.

2. Interpretation

In this Act –

"affiliate", in relation to a financial institution, includes an entity which –

(a) is a holding company, subsidiary company or company which is under common control of the financial institution;

(b) is a joint venture of the financial institution;

(c) is a subsidiary company or joint venture of the holding company of the financial institution;

(d) controls the composition of the board of directors or other body governing the financial institution;

(e) exercises, in the opinion of the central bank, significant influence on the financial institution in taking financial or policy decisions; or

(f) is able to obtain economic benefits from the activities of the financial institution;

[RR 18/16 (cio 7/9/16).]

"AML/CFT" means anti-money laundering and combatting the financing of terrorism and proliferation;
[Inserted 10/24 (cio 25/7/24).]

"approval" means an approval given in writing;

"assigned capital", in relation to a bank incorporated outside Mauritius and having a branch in Mauritius, means capital consisting of funds transferred from abroad and such other funds as may be determined by the central bank may determine;

"auditor" means an auditor referred to in section 39;

"bank" means a company incorporated under the Companies Act, or a branch of a company incorporated abroad, which is licensed under section 7(5) of the Act to carry on any of the following –

(a) banking business;

(b) Islamic banking business;

(c) private banking business;
[RR 18/16 (cio 7/9/16).]

(d) digital banking business;
[Inserted 7/2020 (cio 7/8/2020).]

"banking business" –

(a) means –

(i) the business of accepting sums of money, in the form of deposits or other funds, whether or not such deposits or funds involve the issue of securities or other obligations howsoever described, withdrawable or repayable on demand or after a fixed period or after notice; and

(ii) the use of such deposits or funds, in whole or in part, for –

(A) loans, advances or investments, on the own account and at the risk of the person carrying on such business;

(B) the business of acquiring, under an agreement with a person, an asset from a supplier for the purpose of letting out the asset to the person, subject to payment

of instalments together with an option to retain ownership of the asset at the end of the contractual period;
[Amended 27/13 (cio 21/12/13).]

(iii) paying and collecting cheques drawn by or paid in by customers and making other payment instruments available to customers; and
[Inserted 27/13 (cio 21/12/13).]

(b) includes such services as are incidental and necessary to banking;

"banking laws" –

(a) means this Act, the Bank of Mauritius Act, the Convention for the Suppression of the Financing of Terrorism Act, the Financial Crimes Commission Act 2023, the Financial Intelligence and Anti-Money Laundering Act, the Prevention of Terrorism Act, the Prevention of Terrorism (International Obligations) Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019; and
[Amended 20/23 (cio 29/3/24).]

(b) includes such other enactment as may be prescribed;
[Amended 11/18 (cio 1/9/18); RR 9/19 (cio 29/5/19).]

"banking licence" means a banking licence, an Islamic banking licence, a digital banking licence or a private banking licence granted under section 7;
[RR 18/16 (cio 7/9/16); amended 7/2020 (cio 7/8/2020).]

"Bankruptcy Court" means the Bankruptcy Division of the Supreme Court;

"Board" means the Board of Directors of the central bank;

"body corporate" means an incorporated body wherever incorporated;

"capital base" means capital as specified by the central bank from time to time;

"cash dealer" means a body corporate licensed by the central bank to carry on the business of foreign exchange dealer or money changer;

"central bank" means the Bank of Mauritius established under the Bank of Mauritius Act;

"collective investment scheme" has the same meaning as in the Securities

Act;

"company" has the same meaning as in the Companies Act;

"constitution", in relation to a company, has the same meaning as in the Companies Act;

"control", in relation to a financial institution, means control of any body corporate –

(a) in which the financial institution, directly or indirectly or acting through one or more persons, owns, controls or has the right to vote 20 per cent or more of the voting securities of the body corporate to elect a majority of its directors; or

(b) over which the financial institution, directly or indirectly, exercises a controlling influence, as the central bank may determine;

"credit" means any commitment to disburse a sum of money in exchange for a right to repayment of the amount disbursed and outstanding and to payment of interest or other charges on such amount, any extension of the due date of a debt, any guarantee issued, and any commitment to acquire a debt security or other right to payment of a sum of money;

"credit information bureau" means any person licensed by the central bank to carry on the business of collecting, consolidating and collating trade, credit and financial information whether fund based on non-fund based on recipients of credit facilities and guarantors for sale to creditors;

"crime" has the same meaning as in the Criminal Code;

"debt security" means any negotiable instrument of indebtedness and any other instrument equivalent to such instrument of indebtedness, and any negotiable instrument, whether in certificated or book entry form, giving the right to acquire another negotiable debt security by subscription or exchange;

"demand liabilities" means the deposits in a bank which shall be repaid on demand;

"deposit" means a sum of money paid on terms –

(a) that it is to be repaid in full, with or without interest or premium of any kind, and on demand or at a time agreed by or on behalf of the person making the payment and the person receiving it; and

(b) that are not referable to the provision of property, services or the giving of security,

whether or not evidenced by any entry in a record of the person receiving the sum, or by any receipt, certificate, note or other document;

"deposit taking business" means the business of accepting –

(a) deposits of money for the purpose of –

(i) financing the specific activities of the non-bank deposit taking institution receiving such deposits, or such other activities as the central bank may approve; and

(ii) investment in Government securities, Bank of Mauritius Bills issued under the Bank of Mauritius Act or such other investment as the central bank may approve; or

(b) Islamic rules, in consonance with the ethos and value system of Islam deposits for the purposes of financing the activities of the non-bank deposit taking institution receiving such deposits or such other activities as the central bank may approve, the aims and operations of which are, in addition to the conventional good governance and risk management rules, in consonance with the ethos and value system of Islam;

"digital banking business" means banking business carried on exclusively through digital means or electronically;
[Inserted 7/2020 (cio 7/8/2020).]

"director" has the same meaning as in the Companies Act;

"examination", for the purposes of sections 42, 43, 44 and 64C, includes –

(a) an on-site or off-site regular examination;

(b) a special examination; or

(c) an off-site monitoring;
[Inserted 10/24 (cio 25/7/24).]

"external auditor" means an auditor appointed under section 39;

"external credit assessment institution" means an institution recognised by the central bank under section 14C for the purposes of carrying on the business of assigning credit ratings on debt instruments and on issuers of

debt instruments;

"financial institution" means any bank, non-bank deposit taking institution or cash dealer licensed by the central bank;

"financial statements" has the same meaning as in the Companies Act;

"fintech" means technologically enabled financial innovations which could result in new business models, applications, processes or products with an associated material effect on financial markets and institutions and the provision of financial services;
[Inserted 15/21 (cio 5/8/21).]

"foreign exchange dealer" means any body corporate licensed as such by the central bank to carry on the business of –

(a) (i) buying and selling foreign currency, including spot and forward exchange transactions, foreign exchange swap transactions and any other transactions which may be construed as the buying and selling of foreign currency and wholesale money market dealings; and

(ii) a money-changer; or

(b) money or value transfer services;
[RR 3/26 (cio 18/4/26).]

"Government securities" has the same meaning as in the Public Debt Management Act;

"group financial statements" has the same meaning as in the Companies Act;

"group of closely related customers" means –

(a) 2 or more persons who, unless it is otherwise shown, constitute a single risk because one of them, directly or indirectly, has control over the other or others as defined in the Companies Act;

(b) 2 or more persons between whom there is no relationship of control as defined in paragraph (a), but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, the other or all of the others would be likely to encounter repayment difficulties;

"independent director" means a director having no relationship with, or interest in, whether past or present, the financial institution or its affiliates,

which could or could reasonably be perceived to materially affect the exercise of his judgment in the best interest of the financial institution;

"International Accounting Standards" has the same meaning as in the Companies Act;

"Islamic banking business" means any financial business, the aims and operations of which are, in addition to the conventional good governance and risk management rules, in consonance with the ethos and value system of Islam;

"Islamic deposit" means a sum of money or monies' worth received by or paid to any person, under which the receipt and repayment shall be in accordance with the terms of an agreement made on any basis, including custody or profit sharing;

"licence" means any licence issued under this Act;

"Mauritius Deposit Insurance Corporation Ltd" means the Mauritius Deposit Insurance Corporation Ltd incorporated and registered under the Companies Act and referred to in the Mauritius Deposit Insurance Scheme Act 2019;
[Inserted 1/19 (cio 15/12/23).]

"Minister" means the Minister to whom responsibility for the subject of finance is assigned;

"money changer" means any body corporate licensed as such under this Act to carry on solely the business of –

(a) buying and selling of foreign currency notes, coins and travellers' cheques;

(b) replacement of lost or stolen travellers' cheques; and

(c) encashment under credit cards;

"money or value transfer service" means a financial service that accepts cash, cheques, other monetary instruments or other stores of value in one location and pays a corresponding sum in cash or other form to a beneficiary in another location, by means of a communication, message, transfer or through a clearing network to which the money or value transfer or service belongs, and where the transaction performed by such service may involve one or more intermediaries and a third party final payment;

"non-bank deposit taking institution" means an institution other than a

bank which is authorised by the central bank to conduct deposit taking business;

"notice" means notice given in writing;

"Ombudsperson" has the same meaning as in the Ombudsperson for Financial Services Act 2018;
[Inserted 21/18 (cio 1/3/19).]

"place of business", in relation to a bank, includes its head or main office, a branch, an agency, a representative office, a mobile branch, an office established and maintained for a limited period and any other place used by the bank for the dispensing or acceptance of money on account or for the conduct of other banking business;
[Inserted 9/15 (cio 14/5/15).]

"private banking business" means the business of offering banking and financial services and products to high-net-worth customers, including but not limited to an all-inclusive money-management relationship;
[Inserted 18/16 (cio 7/9/16).]

"proliferation" has the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;
[Inserted 10/24 (cio 25/7/24).]

"regtech" or "regulatory technology" means the innovative technology solutions utilised by financial institutions and other regulated entities to facilitate compliance with regulatory rules and requirements;
[Inserted 15/21 (cio 5/8/21).]

"regulatory sandbox" means a controlled testing environment which allows a financial institution, a licensee under the National Payment Systems Act 2018 or a body corporate authorised by the central bank under section 11C to conduct experiments under the supervision of the central bank;
[Inserted 15/21 (cio 5/8/21).]

"regulatory sandbox authorisation" means an authorisation granted under section 11C which allows a financial institution, a licensee under the National Payment Systems Act 2018 or a body corporate to enter a regulatory sandbox to experiment with fintech, regtech or other innovation driven financial services falling under the purview of the central bank;
[Inserted 15/21 (cio 5/8/21).]

"related party", in relation to a financial institution, means –

(a) a person who has significant interest in, or controls, the financial

institution or the financial institution has significant interest in the person;

[Amended 7/2020 (cio 7/8/2020).]

(b) a director or senior officer of the financial institution or of a body corporate which the financial institution controls or of a body corporate that controls the financial institution;

[Amended 7/2020 (cio 7/8/2020).]

(c) the spouse, a child, the parent or ascendant or descendant of a natural person referred to in paragraphs (a) and (b);

(d) an entity that is controlled by a person described in paragraphs (a) to (c); or

(e) a person or class of persons who is designated by the central bank as a related party because of its past or present interest in or relationship with the financial institution being such that it might be reasonably expected to affect the exercise of best judgment of the financial institution in respect of a transaction;

"Reserve Account" means the account specified in section 21;

"senior officer", in respect of a financial institution, means –

(a) the chief executive officer, deputy chief executive officer, chief operating officer, chief financial officer, Secretary, treasurer, chief internal auditor or manager of a significant business unit of the financial institution; or

(b) a person with similar position and responsibilities as a person referred to in paragraph (a);

"significant interest" means –

(a) owning, directly or indirectly, alone or together with a related party, or otherwise having a beneficial interest amounting to, 10 per cent or more of the capital or of the voting rights of a financial institution;

(b) having the ability, directly or indirectly, alone or together with a related party or the power, to appoint 20 per cent or more of the members of the board of a financial institution; or

(c) directly or indirectly exercising a significant influence over the management of a financial institution, as the central bank may determine;

[Amended 18/16 (cio 7/9/16); RR 7/2020 (cio 7/8/2020).]

"specialised financial institution" means an institution holding a specialised financial institution licence;
[Inserted 9/15 (cio 14/5/15).]

"specialised financial institution licence" means a licence issued under section 11B(4);
[Inserted 9/15 (cio 14/5/15).]

"stated capital" has the same meaning as in the Companies Act;

"subsidiary" has the same meaning as in the Companies Act;

"terrorism" or "terrorist" includes proliferation;
[Inserted 10/24 (cio 25/7/24).]

"time liabilities" means all deposits, including savings deposits, which are not payable on demand;

"unsecured advance" or "unsecured credit" means –

(a) any advance or credit, as the case may be, made without security; or

(b) in relation to any advance or credit made with security –

(i) any part thereof which at any time exceeds the market value of the assets constituting the security; or

(ii) where the central bank is satisfied that there is no established market value, the unsecured value as determined on the basis of a valuation proposed by the interested party and approved by the central bank.

[S. 2 amended by s. 4(a) of Act 17 of 2007 w.e.f. 22 August 2007; s. 2(a) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(a) of Act 14 of 2009 w.e.f 30 July 2009; s. 3(a) of Act 10 of 2010 w.e.f. 24 December 2010; s. 3(a) of Act 27 of 2013 w.e.f. 21 December 2013; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s 3(a) of Act 18 of 2016 w.e.f. 7 September 2016; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s. 4 of Act 9 of 2019 w.e.f. 29 May 2019; s. 20(2) of Act 21 of 2018 w.e.f. 1 March 2019; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020; s. 3 of Act 15 of 2021 w.e.f. 5 August 2021; s. 34 of Act 1 of 2019 w.e.f. 15 December 2023; s 166 of Act 20 of 2023 w.e.f. 29 March 2024; s. 3 of Act 10 of 2024 w.e.f. 25 July 2024; s 3 of Act 18 of 2025 w.e.f. 9 August 2025; s. 3 of Act 3 of 2026 w.e.f. 18 April 2026.]

3. Application of Act

(1) This Act shall be the charter of, and shall apply to, every financial institution licensed under this Act.

(2) The Development Bank of Mauritius Ltd shall be deemed to be

licensed under this Act and shall, subject to such terms and conditions as the central bank may determine, take into account the developmental nature of its activities, be governed by this Act.

(Subsec. (2) not in operation.)

(3) Where a bank is also engaged in any of the financial services, other than banking business regulated by the Financial Services Act, the bank shall not carry on business by virtue of its banking licence unless it is also licensed under that Act in respect of those financial services.

(Subsec. (3) came into operation on 1 June 2007.)

(4) Every bank licensed under this Act shall be deemed to be licensed to carry on Islamic banking business through a window on such terms and conditions as the central bank may determine.

(Subsec. (4) not in operation.)

(5) Any bank licensed to conduct Islamic banking business shall be governed by this Act.

(Subsec. (5) not in operation.)

(6) (a) No non-bank deposit taking institution licensed under this Act shall engage in the business of accepting Islamic deposits without an appropriate licence to that effect issued by the central bank.

(b) Any non-bank deposit taking institution licensed to accept Islamic deposits shall be governed by this Act.

(7) Any ultimate and intermediate financial holding company, incorporated in Mauritius, which has, within the group, at least one subsidiary or joint venture or such other ownership structure, as the central bank may determine, which is a bank or a non-bank deposit taking institution shall comply with such prudential requirements as the central bank may, by guidelines, instructions or directives, specify.
[Added 18/16 (cio 7/9/16).]

(8) In the event of any conflict or inconsistency between any provision of Part XI and any other enactment, other than sections 110A and 110B of the Insurance Act, the provisions of Part XI shall prevail.
[Added 18/16 (cio 7/9/16).]

[S. 3 amended by s. 97(1) of Act 14 of 2007 w.e.f. 28 September 2007; s. 4(b) of Act 17 of 2007 w.e.f. 22 August 2007; s. 2(b) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(b) of Act 18 of 2016 w.e.f. 7 September 2016; s. 4 of Act 15 of 2021 w.e.f. 5 August 2021.]

PART II – LICENSING OF BANKS AND OTHER FINANCIAL INSTITUTIONS

4. Restriction on use of word "bank"

(1) Except as otherwise provided for in this Act, no person, other than a bank, shall use the word "bank" or any of its derivatives in any language in the description or title under which that person is carrying on business in Mauritius, or make any such representation in any bill head, letter, paper, notice, advertisement or in any other manner whatsoever.

(2) Subject to subsection (3), no person, other than a bank, shall be incorporated or registered under the Companies Act using a name or title, and no person other than a bank shall change its name to a name or title, that includes the word "bank" or any of its derivatives in any language.

(3) Nothing in this section shall apply to –

(a) any institution established under any other enactment;

(aa) a specialised financial institution;
[Inserted 9/15 (cio 14/5/15).]

(b) any body whether incorporated or not, that is formed or registered in any country, other than Mauritius, under a name or title that includes the word "bank" or any of its derivatives which is authorised by the central bank to use such word or its derivatives in connection with the establishment or operation of a bank or representative office in Mauritius;
[Amended 27/13 (cio 21/12/13).]

(c) any subsidiary of a licensed bank which is authorised by the central bank to use the word "bank" or any of its derivatives; and

(d) an association of banks or bank employees, formed for the protection of their common interest.

(4) Notwithstanding subsection (1), the central bank may, on such terms and conditions as it may determine, authorise the holding company of a bank which submits an application for a transfer of its undertaking or is required by the central bank to restructure its business under section 32A, to use the word "bank" or any of its derivatives in any language.
[Added 27/13 (cio 21/12/13).]

[S. 4 amended by s. 3(b) of Act 27 of 2013 w.e.f. 21 December 2013; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015.]

5. Application for banking licence

(1) No person shall engage in banking business, Islamic banking business, digital banking business or private banking business in Mauritius without a banking licence issued by the central bank.

[RR 18/16 (cio 7/9/16); amended 7/2020 (cio 7/8/2020).]

(2) Subject to section 12, no person, other than a bank licensed by the central bank, shall engage in receiving deposits or Islamic deposits from the public.

(3) Any body corporate may apply to the central bank for a banking licence.

(4) Every application for a banking licence shall be made in such medium and in such form as the central bank may determine and shall be accompanied –

(a) by a copy of the certificate of incorporation of the applicant;

(b) in the case of a foreign bank wishing to establish a branch, subsidiary or joint venture in Mauritius, by a written confirmation from the banking supervisory authority in the applicant's country of incorporation that the supervisory authority has no objection to the applicant's proposal to carry on banking business in Mauritius;

[RR 18/16 (cio 7/9/16).]

(c) by a copy of the constitution of the applicant;

(d) by a certified list of the full names and address of the directors, beneficial owners, chief executive officer and other senior officers of the applicant and a list of its shareholders owning 10 per cent or more of its shares;

(e) by a copy of the financial statements of the applicant, as of a date within 60 days preceding the date of application;

(f) by a business plan giving the nature of the planned business, organisational structure and internal control, projected financial statements, including cash flow statements for each of the next 3 financial years;

(g) in respect of the directors, beneficial owners, chief executive officer, other senior officers, and shareholders holding a significant interest, of the applicant, by an identification and a certificate of good conduct, in such form as the central bank

may determine, from a competent authority or an affidavit duly sworn stating any conviction for a crime and any past or present involvement in a managerial function in a body corporate subject to insolvency proceedings or having declared personal bankruptcy;

[Amended 11/18 (cio 1/9/18)]

(h) by payment of such appropriate non-refundable processing fee as the central bank may determine by regulations made by the central bank, with the approval of the Minister; and

(i) by such other information or document as the central bank may specify in the application form.

(5) The documents specified under subsection (4)(a), (b) and (c) shall be authenticated copies, and where the originals are not in English language, certified translations in English.

(6) Where a shareholder of the applicant is a body corporate, the application shall, in addition, be accompanied by the information required under subsection (4) that may be relevant and applicable to the body corporate.

(7) The central bank shall, within 30 days of the receipt of an application under subsection (4), notify the applicant in writing whether or not the application is complete.

(8) Where the application under subsection (4) is not complete, the central bank shall, subject to subsection (8A) immediately after the expiry of the delay of 30 days specified in subsection (7), call for such supplementary information or documents as it may require for the purpose of determining the application.

(8A) (a) Where the information or documents, other than those specified in subsection (4)(a), (c), (d) or (g), in so far as the information or documents relate to proposed directors, chief executive officer and other senior officers, are submitted to the central bank and the central bank is satisfied that the applicant is eligible for a licence, the central bank may, subject to such terms and conditions as it may determine, grant an in-principle approval to the applicant.

(b) An in-principle approval granted under paragraph (a) shall –

(i) not be construed by the applicant as an authorisation to conduct banking business;

(ii) not create any legitimate expectation for a positive final determination of the application; and

(iii) automatically lapse if the applicant does not satisfy the terms and conditions attached to the in-principle approval.

[RR 15/22 (cio 2/8/22).]

(8B) An applicant shall notify the central bank of any material change which may have occurred, before or after the issue of a licence, in the information provided in the application.

(8C) An application shall include an authority from the applicant authorising any regulatory body, law enforcement body or financial institution, in Mauritius or in a foreign country, to release to the central bank, for use in relation to the application and the enforcement of this Act, any information about the applicant, and any of its directors, shareholders, beneficial owners, chief executive officer or other senior officers as may be applicable.

(8D) Where the applicant is not an individual, such an authority shall be given by each of the directors of the applicant or by 2 directors duly authorised by a resolution of the board of directors.

(9) An application under this section may be withdrawn by notice to the central bank at any time before it is determined.

(10) In this section –

"beneficial owner" –

(a) means the natural person who ultimately owns or controls the applicant or the natural person on whose behalf the application is being made; and

(b) includes the natural person who exercises ultimate effective control over the applicant.

[Added 11/18 (cio 1/9/18).]

[S. 5 amended by s. 4(c) of Act 17 of 2007 w.e.f. 22 August 2007; s. 2(c) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(b) of Act 14 of 2009 w.e.f. 30 July 2009; s. 3(b) of Act 10 of 2010 w.e.f. 24 December 2010; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s 3(c) of Act 18 of 2016 w.e.f. 7 September 2016; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020; s. 5 of Act 15 of 2022 w.e.f. 2 August 2022]

6. Determination of application

(1) The central bank may, on an application duly made in accordance with section 5 and after being provided with all such information and documents as it may require under that section, determine the application.

(2) The central bank shall give notice of its determination to the

applicant under subsection (1), within 60 working days of receipt of a complete application under section 5(4), or of the supply of any supplementary information called for by the central bank under section 5(8), as the case may be.

7. Grant or refusal to grant banking licence

(1) The central bank may, following its determination of an application under section 5, grant or refuse the application.

(2) No banking licence shall be granted by the central bank unless it is satisfied –

(a) that the applicant has –

(i) demonstrated that the directors or senior officers of the applicant have technical knowledge, experience in banking or finance and are fit and proper persons to carry on the proposed banking business;

(ii) sufficient financial resources and an adequate capital structure to serve as a continuing source of financial support for the proposed bank;

(iii) demonstrated the soundness and feasibility of the applicant's plans for the future conduct and development of the business of the proposed bank, including accounting and internal control systems;

(iv) the ability and willingness to comply with such other conditions as the central bank may impose under the banking laws;

(b) as to the history and character of the business and management of the applicant;

(c) as to the convenience and needs of the community or market to be served;

[Inserted 18/16 (cio 7/9/16).]

(d) as to the fitness and suitability of the applicant's shareholders, particularly shareholders holding a significant interest; and

[Amended 18/16 (cio 7/9/16).]

(e) where the applicant forms part of a group predominantly engaged in banking activities, that the corporate structure of the group or its geographical location or the banking law in

the home country of the group does not hinder effective consolidated supervision.

[Inserted 18/16 (cio 7/9/16).]

(3) Where the applicant is the branch or a subsidiary of a bank incorporated abroad and is making an application either singly or in joint venture with a bank incorporated in Mauritius, the central bank shall satisfy itself that the bank incorporated abroad is a reputable international bank, having operated as a bank in the jurisdiction of its head office for at least 5 years, and is subject to consolidated supervision by competent foreign regulatory authorities.

[Amended 13/19 (cio 25/7/19).]

(4) The central bank may refuse to grant a banking licence where the applicant intends to operate under a name which –

(a) so resembles that of an existing financial institution in Mauritius or elsewhere as to be likely to mislead the public;

(b) is calculated to suggest falsely a connection with a person or authority outside Mauritius;

(c) is calculated to suggest falsely a special status in relation to the Government of Mauritius, any foreign Government or any public body in or outside Mauritius, or that the applicant enjoys the official support or patronage thereof.

(4A) (a) The central bank shall refuse to grant a banking licence to an applicant which has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a regulated financial group which is subject to effective consolidated supervision.

[Amended 15/21 (cio 5/8/21).]

(b) In this subsection –

"physical presence" –

(a) means management located within the country in which the financial institution is incorporated and licensed; but

(b) does not include the presence in Mauritius of a local agent or staff below management level.

[Inserted 11/18 (cio 1/9/18).]

(5) Where the central bank grants a banking licence, it shall notify the applicant in writing within 7 days of its decision, and shall, upon payment of the annual licence fee, issue a banking licence to the applicant.

(6) A banking licence granted under subsection (5) –

(a) shall specify the name of the licensee; and

(b) shall be subject to such conditions as the central bank may impose.

(7) Subject to section 50(1), no bank shall carry on banking business in any branch, office or place of business other than its principal place of business, unless the bank obtains the prior approval of the central bank.
[Amended 9/15 (cio 14/5/15); 18/16 (cio 7/9/16).]

(7A) No bank shall contract the services of an entity to provide its services on its behalf or enter into an agency agreement for that purpose, without –

(a) the prior written approval of the central bank; and

(b) payment of such appropriate non-refundable processing fee and annual licence fee as may be prescribed by the central bank, with the approval of the Minister.
[Inserted 27/13 (cio 21/12/13).]

(7B) An approval under subsection (7A)(a) may be granted subject to such terms and conditions as the central bank may impose.
[Inserted 27/13 (cio 21/12/13).]

(7C) Sections 10 and 11 shall apply to an approval granted under subsection (7A)(a).
[Inserted 27/13 (cio 21/12/13).]

(7D) A bank which has been granted a banking licence to carry on exclusively private banking business by the central bank may –

(a) (i) be exempted from such provisions of this Act;

(ii) be subject to such terms and conditions and guidelines,

as the central bank may determine;

(b) be authorised, on such terms and conditions as the central bank may determine –

(i) to buy, hold, store or sell gold, silver, platinum and such other precious metals as the central bank may determine –

(A) in its own name; or

(B) as part of the management of its client's investment portfolio and issue a certificate of ownership of such gold, silver, platinum and other precious metals maintained through the investment portfolio;

(ii) to provide safety vault services to its clients for gold, silver, platinum, precious and semi-precious stones, precious metals, pearls, works of art and collectors' pieces or antiques and such other high value goods as the central bank may determine;

(iii) to open and maintain accounts denominated in gold, silver, platinum and such other precious metals as the central bank may determine.

[RR 18/25 (cio 9/8/25).]

[Inserted 18/16 (cio 7/9/16); RR 11/18 (cio 1/9/18).]

(7E) A bank which has been granted a banking licence by the central bank to carry on exclusively digital banking business may –

(a) be exempted from such provisions of this Act;

(b) be subject to such terms and conditions and guidelines as the central bank may determine.

[Inserted 7/2020 (cio 7/8/2020).]

(8) No bank shall open or keep open a new place of business or close or keep closed an existing place of business, or change the location of its business, without the approval of the central bank.

(9) No bank shall be engaged in any business other than the business specified in its banking licence.

(10) A banking licence shall not *de facto or de jure* be transferable without the prior approval of the central bank.

[S. 7 amended by s. 2(a) of Act 14 of 2005 w.e.f. 10 November 2004; s. 2(a) of Act 15 of 2006 w.e.f. 7 August 2006; s. 2(d) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(c) of Act 27 of 2013 w.e.f. 21 December 2013; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 3(d) of Act 18 of 2016 w.e.f. 7 September 2016; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s. 3 of Act 13 of 2019 w.e.f. 25 July 2019; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020; s. 4 of Act 15 of 2021 w.e.f. 5 August 2021; s 3 of Act 18 of 2025 w.e.f. 9 August 2025.]

8. Licence fees

The holder of a licence shall pay to the central bank such annual licence fee as the central bank may determine by regulations made by the central bank, with the approval of the Minister.

[S. 8 amended by s. 4 of Act 9 of 2015 w.e.f. 14 May 2015.]

9. Display of banking licence

(1) Every bank shall at all times display, in a conspicuous place in the public part of its principal place of business, the licence granted to it under this Part and an authenticated copy of the licence shall be displayed in every branch or office of the bank.

[Amended 9/15 (cio 14/5/15); 18/16 (cio 7/9/16).]

(2) Notwithstanding subsection (1), a bank may, with the approval of the central bank, display at its principal place of business an authenticated copy of the licence granted to it under this Part, in such form and manner as the central bank may approve.

[Added 9/15 (cio 14/5/15).]

[S. 9 amended by s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 3(f) of Act 18 of 2016 w.e.f. 7 September 2016.]

10. Power to vary conditions of banking licence

(1) The central bank may, at any time, amend, vary or cancel any condition attached to, or impose new conditions on, the licence of a bank.

(2) Where the central bank proposes to act under subsection (1), it shall notify the bank in writing thereof.

(3) The bank may, within 7 days of receipt of a notice under subsection (2), make representations in writing to the central bank.

(4) The central bank shall, after considering any representations made under subsection (3), take a decision on the action proposed in the notice and notify the bank in writing within 7 days of its decision.

11. Revocation, suspension and surrender of banking licence

[Amended 13/19 (cio 25/7/19).]

(1) Subject to this section, the central bank may revoke a banking licence issued under this Act where the bank –

(a) fails to commence business within a period of 12 months from the date the licence is issued;

(b) is carrying on business in a manner which is contrary or detrimental to the interests of its depositors or the public;

(c) has insufficient assets to cover its liabilities to its depositors or the public;

(d) fails to comply with any directive or instruction issued by the central bank under the banking laws;

(e) contravenes any provision of the banking laws;

(f) is convicted by a Court in Mauritius, Court of the Commonwealth or Court of such other country as may be prescribed, of an offence under any enactment relating to anti-money laundering or prevention of terrorism or the use or laundering in any manner, of proceeds or funding of terrorist activities or other illegal activities or is the affiliate or subsidiary or parent company of a financial institution which is so convicted, provided the conviction is a final conviction;

(g) ceases to carry on banking business;

(h) goes into receivership or liquidation, is wound up or otherwise dissolved;

[Amended 11/18 (cio 1/9/18).]

(i) in the case of a branch of a bank incorporated abroad, the bank loses its banking licence in the jurisdiction where its head office is located;

[Amended 11/18 (cio 1/9/18).]

(j) no longer has a physical presence in the country in which it is incorporated and licensed; or

[Added 11/18 (cio 1/9/18).]

(k) is unaffiliated with a regulated financial group which is subject to effective consolidated supervision.

[Added 11/18 (cio 1/9/18).]

(2) Subject to subsection (3), where the central bank decides to revoke a banking licence, it shall serve on the bank a notice of its decision to do so, specifying a date, which shall be not less than 30 days of the date of the notice, on which the revocation shall take effect.

(3) The central bank may, where subsection (1)(h) applies, revoke the banking licence forthwith without being required to serve the notice under subsection (2).

(4) The bank may, within 14 days of service of a notice under subsection (2), make representations to the central bank.

(5) The central bank shall, after considering any representations made under subsection (4), take a final decision on the revocation and shall notify the bank in writing of its decision.

(6) Where the banking licence of a company is revoked, the banking laws shall continue to apply to the banking business of that company, to such extent as the central bank may direct.

(6A) (a) Without prejudice to subsection (1), where a bank fails to comply with the provisions of this Act or any condition attached to its banking licence, the central bank may, by notice in writing to the bank, suspend its banking licence for such period and subject to such terms and conditions as it may specify.

(b) The central bank shall, in the notice issued under paragraph (a), specify the deficiencies which the bank ought to address.

(c) Before suspending a licence under this section, the central bank shall –

(i) give a bank not less than 14 days' notice in writing;

(ii) give after considering any representations made to it in writing by the bank, take a final decision on the suspension of the banking licence; and

(iii) notify the bank in writing of its decision.

(d) Where the banking licence of a bank is suspended, the banking laws shall continue to apply to the banking business of that bank.

(e) Where a bank fails to remedy the deficiencies specified in the notice issued under paragraph (a), the central bank may revoke the banking licence of that bank under subsection (1).

[Inserted 13/19 (cio 25/7/19).]

(7) A bank may, with the prior permission of the central bank and subject to such conditions as the central bank may specify, surrender its licence at any time.

(8) The central bank may, before or after the revocation or surrender of a banking licence, make such inquiry and give such directions as it may determine, so as to ensure that the interests of depositors and of the public are preserved.

(9) Where a banking licence is revoked or surrendered under this section, the central bank shall give public notice thereof in the *Gazette* and in at least 3 daily newspapers in wide circulation in Mauritius.

[S. 11 amended by s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s. 3 of Act 13 of 2019 w.e.f. 25 July 2019.]

11A. Representative office of foreign bank

(1) No foreign bank shall –

(a) set up a representative office in Mauritius unless it obtains the prior written approval of the central bank; or

(b) subject to subsection (2), carry on in Mauritius, through its representative office, any activity regulated under this Act.

(2) A foreign bank may not, through its representative office, carry on any activity other than an activity specified by the central bank.

(3) (a) An application to set up a representative office shall be made in writing to the central bank and accompanied by such document or information as the central bank may require and on payment of such non-refundable processing fee as the central bank may prescribe with the approval of the Minister.

(b) The central bank may approve the application, with or without conditions, or reject the application.

(c) Where the central bank approves an application, it shall notify the foreign bank in writing and, on payment of such appropriate annual licence fee as the central bank may prescribe with the approval of the Minister, it shall issue the authorisation to open a representative office, in Mauritius, to the foreign bank.

(4) The central bank may, at any time and in writing, amend or revoke any condition under which an approval was granted under subsection (3)(b) or impose new conditions.

(5) The central bank may revoke an approval granted under subsection (3)(b) where –

(a) the representative office –

(i) contravenes any of the banking laws; or

(ii) fails to comply with any condition imposed pursuant to the approval;

(b) the representative office contravenes any other enactment in or outside Mauritius; or

(c) in its opinion, it is in the public interest to do so.

(6) Any person who contravenes subsection (1) or (2) or fails to comply with any condition imposed under subsection (3)(b) or (4) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees and to imprisonment for a term not exceeding 10 years.

(7) (a) The central bank may cause an inspection of the operations and affairs of a representative office to be made by its officers or such other duly qualified person as it may appoint, so as to assess whether the representative office is complying with the banking laws and any directives, guidelines or instructions issued by the central bank.

[Amended 7/2020 (cio 7/8/2020).]

(b) Where the central bank appoints a duly qualified person to conduct an inspection under paragraph (a), the costs incurred in that connection may be recovered, in whole or in part, by the central bank by deduction from any balance of, or money owing to, the foreign bank, as if it were a civil debt.

[S. 11A inserted by s. 3(d) of Act 27 of 2013 w.e.f. 21 December 2013; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

11B. Licensing of specialised financial institution

(1) A body corporate set up for the purpose of facilitating the economic development of Mauritius may apply, in such form and manner as the central bank may determine, for a specialised financial institution licence.

(2) An application under subsection (1) shall be accompanied by such information as the central bank may determine.

(3) The central bank shall, within 60 working days of the receipt of an application, or the supply of any additional information or document, whichever is the later, determine whether to grant or refuse the application and inform the applicant within 7 days of its determination.

(4) Where the central bank grants an application under this section, it shall, on payment of such licence fee as may be prescribed, issue a specialised financial institution licence to the applicant.

(5) Every specialised financial institution licence shall –

(a) specify the name of the licensee; and

(b) be subject to such terms and conditions as the central bank may impose.

(6) Every specialised financial institution shall comply with such prudential requirements as the central bank may specify.

(7) The central bank may, by guidelines, instructions or directives, require a specialised financial institution to comply with such specific provision of this Act as it considers appropriate, to ensure effective supervision of the institution.

(8) The central bank may cause an inspection of the operations and affairs of a specialised financial institution to be made by its officers or such other duly qualified person as it may appoint, so as to assess whether the specialised financial institution is complying with the banking laws and any guidelines, instructions or directives issued by the central bank.

(9) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

11C. Regulatory sandbox authorisation

(1) A financial institution, a licensee under the National Payment Systems Act 2018 or a body corporate may apply to the central bank for a regulatory sandbox authorisation in such form and manner, and shall be accompanied by such documents, as the central bank may determine.

(2) The central bank may, on receipt of an application under subsection (1), grant a regulatory sandbox authorisation where it is satisfied that the applicant meets such requirements, including eligibility criteria, as the central bank may determine.

(3) Where the central bank grants an application under subsection (2), it may issue a regulatory sandbox authorisation –

(a) for a specified period; and

(b) subject to such terms and conditions, including appropriate safeguards to contain the consequences of failure and maintain the overall safety and soundness of the financial system, as it may determine.

(4) (a) The central bank may, in such circumstances as may be prescribed, exempt a person who has obtained a regulatory sandbox authorisation from any regulatory requirement.

(b) An exemption under paragraph (a) shall be specified in the regulatory sandbox authorisation.

(5) (a) The regulatory sandbox authorisation shall lapse on the expiry of the specified period referred to in subsection (3)(a).

(b) The holder of a regulatory sandbox authorisation who intends to renew the regulatory sandbox authorisation shall make a written application to the central bank.

(c) On receipt of an application under paragraph (b), the central bank may renew a regulatory sandbox authorisation for such specified period and on such conditions as it may determine.

(6) Upon the central bank being satisfied of the successful experimentation of fintech, regtech or such other relevant innovation driven financial service, as the case may be, the holder of a regulatory sandbox authorisation may submit an application to the central bank for the relevant licence or authorisation under the Banking Act or the National Payment Systems Act 2018.

(7) The central bank may cause an examination of the operations and affairs of a holder of a regulatory sandbox authorisation to be made by its officers or such other duly qualified person as it may appoint so as to assess compliance of the holder of the regulatory sandbox authorisation with the terms and conditions of the authorisation or any guidelines, instructions or directives issued by the central bank under this section.

(8) Sections 10, 11 and 17 shall apply to the holder of a regulatory sandbox authorisation granted under this section.

[S. 11C inserted by s. 4 of Act 15 of 2021 w.e.f. 5 August 2021.]

11D. Establishment of fintech innovation hub and digital lab

(1) The central bank may establish a fintech innovation hub and digital lab –

(a) to foster innovation and the use of emerging technologies to facilitate the provision of banking and payment solutions and other related services falling under the purview of the central bank;

(b) to identify critical trends in technology affecting the banking and payment services sectors and develop in-depth insights into these technologies;

(c) to provide a testing environment for fintech to develop, test, prototype and operate products or services;

(d) to establish an international networking platform for experts on innovative technologies related to the banking and payment services sectors to promote research, exchange of views and knowledge-sharing; and

(e) for such other purposes as the central bank may determine.

(2) The central bank shall determine the requirements for a person to enter, participate or operate in the fintech innovation hub and digital lab.

(3) Any person who enters, participates or operates in the fintech innovation hub and digital lab shall comply with such terms and conditions as the central bank may determine.

(4) The central bank may seek the collaboration of any financial institution, or public or private sector agency for the establishment of the fintech innovation hub and digital lab.

[S. 11C inserted by s. 4 of Act 15 of 2021 w.e.f. 5 August 2021.]

12. Licensing of deposit taking business

(1) No person, other than a non-bank deposit taking institution in operation on 10 November 2004, shall carry on deposit taking business in Mauritius.

(2) Every non-bank deposit taking institution in operation on 10 November 2004, shall take out a licence of deposit taking business granted by the central bank.

(3) The licence under subsection (2) shall be granted on such terms and conditions as the central bank may determine.

(4) Where the central bank grants a licence under this section, it shall notify the applicant thereof in writing and on payment of such appropriate

annual licence fee as may be prescribed by regulations made by the central bank, with the approval of the Minister, the central bank shall issue the licence.

(5) A non-bank deposit taking institution shall be subject to the same prudential regulation as a bank, including Part III, Part IV, Part V and Part VI and any directives, guidelines and instructions issued thereunder and the existing terms and conditions of non-bank deposit taking institutions shall stand amended to that effect.

[Amended 7/2020 (cio 7/8/2020).]

(Subsec. (5) came into operation on 1 June 2007.)

(5A) Notwithstanding section 20, a non-bank deposit taking institution shall maintain and continue to maintain in Mauritius an amount paid as stated capital of not less than 200 million rupees or such higher amount as may be prescribed, after deduction of the accumulated losses of the non-bank deposit taking institution.

[Inserted 11/18 (cio 1/9/18).]

(6) The central bank shall encourage proposals to sell or merge the deposit taking business of an existing non-bank deposit taking institution to –

(a) another non-bank deposit taking institution, with the object of establishing a bank; or

(b) a bank.

(7) No non-bank deposit taking institution shall –

(a) be permitted to extend its network of branches; or

(b) close or keep closed a place of business or change the location of its business,

without the prior written approval of the central bank.

[S. 12(7) inserted by s. 3(c) of Act 14 of 2009 w.e.f. 30 July 2009; ; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

13. Licensing of cash dealers

(1) No person shall, subject to subsection (2), engage in the business of cash dealer in Mauritius without an appropriate licence granted by the central bank.

(2) No person, other than a company, shall be granted a licence under section 14.

(3) No person, other than a bank, shall engage –

(a) in foreign exchange business in Mauritius without a foreign exchange dealer licence issued by the central bank; or

(b) in money changer business in Mauritius without a money changer licence issued by the central bank.

14. Granting of licences to cash dealers

(1) Any body corporate desirous of carrying on business of cash dealer in Mauritius shall, before commencing that business, apply to the central bank for a foreign exchange dealer licence or money changer licence, as the case may be.

(2) Any application under subsection (1) shall be made in such medium and in such form as the central bank may determine and shall be accompanied by –

(a) such information or document as may be required for the purposes of determining the application; and

(b) payment of such appropriate non-refundable processing fee as may be prescribed by regulations made by the central bank, with the approval of the Minister.

(3) The central bank may request the applicant to furnish such additional information or document as it may determine to process the application.

(4) The central bank shall, within 30 days of the receipt of the application, or the supply of any additional information or document requested under subsection (3), determine whether to grant or refuse the application and inform the applicant within 7 days of its decision.

(5) Where the central bank determines to grant a licence under this section, it shall, on payment of such annual licence fee as may be prescribed by regulations made by the central bank, with the approval of the Minister, issue the licence on such terms and conditions as it may determine.

(6) The central bank shall, when granting a foreign exchange dealer licence or a moneychanger licence under this section, comply with section 7(2), (4) and (4A) with such modifications, adaptations and exceptions as may be necessary.

[Added 7/2020 (cio 7/8/2020).]

[S. 14 amended by s. 2(b) of Act 14 of 2005 w.e.f. 10 November 2004; s. 2 of Act 7 of 2020 w.e.f.

7 August 2020.]

14A. Licensing of credit information bureau or recognition of external credit assessment institution

No person, other than a company, shall engage in the business of credit information bureau or a recognised external credit assessment institution without an appropriate licence or recognition, granted by the central bank, as the case may be.

[S. 14A inserted by s. 2(e) of Act 18 of 2008 w.e.f. 19 July 2008.]

14B. Granting of licence to credit information bureau

(1) Any company wishing to carry on the business of a credit information bureau shall apply to the central bank for a credit information bureau licence.

(2) An application under subsection (1) shall be made in such form and manner as the central bank may determine and shall be accompanied by –

(a) such information or document as may be required by the central bank for the purposes of determining the application; and

(b) such appropriate non-refundable processing fee as the central bank may prescribe.

(3) The central bank shall, within 30 days of the receipt of an application, or the supply of any additional information or document, determine whether to grant or refuse the application and inform the applicant within 7 days of its decision.

(4) Where the central bank decides to grant a licence under this section, it shall, on payment of such licence fee as may be prescribed, issue the licence on such terms and conditions as it may determine.

[S. 14B inserted by s. 2(e) of Act 18 of 2008 w.e.f. 19 July 2008.]

14C. Recognition of external credit assessment institution

(1) Subject to subsection (2), any institution desirous of being recognised by the central bank as an external credit assessment institution shall submit an application for recognition to the central bank in such medium and in such form as the central bank may determine and shall be accompanied by such information or document as may be required for the purpose of determining the application.

(2) On 19 July 2008, any institution whose ratings have been authorised by the central bank to be used by banks for capital adequacy purposes shall be deemed to have been recognised by the central bank under this section.

(3) The central bank may issue guidelines governing external credit assessment institutions including their recognition, suspension or revocation of their recognition by the central bank and their use by financial institutions.

[S. 14C inserted by s. 2(e) of Act 18 of 2008 w.e.f. 2008.]

14D. –
[R 7/2020 (cio 7/8/2020).]

[S. 14D inserted by s. 3(e) of Act 27 of 2013 w.e.f. 21 December 2013; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

14E. Granting of licences to issuer of money market instruments
[Amended 11/18 (cio 14/6/18).]

(1) No person shall issue a money market instrument unless the person is an eligible institution which holds an issuer of money market instrument licence issued by the central bank.
[Amended 11/18 (cio 14/6/18).]

(2) An eligible institution which intends to issue a money market instrument shall apply to the central bank for an issuer of money market instrument licence.
[Amended 11/18 (cio 14/6/18).]

(3) An application under subsection (2) shall be made in such form and manner as the central bank may determine and shall be accompanied by –

(a) such information or document as may be required by the central bank for the purpose of determining the application; and

(b) payment of such non-refundable processing fee as may be prescribed by regulations made by the central bank, with the approval of the Minister.

(4) The central bank may request the applicant to furnish such additional information or document as it may determine to process the application.

(5) The central bank shall, within 30 days of the date of receipt of an application, or the supply of any additional information or document requested

under subsection (4), determine whether to grant or refuse the application and inform the applicant within 7 days of its decision.

(6) Where the central bank determines to grant a licence under this section, it shall, on payment of such licence fee as may be prescribed by regulations made by the central bank, with the approval of the Minister, issue the licence on such terms and conditions as it may determine.
[Amended 11/18 (cio 14/6/18).]

(7) An eligible institution which has been licensed to issue a money market instrument under this section shall comply with such prudential requirements as the central bank may, by guidelines, instructions or directives, determine.

(8) In this section –

"eligible institution" means –

(a) a financial institution or a company incorporated or registered under the Companies Act, having –

(i) at any point in time, not earlier than 12 months prior to the proposed issue of a money market instrument, net assets of a total value exceeding 300 million rupees, as certified by its auditors and reflected in its audited financial statements; and
[Amended 15/21 (cio 5/8/21).]

(ii) operating cash flows at least equal to the size of the issue of the money market instrument; and

(iii) –
[R 15/21 (cio 5/8/21).]

(b) a body established under any enactment and which has the power to borrow funds under that enactment; or

(c) such other body corporate as the central bank may approve;

"money market instrument" means a secured or an unsecured instrument having a maturity of not more than 12 months, issued, in certificated or book-entry form, by an eligible institution in rupees or in such convertible currency as the central bank may approve.
[RR 11/18 (cio 14/6/18).]

[S. 14E inserted by s. 3(e) of Act 27 of 2013 w.e.f. 21 December 2013; repealed by s. 3(f) of Act 18 of 2016 w.e.f. 20 October 2016; s. 4 of Act 10 of 2017 w.e.f. 24 July 2017; s. 3(f) of Act 11 of 2018 w.e.f. 14 June 2018; s. 4 of Act 15 of 2021 w.e.f. 5 August 2021.]

15. Display of licence

Every person licensed under section 12, 14, 14A, 14B or 14D shall at all times display, in a conspicuous place at its principal place of business, the licence granted to it and an authenticated copy of the licence shall be displayed in each branch or office of the cash dealer or the non-bank deposit taking institution.

[S. 15 amended by s. 2(f) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(f) of Act 27 of 2013 w.e.f. 21 December 2013; s. 3(g) of Act 18 of 2016 w.e.f. 20 October 2016.]

16. Variation, revocation and surrender of other licences

Sections 10 and 11 shall apply to a licence granted under section 12, 14, 14A, 14B or 14D.

[S. 16 repealed and replaced by s. 2(g) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(g) of Act 27 of 2013 w.e.f. 21 December 2013; s. 3(h) of Act 18 of 2016 w.e.f. 20 October 2016.]

17. Procedure in cases of urgency

(1) Notwithstanding section 10, 11 or 16, the central bank may, in cases of urgency and in the public interest –

(a) amend, vary or cancel any condition attached to a licence or impose a condition on a licence; or

(b) suspend or revoke a licence.
[RR 13/19 (cio 25/7/19).]

(2) Any amendment, variation, cancellation or imposition of a condition of a licence or any suspension or revocation of a licence specified in subsection (1) shall be notified to the financial institution and shall have immediate effect and bind the financial institution accordingly.
[Amended 13/19 (cio 25/7/19).]

(3) The financial institution may, within 7 days of the notification under subsection (2), make representations to the central bank.

(4) The central bank shall, within 14 days of any representations made under subsection (3) and after considering those representations, notify the financial institution of its final decision.

(5) Where a licence is revoked under this section, the central bank shall give public notice in the *Gazette* and in at least 3 daily newspapers in wide circulation in Mauritius.

[S. 17 repealed and replaced by s. 3 of Act 13 of 2019 w.e.f. 25 July 2019.]

18. Limitations on management and remuneration

(1) No financial institution incorporated in Mauritius shall be managed by any person other than the persons on its board of directors or by any person other than persons appointed by the board of directors.

(2) Any branch of a foreign financial institution shall be managed by persons appointed by the parent financial institution, which appointment shall be subject to the approval of the central bank.

(3) Subject to subsection (4), no financial institution incorporated in Mauritius shall have a board of directors consisting of fewer than –

(a) 5 natural persons; and

(b) 40 per cent independent directors.

(Subsec. (3) came into operation on 15 September 2008.)

(4) The central bank may –

(a) having regard to the size, complexity and ownership of a bank or non-bank deposit taking institution, require the bank or non-bank deposit taking institution to have more than 40 per cent independent directors and the appointment of any such additional director or directors shall be subject to the prior approval of the central bank;

(b) having regard to the scope of the activities undertaken by a financial institution, require that its board of directors be composed of such higher number of persons or, where the financial institution is a subsidiary or an associate of a foreign banking group of companies, 40 per cent non-executive directors instead of 40 per cent independent directors, as the central bank may direct; and

(c) in the case of a cash dealer, require that its board of directors be composed of such lower number of persons as the central bank may direct.

(Subsec. (4) came into operation on 15 September 2008.)

(5) No financial institution shall employ any person whose remuneration is linked to the income of the financial institution or to the level of activities on customers' accounts.

(6) Without limiting the generality of subsections (1) and (2), the

directors of a financial institution shall –

(a) establish such committees of the Board as the Board may determine to discharge its responsibilities effectively;

(b) establish such procedures as may be necessary to resolve conflicts of interest, including techniques for the identification of potential conflict situations and for restricting the use of confidential information;

(c) take into account the requirements of the banking laws and establish such procedures as may be necessary to provide disclosure of information to customers and other parties having a direct interest in the financial institution; and

(d) approve major policies of the financial institution, including, as applicable, investment, lending and risk management policies and standards and procedures in respect of such policies.

(7) Every director or senior officer of a financial institution shall, in exercising any of his powers and discharging any of his duties –

(a) act honestly and in good faith and in the best interest of the financial institution; and

(b) exercise care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances.

(8) Every director or senior officer of a financial institution shall comply with the banking laws, directives, guidelines and instructions issued by the central bank and with the constitution and by-laws of the financial institution.
[Amended 7/2020 (cio 7/8/2020).]

(8A) Where, in the course of the performance of his duties, a director comes across transactions or conditions in a financial institution affecting its well-being and he has reason to believe that –

(a) there has been or there is likely to be a breach of the banking laws or the Companies Act;

(b) measures to counter the possibility of money laundering or the funding of terrorist activities in accordance with any enactment have not been or are not being properly implemented;

(c) directives, guidelines or instructions issued by the central bank have not been or are not being properly followed;

[Amended 7/2020 (cio 7/8/2020).]

(d) a criminal offence involving fraud or dishonesty has been, is being or is likely to be committed;

(e) there may be a conflict of interest or potential conflict of interest; or

(f) any other serious irregularity has occurred or is about to occur, including any irregularity which is likely to jeopardise the security of depositors and creditors,

he shall forthwith inform the central bank accordingly.

[Inserted 13/19 (cio 25/7/19).]

(8B) Section 54A shall apply to any disclosure made by a director under subsection (8A).

[Inserted 13/19 (cio 25/7/19).]

(9) Every former director or senior officer of a financial institution shall remain accountable for his obligation to have met the standards of conduct in accordance with subsection (7) and the compliance requirements of subsection (8) during his term of office.

(10) No provision in any contract or in the constitution of a company or any resolution of a company shall relieve any director or senior officer from the duty to act in accordance with the banking laws or from liability for breach thereof.

[S. 18 amended by s. 2(h) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(c) of Act 10 of 2010 w.e.f. 24 December 2010; s. 3 of Act 13 of 2019 w.e.f. 25 July 2019; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

19. Other restrictions

No financial institution shall –

(a) be amalgamated with any other bank or other financial institution except in accordance with section 32;

(b) cause or permit any person –

(i) to hold any significant interest in any class of shares in its stated capital, except with the prior approval of the central bank; or

(ii) to acquire, directly or indirectly, any interest in any class of shares in its stated capital in contravention of section 31;

(c) make, except with the prior approval of the central bank, any alteration to its constitution or instrument of incorporation; or

(d) with a view to engaging in non-competitive market practices detrimental to consumers of financial services, make an agreement or arrangement with another financial institution with respect to –

(i) the rate of interest on a deposit;

(ii) the rate of interest or the charges on a loan or other forms of credit;

(iii) the amount or kind of any charge for a service provided to a customer;

(iv) the amount or kind of credit to a customer;

(v) the kind of service to be provided to a customer; or

(vi) the classes of persons to whom a loan or other service will be made or provided or from whom a loan or other service will be withheld.

PART III – CAPITAL STRUCTURE, RESERVE ACCOUNT AND OTHER FINANCIAL PROVISIONS

20. Minimum capital requirements of banks

(1) The central bank shall not grant, and no bank shall hold, a banking licence unless the bank maintains and continues to maintain in Mauritius, such amount paid as stated capital or such amount of assigned capital of not less than 400 million rupees or such equivalent amount in any freely convertible currency held in assets in or outside Mauritius, as may be approved by the central bank or such higher amount as may be prescribed, after deduction of the accumulated losses of the bank.

[Amended 10/17 (cio 24/7/17).]

(2) Every bank shall maintain, in Mauritius, capital of such percentage or ratio as may be determined by the central bank, of such of that bank's risk assets and of other types of risks as may be specified by the central bank, the basis of computation, including the definition of capital and risk assets and other types of risks, being specified by the central bank.

[Amended 7/2020 (cio 7/8/2020).]

(3) –
[R 7/2020 (cio 7/8/2020).]

(4) In determining the percentage or ratio specified in subsection (2) for different banks, the central bank shall have regard to –
[Amended 7/2020 (cio 7/8/2020).]

(a) the nature, scale and risks of the bank's operations;

(b) other financial resources available to the bank; and

(c) the amount and nature of capital required, in the central bank's opinion, to protect the interests of depositors and potential depositors and the public.

(5) Notwithstanding subsection (2), in the case of a bank in receivership or in an action contemplated under Part IX of this Act, the central bank may temporarily set a different percentage or ratio.

[S. 20 amended by s. 4 of Act 10 of 2017 w.e.f. 24 July 2017; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

21. Maintenance of Reserve Account of banks

(1) Subject to subsection (2), every bank shall maintain a Reserve Account and shall transfer each year to the Reserve Account out of the net profits of that year, after due provision has been made for income tax, a sum equal to not less than 15 per cent of the net profits until the balance in the Reserve Account is equal –

(a) in the case of a bank incorporated in Mauritius, to the amount paid as stated capital;

(b) in the case of a bank incorporated outside Mauritius and having a branch in Mauritius, to the amount of its assigned capital.

(2) Where a bank makes a loss, the net loss shall be set off against any profit made in subsequent years until a position of net cumulative profit is reached and the transfer to the Reserve Account specified in subsection (1) shall be calculated and made on the net position.

(3) No profit shall be transferred and no dividend shall be declared unless the transfer specified in subsection (1) has been made, but the central bank may, where it considers the balance held in the Reserve Account of the bank to be adequate, declare, by order in writing directed to the bank, that subsection (1) shall not apply to that bank for such period and subject to such

conditions as may be specified in the order.

22. Liquid assets of banks

(1) Every bank shall maintain in Mauritius adequate and appropriate forms of liquidity and comply with any guidelines or instructions issued by the central bank in relation thereto.

(2) The level of liquidity to be maintained by a bank may be expressed as a percentage of such of that bank's deposits and other liabilities, including contingent liabilities, as may be determined by the central bank, averaged on a basis to be fixed by the central bank.

(3) Notwithstanding any guidelines or instructions issued under subsection (1), the central bank may, by order in writing, direct a bank to provide additional liquidity in such form and amounts and within such time frame as may be determined by the central bank.

(4) In determining the additional liquidity referred to in subsection (3), the central bank shall in each case have regard to –

(a) the nature, scale and risks of the bank's operations;

(b) other financial resources available to the bank;

(c) the relationship between the bank's liquid assets and its actual or contingent liabilities;

(d) the times at which the liabilities shall or may fall due and the assets mature.

(5) For the purposes of this section –

"liquid assets" includes cash, balances with banks in Mauritius, balances with the central bank, balances with foreign banks and freely tradable securities denominated in freely convertible currencies as may be specified by the central bank and notified to the bank, Bank of Mauritius Bills, Government securities, and such other assets, of such classes and maturities and for such other aggregate figures, as may be specified by the central bank and notified to the bank.

[S. 22 amended by s. 2(i) of Act 18 of 2008 w.e.f. 19 July 2008.]

23. Failure to maintain minimum holdings

(1) Every bank shall furnish, within a reasonable time and in any event

not later 7 days from the date of a request to that effect made by the central bank, such information as may be required by the central bank to indicate whether the bank has complied with section 22.

(2) No bank shall –

(a) allow its holding of liquid assets to be less than the percentage, level or proportion which is determined by the central bank under section 22;

(b) grant or permit, for the period during which liquid assets are less than the percentage level or proportion determined by the central bank under section 22, any increase in its outstanding loans, overdrafts or investments.

24. Minimum capital requirements

(1) Every cash dealer shall, at all times, maintain in Mauritius such amount paid as stated capital as may be approved by the central bank or such higher amount as may be prescribed, after deduction of accumulated losses of the cash dealer.

(2) No cash dealer shall declare, credit or pay any dividend or make any other transfer from profits until –

(a) its minimum capital requirement has been met;

(b) adequate provision has been made for existing or contingent liabilities.

[S. 24 amended by s. 3(d) of Act 14 of 2009 w.e.f. 30 July 2009.]

25. Minimum liquid assets of foreign exchange dealers

Every foreign exchange dealer shall at all times maintain such minimum liquid assets, equivalent to not less than 10 per cent of its liabilities, as may be determined by the central bank.

26. Other prudential requirements

(1) Sections 7 and 10 of this Act shall apply to any cash dealer.

(2) Every cash dealer shall at all times comply with such other prudential requirements as may be specified by the central bank.

[S. 26 amended by s. 2(b) of Act 15 of 2006 w.e.f. 7 August 2006.]

PART IV – LIMITATIONS ON OPERATIONS

27. Restriction on payment of dividends

(1) Notwithstanding the Companies Act 1984 and Companies Act 2001, no bank shall declare, credit or pay, or transfer abroad, any dividend or make any other transfer from profits until –

(a) the central bank is satisfied that the payment of dividend or any other transfer from profits will not cause the bank to be in contravention of the capital adequacy requirements of section 20 or liquidity requirements of section 22, or likely to impair the future capital adequacy or liquidity of the bank;

(b) any impairment in its amount paid as stated capital or assigned capital has been made good;
[Amended 1/19 (cio 15/12/23).]

(c) adequate provision, to the satisfaction of the central bank, has been made in respect of impaired credits; and
[Amended 1/19 (cio 15/12/23).]

(d) in the case of a bank or non-bank deposit taking institution, adequate provision, to the satisfaction of the central bank, has been made in respect of premium contribution to the Mauritius Deposit Insurance Corporation Ltd.
[Added 1/19 (cio 15/12/23); Am 11/24 (cio 27/7/24).]

(2) For the purposes of this section, an issue of bonus shares out of profits shall be deemed to be a payment of dividends.

(3) Every bank shall make quarterly reports to the central bank on the matters specified in subsection (1) in such form and in such manner as may be approved by the central bank.

[S. 27 amended by s. 34 of Act 1 of 2019 w.e.f 15 December 2023; s. 7(a) of Act 11 of 2024 w.e.f. 27 July 2024.]

28. Limitation on advances or credits

(1) No bank or non-bank deposit taking institution shall –

(a) grant any advance or credit against the security of its own shares;

(b) grant to, or permit to be outstanding from, its officers or employees unsecured advances or unsecured credit which,

in the aggregate and in relation to any officer or employee, exceed the annual emoluments of that officer or employee; or

(c) grant credits to, or permit to be outstanding from, or purchase securities issued by or the assets of, an affiliate in an amount which exceeds such maximum limit as may be determined by the central bank.

(2) The central bank may determine the maximum limits of credits and off-balance sheet commitments, which a bank or non-bank deposit taking institution may grant to a related party and to all related parties.

(3) Any transaction with any related party involving credit, or off balance sheet commitments and the acquisition of securities and other assets shall be made on substantially the same terms, including interest rates and collateral required, as those prevailing at the time for comparable transactions with other persons and may not involve more than the normal risk of repayment or present other unusual features.

(4) The central bank may issue guidelines governing related party transactions including limitation on such transactions, their approval process and their public disclosure.

29. Limitation on concentration of risk

(1) The central bank shall, by way of guidelines, set out regulatory credit concentration limits related to the capital base of a bank in respect of –

(a) individual large credit exposure, including off balance sheet commitments, to any one customer or group of closely-related customers; and

(b) aggregate amount of large credit exposure to all customers and groups of closely-related customers.

(2) The central bank may issue instructions to banks, clarifying who is deemed a customer or group of closely-related customers under subsection (1).

(3) Any instructions issued by the central bank shall be in writing and binding on the banks.

(4) The central bank may exempt from compliance with this section as it deems fit, the part of a bank's banking business or investment banking business that is conducted in currencies other than Mauritius currency.

30. Limitation on investments and non-banking operations

(1) Subject to the other provisions of this section, no financial institution shall, except in the course of the satisfaction of debts due to it by the default of the debtor –

(a) engage, whether on its own account or on the basis of a commission, in the wholesale or retail trade, including the import or export trade, or in any business other than the business for which the financial institution is licensed under this Act;

(b) acquire or hold any interest in the capital of any financial, commercial, agricultural, industrial or other undertaking other than in respect –

(i) of a purchase, for the account of a customer and without recourse, of shares or stock;

(ii) subject to the approval of the central bank, of a shareholding in any undertaking the object of which is to insure deposits or promote the development of a money or securities market in Mauritius;

(iii) subject to the approval of the central bank and to sub-section (8), of a shareholding in any undertaking the object of which is to promote the economic development of Mauritius;

(iv) subject to the approval of the central bank, of a shareholding in any other undertaking up to an amount which, in the aggregate, does not exceed 30 per cent of the financial institution's current capital base, the shareholding being valued at its fair market value or, where it is not practicable to determine the fair market value, at a valuation approved by the central bank.

(v) a shareholding of a bank licensed to conduct Islamic banking business or that unit of a bank carrying on Islamic business through a window for the purposes of enabling the bank or that unit to carry on Islamic banking business.

(1A) The central bank may, on application by a financial institution, waive the requirements under subsection (1)(b).

[Inserted 11/18 (cio 1/9/18).]

(2) The central bank may prescribe the classes of investment permitted under subsection (1)(b)(iii) and the maximum investment that a financial institution may make in it, provided that such classes shall be so closely related to banking as to be reasonably incidental thereto.

(3) (a) A bank engaging in factoring, promoting or managing a collective investment scheme or securities brokerage operations shall do so only through a subsidiary of the bank and in such a case, section 3(3) shall apply to a subsidiary as it applies to a bank.

(b) Subject to section 3(3), a bank may engage in the sale of insurance policies or distribution of collective investment schemes or such other products as may be approved by the central bank.

(3A) No bank shall engage in the business of providing operating leases.

(3B) (a) Notwithstanding this Act, a financial institution may buy, sell, hold or manage such pool of assets as the central bank may determine.

(b) Any financial institution proposing to buy, sell, hold or manage a pool of assets under subparagraph (a) shall –

(i) obtain the prior approval of the central bank;

(ii) comply with such terms and conditions, including such limit on the value of these assets, as the central bank may determine; and

(iii) act in accordance with such directives, guidelines or instructions as the central bank may issue.

[Amended 7/2020 (cio 7/8/2020).]

[SS. 3B inserted by s. 3 of Act 27 of 2013 (NIF).]

(4) A bank licensed under this Act shall not have a significant interest in another bank in Mauritius.

(5) Subject to subsection (5A), a financial institution shall not purchase or otherwise acquire any immovable property or any right therein except as may be reasonably necessary for the purpose of conducting its operations or engaging in financial leasing of immovable property, including provision for foreseeable expansion, or for providing housing or other amenities for its staff.

(5A) Subsection (5A) shall not apply to a bank licensed to conduct Islamic banking business or to that unit of a bank carrying on Islamic banking business through a window which purchases or otherwise acquires immovable property for the purpose of enabling that bank or that unit to carry on Islamic

banking business.

(6) Where a financial institution, in the course of the satisfaction of debts due to it, acquires any interest in the capital of any undertaking or in any other property, movable or immovable, by the default of the debtor, it shall dispose of the interest without undue delay.

(7) Notwithstanding subsection (1), a bank may invest an amount not exceeding 10 per cent of its current capital base in shares of companies listed on a securities exchange licensed under the Securities Act, subject to any such investment –

(a) not being made by the bank directly or indirectly in its own shares; and

(b) not exceeding, in the aggregate, 5 per cent of the total shareholdings of any such company.

(8) A bank may, for the purpose of participating in the equity capital of enterprises and subject to such investment not having the effect of impairing such capital adequacy requirements as may be imposed from time to time pursuant to section 20, set up or participate in an equity fund approved by the Financial Services Commission established under the Financial Services Act.

(9) The central bank may exempt a bank, with respect to its banking business or investment banking business in currencies other than Mauritius currency, from compliance with subsections (1)(b) and (5) in so far as activities and operations referred to in those subsections are carried on outside Mauritius and do not involve the acquisition of any interest in movable or immovable property in Mauritius.

[S. 30 amended by s. 156(6) of Act 22 of 2005 w.e.f. 28 September 2007; s. 97(1) of Act 14 of 2007 w.e.f. 28 September 2007; s. 2(j) of Act 18 of 2008 w.e.f. 19 July 2008; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s. 15 of Act 7 of 2020 w.e.f. 7 August 2020.]

30A. Prohibition of floating charge on assets

(1) Notwithstanding section 30, a bank or non-bank deposit taking institution shall not create a floating charge on the undertaking or any property of the bank or non-bank deposit taking institution or any part thereof, unless the creation of such floating charge is approved by the central bank as not being detrimental to the interests of the depositors of the bank or non-bank deposit taking institution.

[Am 11/24 (cio 27/7/24)]

(2) Any floating charge under subsection (1) created without the approval of the central bank shall be null and void.

[Am 11/24 (cio 27/7/24)]

[S.30A inserted by s. 34 of Act 1 of 2019 w.e.f. 15 December 2023; s. 7(b) of Act 11 of 2024 w.e.f. 27 July 2024.]

31. Acquisition of interest in a financial institution

(1) No financial institution shall, except as may be approved by the central bank, cause or permit any person to pledge or sell any of his shares which may, directly or indirectly, cause any other person to acquire a significant interest in the financial institution.

(2) Any sale or pledge of shares in contravention of subsection (1) shall be invalid, null and void and cause the person to forfeit all rights pertaining to voting or payment of dividends.

(3) A person proposing to acquire significant interest under subsection (1) shall give 30 days' prior notice to the central bank of the acquisition, and such notice shall contain –

(a) the name, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made and shall be accompanied by a certificate of good conduct in respect of each person from a competent authority or an affidavit duly sworn stating any conviction for a crime and any past or present involvement in a managerial function in a body corporate subject to insolvency proceedings or having declared personal bankruptcy, in respect of each of the persons;

(b) a statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made together with a statement of income and cash flow statement;

(c) the terms and conditions of the proposal acquisition and the manner in which the acquisition is to be made;

(d) the identity, source and amount of the funds or other consideration used or to be used in making the acquisition;

(e) any plans or proposals which any acquiring party making the acquisition may have to liquidate the financial institution, to sell its assets or merge it with any company or to make any other major change in its business, corporate structure or management; and

(f) any additional relevant information that the central bank may require.

(4) The central bank shall not approve a proposed acquisition where –

(a) the proposed acquisition would give rise to undue influence or would result in a monopoly or substantially lessen competition;

(b) the financial condition of any acquiring person might jeopardise the financial stability of the financial institution or prejudice the interests of its depositors;

(c) the competence, experience or integrity of any acquiring person, or of any proposed director, chief executive officer or other senior officer, indicates that it would not be in the interest of the depositors of the financial institution or in the interest of the public to permit such person to acquire significant interest in the financial institution;

(d) the proposed acquisition will not be conducive to the convenience and needs of the community or market to be served; or

(e) any acquiring person fails to furnish the central bank all the information that it requires.

(5) Any share of a financial institution held by a person without approval of the central bank in subsection (1) shall be null and void and shall not entitle its holder to any voting rights or payment of dividends.

[S. 31 amended by s. 3(d) of Act 10 of 2010 w.e.f. 24 December 2010.]

32. Mergers

(1) No financial institution shall merge or consolidate with any other financial institution or acquire, either directly or indirectly, the assets of, or assume liability to pay any deposit made in, any other financial institution except with the prior approval of the central bank.

(2) Any financial institution which proposes any merger, consolidation, acquisition or assumption of liability, under subsection (1) shall give 30 days' prior notice to the central bank.

(3) On receipt of a notice under subsection (2), the central bank shall take into consideration the financial and managerial resources and future prospects of the existing and proposed financial institutions, and the

convenience and needs of the public.

(4) The central bank shall not approve a proposed transaction referred to in subsection (2) where the proposed transaction would result in a monopoly or substantially lessen competition unless it finds that the anti-competitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the public.

32A. Transfer of undertaking by bank

(1) Subject to subsection (11), where, for the purpose of restructuring its business or for such other purpose as the central bank may approve, a bank proposes to transfer the whole or part of its undertaking to –

(a) its parent;

(b) its wholly owned subsidiary;

(c) a wholly owned subsidiary of its parent; or

(d) another financial institution or a specialised financial institution,

it shall apply, in such form and manner as the central bank may determine, to the central bank for approval and pay such non-refundable processing fee as the central bank may, with the approval of the Minister, determine.

[Repealed and replaced 9/15 (cio 14/5/15).]

(2) Notwithstanding subsection (1), the central bank may require a bank to restructure its business in the manner referred to in subsection (1).

(3) The central bank shall not give its approval pursuant to subsection (1) or require a bank to restructure its business pursuant to subsection (2), unless it is of the opinion that that it is expedient to do so, having regard to –

(a) its objects and functions under sections 4 and 5 of the Bank of Mauritius Act;

(b) any systemic risk that the bank may pose;

(c) any incidence which the bank may have on the stability of the financial system of Mauritius;

(d) the need to further protect the bank's depositors and the public.

(4) A bank shall –

(a) on making an application under subsection (1), submit to the central bank, in such form as the central bank may determine, a provisional list of its assets and liabilities updated as at the day immediately preceding the date of the application; or

(b) on being required by the central bank to restructure its business under subsection (2), submit, in such form as the central bank may determine and within such time as the central bank may specify, a provisional list of its assets and liabilities updated as at the day immediately preceding the date of the submission.

(5) Where the central bank gives its approval for a transfer of the whole or part of the undertaking of a bank or requires the restructuring of a bank under this section –

[Amended 9/15 (cio 14/5/15).]

(a) the central bank shall require the transferor bank to effect the transfer of the undertaking in accordance with such terms and conditions as the central bank may determine;

(b) the transferor bank shall comply with such other regulatory requirements relating to any part of its business under any enactment and shall submit to the central bank written confirmation of such compliance;

(c) (i) the transferor bank shall, within 14 days of the approval or requirement, give written notice to each of its shareholders informing him of his right to require the transferor bank to purchase his shares in lieu of being allotted shares in the transferee bank; and

(ii) where a shareholder intends to exercise his right under subparagraph (i), he shall, within 28 days of the date of the notice referred to in that subparagraph, require the transferor bank to purchase such shares in the manner set out in section 110 of the Companies Act, provided that reference in section 110 of the Companies Act to –

(A) section 109(2)(a) of the Companies Act shall be construed as reference to this subparagraph;

(B) the 7 day period under section 110(1) of the Companies Act shall be construed as if that 7 day

period were to run from the expiry of the 28-day period under this subparagraph; and

(C) the Board of directors, the Board or the company under section 110 of the Companies Act shall be construed as reference to the transferor bank.

(5A) The central bank may exempt a transferor bank from complying with subsection (5)(c) where the central bank is of the view that such compliance may lead to the impairment of the capital and capital adequacy ratio of the transferor bank, provided that the transferor bank gives an undertaking to the central bank that it shall give written notice to its shareholders of the proposed transfer of its business or the restructuring of the bank and inform them of their right to sell their shares at any time on the market.

[Inserted 27/13 (cio 21/12/13); amended 9/15 (cio 14/5/15); 18/16 (cio 7/9/16).]

(6) Where the central bank is satisfied that the transferor bank has complied with the terms and conditions referred to in subsection (5)(a) and the applicable requirements of this section, the central bank shall –

(a) authorise the transfer of the undertaking of the transferor bank;

(b) give public notice of the transfer of the undertaking of the transferor bank and notice thereof in at least 3 daily newspapers, specifying the appointed day as the date on which the transfer shall become effective; and

(c) notify the Registrar of Companies and the transferor bank accordingly.

(7) Where the central bank authorises the transfer of the undertaking under subsection (6) –

(a) the undertaking of the transferor bank shall, on the appointed day, be transferred to the transferee bank in accordance with this section and the terms and conditions specified in the Third Schedule;

(b) the Registrar of Companies shall issue a Certificate of Transfer of Undertaking under section 346A of the Companies Act.

(8) The transferee bank shall, within 8 days of the appointed day, submit the Certificate of Transfer of Undertaking, together with a final list of the assets and liabilities of the transferor bank updated as at the day immediately preceding the appointed day, to the Registrar-General for registration and

transcription, and provide a certified copy thereof to the Conservator of Mortgages.

(9) The Certificate of Transfer of Undertaking shall be evidence of the transfer to and vesting in the transferee bank of the undertaking.

(10) Notwithstanding any other enactment or anything contained in any contract or agreement, nothing in or authorised by this section shall –

(a) invalidate or discharge any contract or agreement which had been entered into before the transfer of the undertaking;

(b) constitute a breach of, or default under, or require compliance with any notice or consent provision, including express or implied consent for transfer;

(c) require any obligation to be performed sooner or later than would have otherwise been the case under any contract or instrument to which the transferor bank is a party or by which it is bound;

(d) allow any party to any contract to which the transferor bank is a party, or by which it is bound, to terminate that contract where that party would not otherwise have been able to terminate that contract or to treat any interest or right under that contract as terminated;

(e) entitle any party to any contract to which the transferor bank is a party, or by which it is bound, to modify the terms of that contract where that party would not otherwise have been able to modify those terms or confer a right, interest or benefit on that party which it would not otherwise have had;

(f) release any surety wholly or in part from all or any liability under or in respect of any contract which had been entered into before the transfer of the undertaking;

(g) otherwise, in relation to the transferred undertaking, place the transferee bank in a position which is less favourable than the position in which the transferor bank would have been if this section were not in operation; or

(h) result in a change in the ranking of any security interest forming part of the transferred undertaking.

(11) Nothing in this section shall preclude a bank, other than a bank having made an application under subsection (1) or having been required to restructure its business under subsection (2), from initiating such action for the transfer or restructuring of its business as it considers appropriate otherwise than under this section, provided that the approval of the central bank is obtained for the restructuring.

[Amended 9/15 (cio 14/5/15).]

(12) In the event of conflict or inconsistency between this section and the Companies Act or any other enactment, this section shall, to the extent of any such conflict or inconsistency, prevail.

(13) The Minister may make regulations to provide for any matter necessary or consequential to the implementation of this section and the Third Schedule.

(14) In this section and the Third Schedule –

"appointed day" means the date on which a transfer of undertaking becomes effective, as specified in the notices under subsection (6);

"assets" means the property, rights, powers, interests and privileges of any description of the transferor bank and includes but shall not be limited to –

(a) rights, powers, interests and privileges that are –

(i) of a personal character (*intuitu personae*);

(ii) not lawfully capable of being assigned or performed vicariously;

(iii) expressly stated under any agreement creating them to be incapable of being assigned or performed vicariously; or

(iv) held by the transferor bank as trustee;

(b) any shares or interests held by the transferor bank in another entity; and

(c) rights, powers, interests and privileges existing or arising pursuant to a foreign law, including a contract governed by that foreign law;

"Certificate of Transfer of Undertaking" means a certificate issued under section 346A of the Companies Act, as referred to in subsection (7)(b);

"interests" includes –

(a) security interests of any description of the transferor bank, whether secured or unsecured;

(b) security interests witnessed in pari passu, cession de priorité, security sharing and similar agreements;

"liabilities" means obligations and commitments of the transferor bank and includes but shall not be limited to –

(a) obligations or commitments that are –

(i) of a personal character (*intuitu personae*); or

(ii) not lawfully capable of being assigned or performed vicariously;

(iii) expressly stated under any agreement creating them to be incapable of being assigned or performed vicariously; or

(iv) incumbent on the transferor bank as trustee;

(b) obligations existing or arising pursuant to a foreign law, including a contract governed by that foreign law; and

(c) customer deposit accounts;

"parent" has the same meaning as in the Companies Act;

"Registrar of Companies" means the Registrar of Companies appointed under the Companies Act;

"transferee bank" includes the parent, wholly owned subsidiary or wholly owned subsidiary of the parent of the bank, the financial institution or specialised financial institution to which a transfer of undertaking is being or has been effected under this section;
[Amended 9/15 (cio 14/5/15); 18/16 (cio 7/9/16).]

"transferor bank" –

(a) means a bank which is authorised by the central bank to transfer its undertaking under this section;

(b) includes a bank which has applied for approval for, or is required by the central bank to effect, a transfer of undertaking under this section;

"undertaking" includes the whole or part of any business, including a branch.

[S. 32A inserted by s. 3 of Act 1 of 2013 w.e.f. 18 April 2013; amended by s. 3(i) of Act 27 of 2013 w.e.f. 21 December 2013; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 3(i) of Act 18 of 2016 w.e.f. 7 September 2016.]

PART V – FINANCIAL STATEMENTS, AUDIT AND SUPERVISION

33. Records

(1) Every financial institution shall, for the purposes of the banking laws, keep in relation to its activities, a full and true written record of every transaction it conducts.

(2) The records under subsection (1) shall include –

(a) accounting records exhibiting clearly and correctly the state of its business affairs and explaining its transactions and financial position so as to enable the central bank to determine whether the financial institution complies with the banking laws;

(b) the financial statements;

(c) account files of every customer, business correspondences exchanged with every customer and records showing, for every customer, at least on a daily basis, particulars of its transactions with or for the account of that customer, and the balance owing to or by that customer;

(d) proper credit documentation; and

(e) such other records as the central bank may determine.

(3) Every record under this section shall be kept –

(a) in written form or on microfilm, magnetic tape, optical disk or such other form of mechanical or electronic data storage and retrieval mechanism as the central bank may determine;

(b) for a period of at least 7 years after the completion of the transaction to which it relates;

(c) at the principal office of the financial institution, or at such other place as the central bank may approve; and

(d) for identification purposes, in chronological order or sequential order, as appropriate, in batches of convenient size.

[S. 33 amended by s. 2(c) of Act 14 of 2005 w.e.f. 10 November 2004; s. 2(k) of Act 18 of 2008 w.e.f. 19 July 2008.]

34. Financial statements

(1) Except where otherwise authorised by the central bank, every financial institution shall, not later than 3 months after the end of its financial year, prepare, in accordance with the International Accounting Standards and such guidelines, not inconsistent with such Standards, as the central bank may issue, its audited financial statements for the financial year, in such form as the central bank may approve.

[Amended 7/2020 (cio 7/8/2020).]

(2) The central bank may, having regard to the scope of the activities undertaken by a financial institution, require the financial institution to prepare, in respect of its distinct types of business, its financial statements on such distinct basis as the central bank.

(3) The central bank may, by notice, require a financial institution to prepare, in addition to the financial statements under subsection (1), its financial statements for such shorter period as may be specified in the notice.

(4) The financial statements under subsections (1), (2) and (3) shall be audited in the manner specified in section 39.

(5) The financial statements under this section shall be jointly signed –

(a) in the case of a financial institution incorporated in Mauritius, by its chief executive officer and 2 of its directors; or

(b) in the case of a financial institution incorporated outside Mauritius and having a branch in Mauritius, by its chief executive officer and the next most senior officer of the principal office of the financial institution in Mauritius.

(6) Every financial institution shall –

(a) exhibit at all times, in a conspicuous place, at its principal place of business in Mauritius and at each of its offices and branches in Mauritius, an authenticated copy of its latest financial statements under this section duly audited; and

(b) except where otherwise authorised by the central bank, not later than 3 months after the end of the financial year of the financial institution –

[Amended 7/2020 (cio 7/8/2020).]

(i) forward to the central bank a duly certified copy of its latest financial statements under this section duly audited; and

(ii) cause to be published in the *Gazette* and post on its website, or, where the financial institution does not have a website, in 3 daily newspapers approved by the Bank, the full or abridged version of its latest audited balance sheet, income statement, statement of changes in equity and cash flow statement, and the auditor's report.

[Amended 38/11 (cio 15/12/11).]

(6A) Subsection (6)(b)(ii) shall not apply to money changers.

[Amended 9/15 (cio 14/5/15).]

(6B) Notwithstanding subsection (6)(a), a financial institution may, with the approval of the central bank, display at its principal place of business, branch or office an authenticated copy of its duly audited latest financial statements in such form and manner as the central bank may approve.

[Inserted 9/15 (cio 14/5/15).]

(7) Every financial institution incorporated outside Mauritius and having a branch, subsidiary or joint venture in Mauritius shall furnish to the central bank, not later than one month after publication, a copy of its audited annual consolidated financial statements, together with notes thereon and copies of the reports of the auditor and the board of directors.

[S. 34 amended by s. 2(l) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(e) of Act 10 of 2010 w.e.f. 24 December 2010; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 3(j) of Act 18 of 2016 w.e.f. 7 September 2016; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

35. Monthly statements

(1) Every financial institution shall, not later than the tenth working day of each month, forward to the central bank a statement, in such form and in such medium as may be approved by the central bank, showing the assets and liabilities of all its offices and branches in Mauritius together with an analysis of

advances, bills discounted and any other credit as at the close of business on the last working day of the preceding month.

(2) Every financial institution shall furnish the central bank, within such period and in such manner as it may require, with such additional statements and information relating to the operations of the financial institution and those of its affiliates in Mauritius or its branches and affiliates outside Mauritius as the central bank may consider necessary or expedient to obtain for the purposes of the banking laws and for carrying out effective consolidated supervision.

[Amended 18/16 (cio 7/9/16).]

36. Credit assessments and asset appraisals

(1) The central bank may, by notice to any bank, require that bank –

(a) to undergo an independent assessment of creditworthiness or financial stability by a person or organisation nominated or approved by the central bank;

(b) to undergo an independent appraisal to assess the value of its assets, in particular real estate and other related assets, by a person or organisation nominated or approved by the central bank;

[Amended 18/16 (cio 7/9/16).]

(ba) to undergo an independent valuation of the assets which it holds as collateral, by a person or organisation nominated or approved by the central bank; and

[Inserted 18/16 (cio 7/9/16).]

(c) to transmit to the central bank the results of an assessment under paragraph (a) or appraisal under paragraph (b) in such manner as the central bank may direct.

(2) Where the value determined in subsection (1)(b) varies materially from the value in the books of accounts of the bank, the central bank may send to the bank, its auditors and the audit committee a notice of the appropriate value of the assets as determined by the independent appraisal for appropriate action.

(3) Every person appointed pursuant to subsection (1) shall have a right of access at all times to the books, accounts, records and vouchers of the bank in relation to which the person has been appointed and those of its subsidiaries in Mauritius and of its branches and subsidiaries abroad, if any, and may require from the directors or senior officers, employees and agents of the bank or its subsidiaries in Mauritius or its branches and subsidiaries abroad, if any, such information and explanations as may appear to be necessary for the performance of the person's duties under this section.

(4) Every bank shall comply at its own expense with an assessment or appraisal under subsection (1).

[S. 36 amended by s. 3(I) of Act 18 of 2016 w.e.f. 7 September 2016.]

37. Disclosure of information

(1) The central bank may, by notice, require all financial institutions or all members of any class of financial institutions, to publish –

(a) within the time specified in the notice, a disclosure statement; and

(b) within 45 days after the end of each calendar quarter, a quarterly report,

duly signed by its directors.

(2) The substance of the disclosure statement or quarterly report under subsection (1) shall be specified by the central bank.

(3) A financial institution shall not be required to publish information relating to the individual affairs of any particular customer or client of the financial institution.

(4) Subject to any directives, guidelines or instructions issued by the central bank, where a bank issues a credit or charge card to a person, it shall disclose to him –

[Amended 7/2020 (cio 7/8/2020).]

(a) his rights and obligations in respect of –

(i) the credit limit authorised under the card and the amount of indebtedness outstanding at any time;

(ii) the period of time for which each statement is issued;

(iii) any charges and interest costs for which the person becomes responsible for accepting and using the card;

(iv) the minimum amount in respect of the balance outstanding that has to be paid at the end of each statement period; and

(v) the maximum amount of the cardholder's liability for unauthorised use of the card where it is lost or stolen;

(b) the cost of borrowing in respect of any loan obtained through the use of the card, the exchange rate applied and the manner in which it is calculated, and in the event the required instalment is not paid on the due date, particulars of the charges and penalties to be paid by the cardholder; and

(c) the amount of any charge or fee for which the cardholder is responsible for accepting or using the card and the manner in which the charge is calculated.

(5) Where a bank intends to change any of the matters referred to in subsection (4), the bank shall give the cardholder a written notice of the change at least 30 days prior to the effective date of the change.

(6) Where a financial institution extends credit to a person, it shall –

(a) disclose to him –

(i) the interest charged and the manner in which it is to be calculated;

(ii) any applicable fee or other charge and the manner it is to be calculated; and

(iii) every term or condition applicable to the credit, clearly identifying the obligations of the borrower; and

(b) during the period of the credit agreement, send or make available to him, a statement of account in written or electronic form, not later than the end of the month following each period of 6 months, showing –

[Amended 27/12 (cio 22/12/12).]

(i) the amounts outstanding, as principal and interest, at the beginning and at the end of the 6-month period;

(ii) the payments received, as principal and interest, during the 6-month period; and

(iii) the annual rate of interest applicable during the 6-month period.

[Repealed and replaced 38/11 (cio 15/12/11).]

(7) (a) The central bank may require every financial institution to send or make available to the guarantor of a credit facility extended by it, a statement of account in written or electronic form, in accordance with directives, guidelines or instructions issued by the central bank.

[Amended 7/2020 (cio 7/8/2020).]

(b) The directives, guidelines or instructions referred to in paragraph (a) shall contain –

[Amended 27/13 (cio 21/12/13); 7/2020 (cio 7/8/2020).]

(i) the classes or categories of credit facilities for which the statement shall be sent or made available;

(ii) the circumstances under which the statement shall be sent or made available; and

(iii) such other information as the central bank considers appropriate and necessary.

[Inserted 27/12 (cio 22/12/12).]

(8) In subsection (6) –

"credit" includes any facility granted under a finance lease.

[Added 27/13 (cio 21/12/13).]

[S. 37 amended by s. 2(m) of Act 18 of 2008 w.e.f. 19 July 2008; s. 4 of Act 38 of 2011 w.e.f. 15 December 2011; s. 3 of Act 27 of 2012 w.e.f. 22 December 2012.; s. 3(j) of Act 27 of 2013 w.e.f. 21 December 2013; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

38. Correction of disclosure statement

Where the central bank considers that a disclosure statement or quarterly report under section 37 published by a financial institution –

(a) contains information that is incorrect, false or misleading; or

(b) does not contain information which it is required to contain, whether or not the information contained in the disclosure statement is incorrect, false or misleading as a result of the omission,

the central bank may, without prejudice to any action it may take under the banking laws, by notice to the financial institution, require the financial institution to –

(i) publish a disclosure statement that does not contain incorrect, false or misleading information;

(ii) publish a disclosure statement that contains the information that was omitted; or

(iii) take such other corrective action as the central bank may

specify in the notice.

39. Appointment, powers and duties of auditors

(1) Subject to this section, a financial institution shall at each annual meeting appoint, and at all times have, one or more firms of auditors.
[Amended 38/11 (cio 15/12/11).]

(2) Any firm of auditors appointed under subsection (1) shall be subject to the approval of the central bank.

(2A) The central bank may, where circumstances so warrant, revoke the approval granted under subsection (2).
[Inserted 11/18 (cio 1/9/18).]

(3) In addition to the requirements of the Companies Act and the Financial Reporting Act, the firm of auditors shall be independent, experienced in the audit of financial institutions and have the necessary resources to undertake audits of financial institutions on a consolidated basis as the central bank may determine.

(4) No firm of auditors appointed under subsection (1) shall be responsible for the audit of a financial institution for a continuous period of more than 5 years.
[Amended 18/16 (cio 7/9/16).]

(5) Where a firm of auditors has been responsible for the audit of a financial institution for a continuous period of 5 years or less, that firm shall not be entrusted the responsibility for the audit of the same financial institution before a period of 3 years from the date of termination of his last audit assignment.
[Amended 18/16 (cio 7/9/16); 15/21 (cio 5/8/21).]

(5A) Notwithstanding subsections (4) and (5), the central bank may, upon a request from a financial institution and on just and reasonable grounds shown, approve, in writing, the extension of the appointment of its firm of auditors –

(a) for an additional period not exceeding 2 years; or

(b) in the case of a branch or subsidiary of a foreign bank, for such additional period as the central bank may determine, where –
[Am 11/24 (cio 27/7/24)]

(i) the firm of auditors is also the auditor of its parent financial institution which is subject to consolidated

supervision by competent foreign regulatory authorities; and

(ii) the engagement partner of the audit firm is, with respect to the additional period determined by the central bank, rotated after having completed a continuous period of 5 years.

[Inserted 7/2020 (cio 7/8/2020); RR 15/21 (cio 5/8/21); Am 11/24 (cio 27/7/24).]

(6) The firm of auditors shall make a report –

(a) in the case of a financial institution incorporated in Mauritius, to the shareholders of the financial institution, and the report shall be consolidated to include the affiliates and the overseas branches and affiliates of the financial institution, if any;

(b) in the case of a financial institution incorporated outside Mauritius, to the head office of the financial institution.

(7) The auditor's report shall be made on the financial statements of the financial institution.

(8) The auditor shall, in the report, state whether –

(a) the financial statements have been prepared in accordance with International Accounting Standards and any additional prudential requirements set out in guidelines issued by the central bank;

(b) the financial statements are, in his opinion, complete, fair and properly drawn up;

(c) the financial statements present a true and fair view of the affairs of the financial institution;

(d) the financial statements have been prepared on a basis consistent with that of the preceding year; and

(e) the explanations or information called for or given to him by the officers or agents of the financial institution, are satisfactory to him.

(9) The report shall –

(a) in the case of a financial institution incorporated in Mauritius, be read together with the report of its board of directors at its

annual meeting of shareholders;

(b) in the case of a financial institution incorporated outside Mauritius, be transmitted to its head office; and

(c) be transmitted to the board of directors of the financial institution through the Audit Committee established under section 40.

(10) A certified copy of the report together with the audited financial statements and notes thereon shall be sent to the central bank by the financial institution within such period as the central bank may specify and in any event not later than one month after it is made.

(11) An auditor may be appointed by the central bank in every case where a financial institution fails to appoint an auditor approved by the central bank.

(12) Every auditor appointed under subsection (1) or (11) shall have a right of access at all times to the books, accounts and records referred to in section 33(2) of the financial institution, whether kept electronically or otherwise, in relation to which he has been appointed and those of its affiliates in Mauritius and of its branches and affiliates outside Mauritius, if any, and may require from the directors, officers and agents of the financial institution or its affiliates in Mauritius or its branches and affiliates outside Mauritius, if any, such information and explanations as may appear to him to be necessary for the performance of his duties under this section.

(13) Every auditor appointed under subsection (1) or (11) shall be paid by the financial institution in respect of the appointment and where the appointment is made under subsection (11), the remuneration shall be determined by the central bank.

(14) The central bank may impose on an auditor, in addition to any duty specified in subsection (8), a duty to –

(a) carry out any extended scope audit or other examination and make recommendations as necessary;

(b) submit to the central bank such additional information in relation to the audit, extended scope audit or other examination as the central bank considers necessary;

(c) submit to the central bank a report on any matter specified in paragraphs (a) and (b);

(d) submit to the central bank a report on the financial and accounting systems and internal controls of the financial institution; and

(e) submit to the central bank a report as to whether, in his opinion, the systems of credit provisioning and write-offs specified by the central bank are being complied with and whether or not measures to counter the possibility of money laundering or the funding of terrorist activities have been adopted by the financial institution and are being implemented in accordance with any enactment relating to anti-money laundering and prevention of terrorism and with directives, guidelines or instructions issued by the central bank.

[Amended 7/2020 (cio 7/8/2020).]

(15) A financial institution shall remunerate the auditor in respect of the discharge by him of any additional duties under subsection (14).

(16) Where in the course of the performance of his duties under the Act, an auditor comes across transactions or conditions in a financial institution affecting its well-being and he has reason to believe that –

(a) there has been a material adverse change in the risks inherent in the business of the financial institution with the potential to jeopardise its ability to continue as a going concern;

(b) there has been or there is a breach of any of the provisions of the banking laws, or the Companies Act relating to the accounting records and audit;

(c) measures to counter the possibility of money laundering or the funding of terrorist activities in accordance with any enactment have not been or are not being properly implemented;

(d) directives, guidelines or instructions issued by the central bank have not been or are not being properly followed;

[Amended 7/2020 (cio 7/8/2020).]

(e) a criminal offence involving fraud or other dishonesty has been, is being or is likely to be committed;

(f) losses have been incurred which reduce the amount paid as stated capital or assigned capital, as the case may be, of the financial institution by 50 per cent or more;

(g) serious irregularities have occurred, including those that jeopardise the security of depositors and creditors; or

(h) he is unable to confirm that the claims of depositors and creditors are still covered by the assets,

he shall immediately inform the central bank of the matter and, as soon as practicable, submit a report thereon to the central bank.

(17) Where, in the performance of his duties, the auditor finds any matter which in his opinion is of material importance to the well-being of the financial institution, he shall call a meeting of the Audit Committee for the purpose of considering the matter.

(18) The central bank shall at least once a year arrange meetings with every financial institution and its auditors to discuss matters relevant to the central bank's supervisory functions which have arisen in the supervisory process, including on-site inspections and off-site monitoring of the financial institution, relevant aspects of the financial institution's business, its accounting and control systems, and its monthly statements under section 35, disclosure statement, and any matters arising out of the statutory audit.

(19) The central bank may, where it considers it desirable or necessary in the interests of depositors, arrange meetings with auditors of financial institutions.

(20) No civil, criminal or disciplinary proceeding shall lie against an auditor by reason of his communicating in good faith to the central bank, whether or not in response to a request made by it, any information or opinion which is relevant to the central bank's functions under this Act or any enactment, directives, guidelines or instructions referred to in subsection (16)(b), (c) and (d).

[Amended 7/2020 (cio 7/8/2020).]

[S. 39 amended by s. 2(n) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(f) of Act 10 of 2010 w.e.f. 24 December 2010; s. 3(m) of Act 18 of 2016 w.e.f. 7 September 2016; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020; s. 4 of Act 15 of 2021 w.e.f. 5 August 2021; s. 7(c) of Act 11 of 2024 w.e.f. 27 July 2024.]

40. Audit committee

(1) Every bank and non-bank deposit taking institution incorporated in Mauritius shall, by resolution of its board of directors, establish an audit committee which shall, subject to subsection (2), comprise only independent directors who shall not be less than 3 in number.

(2) The central bank may, having regard to the scope of the activities undertaken by the bank, require that the audit committee be composed of such

number of non-executive directors where the bank is a subsidiary or an associate of a foreign banking group of companies, as the central bank may direct.

(3) The audit committee of a bank or the non-bank deposit taking institution shall –

(a) review the audited financial statements of the bank or the non-bank deposit taking institution before they are approved by the directors;

(b) require management of the bank or the non-bank deposit taking institution to implement and maintain appropriate accounting, internal control and financial disclosure procedures and review, evaluate and approve such procedures;

(c) review the transactions that may adversely affect the sound financial condition of the bank or the non-bank deposit taking institution as the auditors or any officer of the bank or the non-bank deposit taking institution may bring to the attention of the committee or as may otherwise come to its attention;

(d) perform such additional duties as may be assigned to it by the board of directors; and

(e) report to the directors on the conduct of its responsibilities, with particular reference to section 39.

(4) (a) The internal auditor of the bank or the non-bank deposit taking institution shall report to the audit committee.

(b) Subject to paragraph (c), the internal auditor and the external auditor shall be available to the audit committee to attend its meetings.

(c) The audit committee shall meet the internal auditor and the external auditor at least once annually.

(5) Every member of the audit committee shall keep confidential, and not disclose, any information obtained in the course of its functions to third parties, save as otherwise provided for under this Act.

(6) The central bank may require such other financial institution licensed under this Act to comply with this section.

[S. 40 amended by s. 3(g) of Act 10 of 2010 w.e.f. 24 December 2010]

41. Termination of services of auditor

(1) Any financial institution which decides to terminate the services of an auditor appointed under section 39(1) or (11) before the expiry of his term of office shall –

(a) by resolution passed at a meeting of its shareholders, or by resolution in lieu of meeting, in accordance with the Companies Act, terminate the services of the auditor and at the same time appoint a new auditor; and

(b) obtain prior approval of the central bank to terminate the services of the auditor stating the reasons therefor or to appoint a new auditor.

(2) Where the financial institution in Mauritius is a branch of a financial institution incorporated outside Mauritius, it shall present the approval of its head office to the central bank before terminating the services of an auditor or appointing a new auditor under subsection (1).

(3) Where an auditor appointed under section 39(1) or (11) intends –

(a) not to seek reappointment; or

(b) to resign before the expiry of his term of office,

he shall, within at least 30 days before the expiry of his term of office or his date of resignation, as applicable, give notice thereof to the central bank and the reasons for such action.

42. Regular examinations

(1) The central bank shall conduct regular examinations of the operations and affairs of every financial institution at least once every 2 years or within such other period as the central bank may determine, including, where the central bank so specifies, of affiliates and overseas branches and affiliates of the financial institution, to be made by its officers or such other duly qualified person as it may appoint and such examinations may be of a scope as the central bank considers necessary to assess that the financial institution is duly observing the banking laws, directives, guidelines, and instructions issued by the central bank and is in a sound financial condition.

[Amended 27/13 (cio 21/12/13); 7/2020 (cio 7/8/2020).]

(2) Where the central bank appoints a duly qualified person to conduct a regular examination under subsection (1), the costs incurred in that connection may be recovered, in whole or in part, by the central bank by deduction from any balance of, or money owing to, the financial institution, as if it were a civil debt.

[Added 27/13 (cio 21/12/13).]

[S. 42 amended by s. 2(c) of Act 15 of 2006 w.e.f. 7 August 2006; s. 3(k) of Act 27 of 2013 w.e.f. 21 December 2013; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

43. Special examinations

(1) Where, in relation to any financial institution, a special examination appears to be necessary or expedient in order to determine whether the financial institution is in a sound financial condition and whether the banking laws or any enactment relating to anti-money laundering or prevention of terrorism or directives, guidelines and instructions issued by the central bank, as the case may be, are being complied with, the central bank may appoint one or more of its officers or such other duly qualified person to conduct a special examination in respect of the affairs of the financial institution and of its affiliates and overseas branches and affiliates, if any.

[Amended 7/2020 (cio 7/8/2020).]

(2) Where the central bank has reason to believe that any person who, either as a principal or as an agent, carries on, advertises or holds himself out in any way as carrying on banking business, deposit taking business, business of foreign exchange dealer or money changer or accepting deposits from the public, without a licence or written authorisation from the central bank, it –

(a) shall require the person to produce for examination its books, accounts, records and financial statements and such other information and certified copies of all relevant documents as it may require to ascertain whether the person is carrying on that business;

(b) may cause a notice in writing to be issued, calling upon any person who is suspected to be involved in engaging in activities under the banking laws without holding the appropriate licence, to attend the central bank for the purpose of being examined orally in relation to any matter which may assist in its investigation and calling upon the person to produce any book, document or information in his possession within the period specified in the notice; and

(c) may issue a warning alert to caution the public that the person specified in the alert may be engaging in activities under the banking laws without holding the appropriate licence issued by the central bank.

[Repealed and replaced 27/13 (cio 21/12/13).]

(3) Where the central bank appoints a duly qualified person to conduct a special examination in respect of the affairs of a financial institution and of its

affiliates and overseas branches or affiliates, if any, the costs incurred in connection therewith may be recovered, in whole or in part, by the central bank by deduction from any balance of, or money owing to, the financial institution, as if it were a civil debt.

(4) The central bank may, when exercising a power under subsection (2)(a), request such assistance as may be necessary from the Commissioner of Police.

[Added 27/13 (cio 21/12/13).]

[S. 43 amended by s. 3(l) of Act 27 of 2013 w.e.f. 21 December 2013.]

44. Powers of examiners and special examiners

(1) The central bank may authorise in writing any of its officers or any other person appointed by the central bank for that purpose to conduct, either jointly or separately, a regular examination under section 42 or a special examination under section 43, and any such officer or person shall have the power to –

(a) examine all books, minutes, accounts, records, cash, securities, vouchers and any other document, in the possession or custody of the financial institution or of its affiliates in Mauritius or its branches and affiliates outside Mauritius;

[Amended 27/13 (cio 21/12/13).]

(aa) have access to any program or data and take extracts of any file, document or record held electronically in any computer or other electronic device of the financial institution or of its affiliates in Mauritius or its branches and affiliates outside Mauritius;

[Inserted 27/13 (cio 21/12/13); amended 10/24 (cio 25/7/24).]

(ab) request a financial institution to provide it with an off-site or remote access to such information and system as may be required for the conduct of the examination; and

[Inserted 10/24 (cio 25/7/24).]

(b) require, within such time as may be specified, such information and copies of all relevant documents, that he may reasonably require concerning its business, or that of its affiliates in Mauritius, or that of its branches and affiliates outside Mauritius, if any, as appear necessary.

(2) Every person appointed by the central bank for the purposes of sections 42 and 43 shall comply with the provisions of confidentiality under the

banking laws.

[S. 44 amended by s. 3 of Act 10 of 2024 w.e.f. 25 July 2024.]

45. Powers of central bank following examination

(1) Where, in relation to any financial institution, the central bank is of the opinion that, as a result of an examination made under section 42 or a special examination made under section 43 or other information at its disposal, that –

(a) any director, senior officer or employee of the financial institution is not a fit and proper person;

(b) the financial institution has, or any of its directors, senior officers or employees has, engaged in unsafe or unsound practices in conducting its business in a manner detrimental to the interests of its depositors, or the financial institution has, or has knowingly or negligently, permitted any of its directors, senior officers, employees or agents to violate any provision of the banking laws or any enactment relating to anti-money laundering or prevention of terrorism and the regulation made, guidelines, or instructions issued by the central bank to which the financial institution is subject, or the central bank has reasonable cause to believe that such actions or violations are about to occur;

(c) the financial institution has insufficient assets to cover its liabilities;

(d) the amount paid as stated capital or the assigned capital, as the case may be, of the financial institution is impaired; or

(e) the financial institution is otherwise in an unsafe or unsound condition,

the central bank may –

(i) impose or vary conditions attaching to the financial institution's licence in accordance with section 10 or 16, as the case may be, invoking in cases of urgency the procedure specified in section 17;

(ii) require the financial institution forthwith to take such steps as may appear to the central bank to be necessary to remedy the situation and submit such reports on remedial actions taken to the central bank at such frequency and in such manner as the central

bank may specify; and

[Amended 10/24 (cio 25/7/24).]

(iii) appoint a person to advise the financial institution in the proper conduct of its business and fix the remuneration to be paid by the financial institution to the person so appointed.

(2) Where the central bank considers that an examination made under section 42 or a special examination made under section 43 or other information at its disposal shows that the financial institution concerned has, or any of its directors or senior officers or employees or agents has, engaged in unsafe or unsound practices in conducting the business of the financial institution in a manner detrimental to the interests of its depositors, or has knowingly or negligently permitted any of its directors, senior officers, employees or agents to violate the banking laws or any enactment relating to anti-money laundering or prevention of terrorism and the regulations made, or directives or guidelines, or instructions issued, by the central bank to which the financial institution is subject, or the central bank has reasonable cause to believe that such actions or violations are about to occur, the central bank may –

[Amended 7/2020 (cio 7/8/2020).]

(a) issue a cease and desist order that requires the financial institution and its directors, senior officers, employees or shareholders holding a significant interest, as the case may be, to cease and desist from the actions and violations specified in the order and may require affirmative action to correct the conditions resulting from any such actions or violations;

(b) issue an order to the financial institution to suspend from office any director, senior officer or employee who has engaged in, or is otherwise responsible for, such actions or violations;

[Amended 10/24 (cio 25/7/24).]

(c) take such action as may be warranted pursuant to section 50(6), (7), (8) and (9) of the Bank of Mauritius Act.

[Added 10/24 (cio 25/7/24).]

(3) A suspension under subsection (2)(b) shall be for an initial period of 30 days and may be extended for similar periods or made permanent by decision of the central bank, following completion of a hearing under subsections (6) and (7).

(4) Any action proposed to be taken by the central bank or already taken under this section shall be notified in writing to the financial institution and

to the director or senior officer, employee and shareholder holding a significant interest, as the case may be.

(5) Any recipient of a notice under subsection (4) may, within 15 days of the date of the notice, make a request in writing to the central bank for a hearing.

(6) Where a request is made under subsection (5), the central bank shall give an opportunity for the recipient to be heard and present arguments within 14 days of the date of the request and during that period of 14 days, any action taken by the central bank under subsection (4) shall not be suspended but shall remain in effect.

(7) The decision of the central bank shall be rendered within 15 days of the completion of the date of the hearing under subsection (6).

[S. 45 amended by s. 3(m) of Act 27 of 2013 w.e.f. 21 December 2013; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020; s. 3 of Act 10 of 2024 w.e.f 25 July 2024.]

45A. Freezing of assets

(1) Where, on an application by the central bank, the Judge in Chambers is satisfied that the central bank has reasonable ground to suspect that a person has committed, is committing or is likely to commit an offence under the banking laws, the Judge in Chambers may order –

(a) the prohibition by the suspect or any other person acting on his behalf, or any person holding assets on his behalf, from disposing, transferring or pledging any of his assets or making any withdrawal from any account or deposit at a financial institution;

(b) the attachment in the hands of any other person named in the order of all moneys and other property due or owing, or belonging to, or held on behalf of the suspect;

(c) the suspect to make a full disclosure within such time as may be specified in the order, of all his possessions, and the nature and source of such possessions;

(d) any other person named in the order to make a full disclosure of all moneys and property held on behalf of the suspect; or

(e) the opening, in the presence of a person authorised by the central bank, of any safe deposit box held on behalf of the suspect.

(2) Where an order is made under subsection (1)(a) or (b), the central bank may –

(a) give public notice of the order, unless the central bank reasonably believes that such notice is likely to obstruct the conduct of any investigation under this Act; and

(b) give notice of the order to all notaries and to financial institutions, and any other person who may hold or be vested with property belonging to or held on behalf of the suspect.

(3) An order under subsection (1) shall be served on the suspect and on every person named in the order.

(4) Where a notice is published under subsection (2), any person who allows, procures or facilitates the disposal of money or property belonging to the suspect shall commit an offence.

(5) (a) The Judge in Chambers may, on application and on good and sufficient cause shown, authorise such reasonable amount to be withdrawn from a bank or other financial institution for the subsistence of the suspect on such conditions as the Judge may determine.

(b) The central bank shall be a party to an application under paragraph (a).

(6) An order under subsection (1)(a) or (b) shall remain in force –

(a) where an investigation is being carried out by the central bank or by the Commissioner of Police, until the completion of the investigation, or until such time as the central bank or the Commissioner of Police decides not to proceed with the investigation or recommends that the order be lifted; or

(b) where the suspect is charged with an offence, until the final determination of that charge by a Court or until such time as the Director of Public Prosecutions decides not to proceed with the charge.

(7) In this section –

"suspect" means a person whom the central bank has reasonable ground to suspect has committed, is committing or is likely to commit an offence under the banking laws.

[S. 45A inserted by s. 3(n) of Act 27 of 2013 w.e.f. 21 December 2013.]

PART VI – RESPONSIBILITIES OF DIRECTORS AND OTHER OFFICERS OF FINANCIAL INSTITUTIONS

46. Fit and proper person

(1) No person shall be appointed or reappointed as director of a financial institution unless the appointment or reappointment takes into account the guidelines issued by the central bank relating to fit and proper persons.

(2) No financial institution shall appoint or reappoint any person as senior officer in Mauritius unless –

(a) prior notice to the central bank is given by the financial institution at least 20 days before the date of the proposed appointment or reappointment;

(b) the notice under paragraph (a) is accompanied by a certificate of good conduct acceptable to the central bank, or a certificate of morality dating back to not more than 3 months, or an affidavit duly sworn stating any conviction for a crime and any past or present involvement in a managerial function in a body corporate subject to insolvency proceedings or having declared personal bankruptcy duly executed by the person concerned; and

(c) for the central bank is satisfied that the person to be appointed or reappointed is a fit and proper person.

(2A) No financial institution shall outsource any of its material activities to any other person unless the central bank is satisfied that the person meets the requirements of subsection (3).

(3) The central bank shall, for the purposes of determining whether the person is a fit and proper person, have regard to –

(a) his probity, integrity, diligence, competence and business experience;

(b) his previous conduct and activities in business; and

(c) whether the person has been subject to any conviction for an offence involving fraud or other dishonesty.

(4) The central bank shall communicate in writing to the financial institution its objection, if any, to the appointment or reappointment of the person within 15 days of the date of receipt of the notification under subsection

(2).

(5) Any person who attempts to assume any office specified in subsection (2) over the objection of the central bank under subsection (4) shall be subject to a suspension order by the central bank under section 45(2)(b).

(6) Where the central bank has reason to believe that any person is, by virtue of its shareholding in the financial institution or otherwise, in a position to influence any person specified in subsection (1) or (2), and is exercising its influence in a manner which is likely to be detrimental to the interests of depositors, the central bank may request that the shareholder holding a significant interest and the financial institution to remedy the situation.

(7) Where a shareholder holding a significant interest or a financial institution fails to give satisfaction to the central bank following a request made under subsection (6), the central bank may take action against him under section 45(2)(a).

[S. 46 amended by s. 2(d) of Act 15 of 2006 w.e.f. 7 August 2006; s. 3(h) of Act 10 of 2010 w.e.f. 24 December 2010.]

47. Disqualification

(1) Without prejudice to the provisions of the Companies Act, any person who is a director or senior officer or an employee concerned with the management of a financial institution, shall cease to hold office where he is –

(a) declared bankrupt or makes a composition with his creditors; or

(b) convicted of any offence involving fraud or dishonesty.

(2) No director or senior officer or employee of any financial institution shall be at the same time a director or senior officer or an employee of any other financial institution or licensee under the National Payment Systems Act 2018, except with the approval of the central bank.
[Am 11/24 (cio 27/7/24)]

(3) No person who has been a director of, or directly or indirectly concerned in the management of, a financial institution which has been liquidated shall, without the approval of the central bank, act or continue to act as a director of, or be directly or indirectly concerned in the management of, a financial institution.

[S. 47 amended by s. 7(d) of Act 11 of 2024 w.e.f. 27 July 2024.]

48. Disclosure of interest

(1) Any director or senior officer of a financial institution who is in any manner, whether directly or indirectly, interested in an advance, loan or credit from the financial institution, or has any direct or indirect interest in relation to any matter or undertaking which he may have with the financial institution shall –

[Amended 13/19 (cio 25/7/19).]

(a) disclose in writing the nature and extent of his interest to the board of directors of the financial institution; and

(b) not take part in any deliberation or any decision-making process in relation thereto.

(2) Any disclosure of interest under subsection (1)(a) shall be made at the earliest opportunity or at or before a meeting of the board of directors convened to discuss the matter or before a decision is made thereon.

(3) The board shall cause the disclosure of interest under subsection (1)(a) to be circulated forthwith to all the directors individually.

(3A) Every financial institution shall implement policies and procedures requiring their employees to disclose any direct or indirect interest in relation to any matter or undertaking which they may have with the financial institution.

[Inserted 13/19 (cio 25/7/19).]

(4) Where a director or senior officer of a financial institution who holds any office or acquires property whereby, whether directly or indirectly, duties or interests might be created in conflict with his duties or interests as director as a consequence thereof or otherwise or as senior officer of the financial institution, he shall disclose in writing, at a meeting of the board of directors of the financial institution, the fact, nature and extent of the conflict and where the board of directors determines that the director or senior officer is in a situation of conflict of interest, he shall abstain from taking part in any decision on or vote taken by the board of directors on the matter.

(5) The disclosure under subsection (4) shall be made at the first meeting of the board of directors held –

(a) after the declarant becomes a director or senior officer of the financial institution; or

(b) where he is already a director or senior officer of the financial institution, after he commences to hold the office or comes into possession of the property, as the case may be; and

(c) such disclosure shall be recorded in the minutes of the meeting.

(6) Every disclosure under subsection (1) or (4) shall be chronologically recorded by the financial institution in a separate register which, as and when required, shall be produced for examination by officers or other persons duly authorised by the central bank.

[S. 48 amended by s. 3 of Act 13 of 2019 w.e.f. 25 July 2019.]

49. Indemnity insurance

The central bank may require any financial institution to provide protection and indemnity against burglary, defalcation and other similar insurable losses.

PART VII – ELECTRONIC BANKING

50. Automated teller machines

(1) Where any bank sets up automated teller machines for the use by customers to make deposits or cash withdrawals, it shall, notwithstanding section 7(7), inform the central bank accordingly.
[Amended 18/16 (cio 7/9/16).]

(2) Where a bank sets up automated teller machines, it shall provide security for their operation, and systems for customer authentication, terminal receipts and periodic statements and for physical and logical protection against unauthorised access in any form.

[S. 50 amended by s. 2(e) of Act 15 of 2006 w.e.f. 7 August 2006; s. 3(n) of Act 18 of 2016 w.e.f. 7 September 2016.]

51. Computer access

(1) Any bank may provide to its customers remote access to their accounts through computers using proprietary software or the Internet.

(2) Where a bank permits computer access to customers' accounts, it may permit customers, by computer access, to transfer funds between accounts, initiate payments, apply for credit or to use such other facilities as may be provided by the bank.

(3) Any bank that permits computer access to customers shall –

(a) provide the customers with a privacy policy statement which shall include information to be accessed and retrieved and

how the information shall be used by the customers; and

(b) permit any customer to opt out of information sharing concerning him by banks with affiliates or with third parties.

(4) Where a bank provides computer access to its customers, it shall provide such security for their Internet or proprietary platforms, and such systems for customer authentication, appropriate documentation and for physical and logical protection against unauthorised external access in any form whether by individual penetration attempts, computer viruses, denial of service, and other forms of electronic access, as the central bank considers adequate.

52. Electronic delivery channel

(1) Banks may provide services to customers through electronic delivery channels such as the Internet.

(2) Banks shall have such systems to identify, monitor and control transactional risk from the bank's use of technology and shall provide such security for their Internet platforms, including such systems for customer authentication and for physical and logical protection against unauthorised external access by individual penetration attempts, computer viruses, denial of service, and other forms of electronic access.

(3) Banks may provide operational functions themselves or contract with third party service providers, provided that third party service providers agree that their services to the bank will be subject to regulation and examination by the central bank to the same extent as if such services were being performed by the bank itself on its own premises.

(4) The operational functions under subsection (3) may include item processing, web-hosting, credit checking, credit and other payment card services, customer service, data processing, internet service access and processing loan operations.

(5) Banks may host web-pages of third parties or provide links to third party websites to enable banks' customers to receive financial and non-financial products and services, provided that banks shall make clear to customers when they –

(a) are establishing a transaction with the bank and when they are not; and

(b) are leaving the website of the bank.

(6) Any bank which provides services under subsection (5) –

(a) shall advise customers that they do not provide or guarantee the products or services available to customers through third party websites; and

(b) may receive finder's fees for purchases by their customers of third party products or services originated from banks' websites.

[S. 52 amended by s. 3(i) of Act 10 of 2010 w.e.f. 24 December 2010.]

53. Clearing house and payments system

Every bank shall comply with the instructions issued by the central bank for the smooth functioning of the clearing house and payments system including the Mauritius Automated Clearing and Settlement System (MACSS), set up by the central bank.

53A. New products, business practices, delivery mechanisms and technologies

(1) Every financial institution and every holder of a licence shall, in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products –

(a) undertake a risk assessment prior to the launch or use of such products, business practices and technologies;

(b) identify and assess the money laundering, terrorism financing and proliferation financing risks that may arise in relation to the launch or use of such products, business practices and technologies; and

[Amended 3/26 (cio 18/4/26).]

(c) take appropriate measures to manage and mitigate the risks identified.

(2) Every financial institution or holder of a licence shall document the risk assessments conducted under subsection (1), in writing, keep it up to date and, on request, make it available to the central bank without delay and in such form and manner as may be specified by the central bank.

[Added 10/24 (cio 25/7/24).]

[S. 53A amended by s. 3 of Act 10 of 2024 w.e.f 25 July 2024; s. 3 of Act 3 of 2026 w.e.f. 18 April 2026.]

PART VIII – ADMINISTRATION OF FINANCIAL INSTITUTIONS

54. Internal control systems

Every financial institution shall maintain adequate internal control systems, commensurate with the nature and volume of its activities and various types of risks to which it is exposed, regarding –

(a) operations and internal procedures;

(b) the organisation of accounting and information processing systems;

(c) risk and result measurement systems;

(d) documentation and information systems; and

(e) cash flow transactions monitoring systems.

[S. 54 amended by s. 3(e) of Act 14 of 2009 w.e.f. 30 July 2009.]

54A. Protection of whistleblowers

(1) Subject to subsection (4), where a director, a senior officer, an employee or an agent of a financial institution –

(a) discloses to the central bank that the financial institution or a customer of the financial institution may have been involved in an act which constitutes a breach of the banking laws; and

(b) at the time he makes the disclosure, has reasonable grounds to believe that the information he discloses may be true,

he shall incur no civil or criminal liability as a result of such disclosure and no disciplinary action shall be initiated against him by reason of such disclosure.

(2) The central bank shall not, without the consent of the person making the disclosure, disclose the identity of that person.

(3) Any person who commits an act of victimisation against a person who has made a disclosure under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(4) Any person who wilfully makes a false disclosure under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5

years.

(5) In this section –

"victimisation" means an act –

(a) which causes injury, damage or loss;

(b) of intimidation or harassment;

(c) of discrimination, disadvantage or adverse treatment in relation to a person's employment; or

(d) amounting to threats of reprisals.

[S. 54A inserted by s. 3 of Act 13 of 2019 w.e.f. 25 July 2019.]

55. Identity of customers

(1) Every financial institution shall only open accounts for deposits of money and securities, and rent out safe deposit boxes, where it is satisfied that it has established the true identity of the person in whose name the funds or securities are to be credited or deposited or the true identity of the lessee of the safe deposit box, as the case may be.

(2) Every financial institution shall require that each of its accounts be properly named, at all times, so that the true owner of the accounts can be identified by the public and no name shall be allowed that is likely to mislead the public.

56. Validity of thumb print

In all the transactions connected with the opening of deposit into, or withdrawal from, a savings account or a fixed deposit account, the thumb print of a depositor who is unable to sign shall, where it is affixed in the presence of, and certified by, 2 officers of the financial institution, have the same legal effect as if the depositor had signed his name.

57. Bank's obligations towards customers

(1) A drawee bank upon which cheques have been drawn by its customer shall send or make available to the customer a statement of account in written or electronic form, showing payment of the cheques for the account and shall either return or make available to the customer the cheques paid or provide information in the statement of account sufficient to allow the customer reasonably to identify the cheques paid.

(2) The statement of account shall –

(a) provide sufficient information where the cheque is described by transaction date, description or particulars and amount; and

(b) specify the different charges in respect of the cheque book facilities provided by the bank to the customer.

(3) The frequency required for sending such statements of account shall be agreed with the central bank.

(4) Where the cheque is not returned to the customer, the bank retaining the cheque shall keep it in its physical form or in a legible copy by use of microfilm, magnetic tape, optical disk, or any other form of mechanical or electronic data storage and retrieval mechanism as the central bank may approve, for a period of at least 7 years as from the date the cheque is drawn.

(5) Where a bank has paid a cheque, the customer drawing the cheque may request the bank to return him the cheque and the bank shall provide within a reasonable time either the cheque or, where the cheque has been destroyed, presented for payment by electronic means under section 44A of the Bills of Exchange Act or is not otherwise obtainable, a legible copy of the cheque at a charge that shall not exceed the maximum charge determined by the central bank.

[Amended 38/11 (cio 15/12/11).]

(5A) (a) Subject to paragraph (b), a bank shall send or make available to its customer a statement of account, on a regular basis but at least once every year, showing the balance maintained on the account together with the transactions effected in the account during the relevant period of the statement.

(b) Where an account has remained inactive and the statement of account sent to the customer under paragraph (a) has returned undelivered on more than 3 consecutive instances during the period the account has remained inactive, the bank may, subject to the bank taking action to obtain the postal address of the customer within a reasonable period, cease to send the statement of account to the customer.

[Inserted 27/12 (cio 22/12/12).]

(6) Where a customer's deposit or money lodged with a financial institution for any purpose becomes less than the minimum balance requirement in force in a financial institution from time to time and it has been left untouched for a period of one year and the customer has not responded within 6 months to a letter from the financial institution informing him of any service fees or charges that may be applicable on the deposit or money for reasons of it having fallen below the minimum balance, sent by registered post

to the customer's last known address, the deposit or money, as the case may be, shall, without formality, be handed over forthwith by the financial institution to the customer concerned in person, failing which it shall be transferred to the central bank to be dealt with in the manner referred to in section 59.

(7) Every financial institution shall at all times display in a conspicuous place in the public part of its principal place of business, and in each branch or office of the financial institution, the rates of the fees or charges in respect of services provided by the financial institution in such form and manner as may be determined by the central bank.

[Amended 9/15 (cio 14/5/15).]

(8) The rates of the fees or charges referred to in subsection (7) shall be posted on the website of the financial institution.

(9) In this section –

"cheque" includes any payment by means of credit card or any payment order or transaction, whether made electronically or otherwise;

"inactive", in relation to an account, means where there has not been any customer induced transaction during one year or more.

[Repealed and replaced 27/12 (cio 22/12/12).]

[S. 57 amended by s. 2(o) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3 of Act 27 of 2012 w.e.f. 22 December 2012; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015.]

58. Customer's duty to report unauthorised signature or alteration

(1) Where a bank sends or makes available a statement of account or cheque pursuant to section 57, the customer shall exercise reasonable promptness in examining the statement or the cheque to determine whether any payment was not authorised because of an alteration of a cheque or because a purported signature by or on behalf of the customer was not authorised.

(2) Where, based on the statement or cheque provided, the customer ought to have reasonably discovered the unauthorised payment, the customer shall promptly notify the bank of the relevant facts.

(3) Where the bank proves that the customer failed, with respect to a cheque, to comply with the duties imposed on the customer by subsections (1) and (2), the customer shall be precluded from asserting against the bank –

(a) the unauthorised signature or the alteration on the cheque, where the bank also proves that it suffered a loss by reason of the failure; and

(b) the unauthorised signature or the alteration by the same wrongdoer on any other cheque paid in good faith by the bank where the payment was made before the bank received notice from the customer of the unauthorised signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding 30 days, in which to examine the cheque or statement of account and notify the bank.

(4) Where subsection (3) applies and the customer proves that the bank failed to exercise ordinary care in paying the cheque and that the failure substantially contributed to loss, the loss shall be allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subsections (1) and (2) and the failure of the bank to exercise ordinary care contributed to the loss.

(5) Where the customer proves that the bank did not pay the cheque in good faith, the preclusion under subsection (3) shall not apply.

(6) Without regard to care or lack of care of either the customer or the bank, a customer who does not within one year after the statement or cheques are made available to the customer, pursuant to section 57, discover and report any unauthorised signature on or any alteration on the cheque shall be precluded from asserting against the bank the unauthorised signature or alteration.

(7) Every bank shall notify its customers of their duties under subsections (1) and (2) and a notice to that effect shall be printed on the face of each bank statement of the customer.

(8) Notification under subsection (7) shall, in the case of existing customers, be made within 60 days of the commencement of this Act and in the case of new customers, at the time the account is opened.

59. Abandoned funds

(1) Notwithstanding anything in any agreement between a financial institution and its customer and irrespective of the amount, where a customer's deposit, or money lodged with a financial institution for any purpose, has been left untouched and not reclaimed for 7 years or more and the customer has not responded within 6 months to a letter from the financial institution about the dormant deposit or money sent by registered post to the customer's last known address, the deposit or money, as the case may be, shall be deemed to have been abandoned and shall, without further formality, be transferred forthwith by the financial institution concerned to the central bank to be dealt with as decided by the central bank.

[Amended 20/11 (cio 16/7/11).]

(2) The central bank shall maintain such records of any deposit or money abandoned as to enable the financial institution to refund to the owner or his heirs or assigns the deposit or money to which a rightful claim is established to the satisfaction of the central bank.

(3) No refund made under subsection (2) shall carry any interest.

[S. 59 amended by s. 2(d) of Act 14 of 2005 w.e.f. 10 November 2004.]

60. Evidence in relation to banker's books

(1) Notwithstanding any other enactment, a copy of any entry in a banker's books shall be *prima facie* evidence of such entry and of the matters, transactions and accounts recorded where –

(a) the book was, at the time the entry was made, one of the ordinary books of the bank;

(b) the entry was made in the usual course of the business of the bank;

(c) the book is in the custody of the bank; and

(d) the copy of the entry is certified by a responsible person to have been compared with, and is a correct copy of, the original entry.

(2) No director or senior officer, employee or agent of a bank shall, in any proceedings to which the bank is not a party, be compelled to produce any banker's book, the contents of which can be proved under subsection (1), or to appear as a witness to prove the matters, transactions and accounts recorded except by order of a Judge in Chambers or any Court and on good cause shown.

(3) A Judge in Chambers or any Court may, on the application of any party to legal proceedings, order that such party be permitted to obtain copies of any entry in a banker's book where such entry is material to the proceedings.

(4) Any application made under subsection (3) shall be served on the bank in respect of whose banker's books the application is made.

(5) For the purposes of this section, "banker's books" includes ledgers, day books, cash books, account books, records, financial statements or other documents used in the ordinary course of business of a bank, whether all these are in written form or are kept on microfilm, magnetic tape, or any other form of mechanical or electronic data retrieval mechanism.

60A. Certificate of senior officer of financial institution as evidence

In any proceedings before any Court, or before any person authorised by law or by consent of parties to hear, receive and examine evidence, a certificate under the hand of a senior officer of a financial institution shall be sufficient evidence of a fact stated in it without proof of the handwriting of such officer, unless the Court or the person is of opinion that the officer's attendance is necessary.

[S. 60A inserted by s. 4(e) of Act 38 of 2011 w.e.f. 15 December 2011.]

61. Control of advertisement

(1) No advertisement respecting deposits shall be made on behalf of a financial institution unless a copy of such advertisement has been submitted to the central bank not less than 7 days before the intended date of publication or other dissemination.

(2) For the purpose of this section, "advertisement" means any material, written, published, broadcast or otherwise, containing an invitation to make a deposit or obtain other financial services or information such as might lead directly or indirectly to the making of a deposit.

(3) Where in the opinion of the central bank an advertisement is misleading, the central bank may direct the financial institution or other person responsible for the dissemination of such advertisement to withdraw or modify it as directed by the central bank, and the person to whom the direction is given shall comply with it.

62. Hours of business

(1) Subject to this Part, the central bank shall –

(a) determine the daily minimum working hours of a financial institution; and

(b) inform every financial institution of the hours during which the central bank shall give facilities to it for the purposes of clearing and settlement of payments under the Mauritius Automated Clearing and Settlement System (MACSS) set up by the central bank.

(2) Subject to this Part, every financial institution shall inform the central bank of –

(a) the hours during which it shall remain open for the transaction of business with the public; and

(b) in the case of a bank, the hours during which it shall give facilities to its customers to effect electronic transactions on their accounts for same day value.

(3) Where a financial institution proposes to review its hours of business on any day, it shall –

(a) forthwith inform the central bank; and

(b) give notice to the public at least 24 hours before the day on which the revised business hours are proposed to be observed.

[S. 62 amended by s. 2(f) of Act 15 of 2006 w.e.f. 7 August 2006; s. 2(p) of Act 18 of 2008 w.e.f. 19 July 2008.]

63. Bank holidays

(1) The central bank may, with the approval of the Minister, declare, by public notice, any day, or any part thereof, to be a bank holiday.
[Amended 9/15 (cio 14/5/15).]

(2) Where a financial institution proposes to transact a business with the public on a bank holiday or a public holiday, it shall –

(a) forthwith inform the central bank; and

(b) give notice to the public.
[Am 11/24 (cio 27/7/24)]

(3) Any obligation which is required to be fulfilled at a financial institution and which falls due on any Saturday, bank holiday or public holiday shall be deemed to fall due on the following working day.
[Amended 13/19 (cio 25/7/19).]

[S. 63 amended by s. 2 (q) of Act 18 of 2008 w.e.f. 19 July 2008; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 3 of Act 13 of 2019 w.e.f. 25 July 2019; s. 7(e) of Act 11 of 2024 w.e.f. 27 July 2024.]

64. Confidentiality

(1) (a) Subject to this Act, every person, including a service provider, who, by virtue of his professional relationship with a financial institution, has access to the books, accounts, records, financial statements or other documents, whether electronically or otherwise, of a financial institution shall –

(i) in the case of a director or senior officer, take an oath of confidentiality in the form set out in the First

Schedule;

(ii) in the case of a director or service provider who is a non-resident, take an oath of confidentiality before the competent Court or authority in the country of residence of the director or service provider, in such form as the central bank may approve; or

[Amended 38/11 (cio 15/12/11).]

(iii) in any other case, make a declaration of confidentiality before the Chief Executive Officer or Deputy Chief Executive Officer of the financial institution in the form set out in the Second Schedule,

before he begins to perform any duties under the banking laws.

(aa) Paragraph (a) shall not apply where a service provider provides a financial institution with a written undertaking signed by its officer in charge and all its employees to the effect that they shall not, during and after their relationship with the financial institution, disclose, directly or indirectly to any person, any information relating to the affairs of any of its customers, including any deposits, borrowings, or transactions or other personal, financial or business affairs, without the written consent of the customer or his personal representative, and the financial institution requires the officer in charge of the service provider to make, on behalf of the service provider and all its employees, the declaration of confidentiality in the form set out in the Second Schedule.

[Amended 38/11 (cio 15/12/11).]

(ab) Notwithstanding paragraphs (a) and (aa), the central bank may, where the circumstances so warrant, require a financial institution or a service provider to comply with such confidentiality requirements as it may specify in such guidelines, directives or instructions as it may issue.

[Inserted 15/22 (cio 2/8/22).]

(b) For the purpose of paragraph (a) –

(i) "banking laws" includes the National Payment Systems Act 2018;

(ii) "professional relationship" means any relationship between a financial institution and a service provider, of which the central bank has been made aware.

[RR 17/18 (cio 31/1/19).]

(1A) Any person –

(a) to whom any information pertaining to a customer or

financial institution is disclosed and who knows or has reasonable grounds to believe, at the time of the disclosure, that the information was disclosed to him in contravention of this section;

(b) who is in possession of information relating to the affairs of a customer or financial institution without just or reasonable grounds or in contravention of this section; or

(c) who publishes, in any form whatsoever, any information relating to the affairs of a customer or financial institution without the express written consent of the customer or financial institution or in contravention of this section,

shall commit an offence and shall, on conviction, be liable –

(i) in the case of an individual, to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 3 years; or

(ii) in any other case, to a fine not exceeding one million rupees.

[Inserted 11/18 (cio 1/9/18).]

(1B) Where a person is prosecuted for an offence under subsection (1A)(a) or (b), it shall be a defence for the person to prove that –

(a) the disclosure was made without his consent;

(b) where the disclosure was made in a written form, he, as soon as practicable, surrendered or took all reasonable steps to surrender the information and all copies thereof to the central bank; and

(c) where the disclosure was made in an electronic form, he, as soon as practicable, took all reasonable steps to ensure that all electronic copies of the information were deleted and that the information and all copies thereof in other forms were surrendered to the central bank.

[Inserted 11/18 (cio 1/9/18).]

(2) Except for the purpose of the performance of his duties or the exercise of his functions under the banking laws or as directed in writing by the central bank, no person referred to in subsection (1) shall, during or after his relationship with the financial institution, disclose directly or indirectly to any person any information relating to the affairs of any of its customers including any deposits, borrowings or transactions or other personal, financial or business

affairs, without the prior written consent of the customer or his personal representative.

(3) The duty of confidentiality imposed under this section shall not apply where –

(a) a customer who had been issued a credit card or charge card by a financial institution, has his card suspended or cancelled by the financial institution by reason of his default in payment, and the financial institution discloses information relating to the customer's name and identity, the amount of his indebtedness and the date of suspension or cancellation of his credit card or charge card to other financial institutions issuing credit cards or charge cards in Mauritius;

(b) the customer is declared bankrupt in Mauritius or, in a case of a company, is being wound up;

(c) the customer has passed away, testate or intestate, and the information is required by his appointed personal representative or his testamentary executor solely in connection with the succession estate;

(d) civil proceedings arise involving the financial institution and the customer or his account;

(da) disclosure is necessary to –

(i) enable the financial institution to make a complaint or lodge a report to an officer authorised under any enactment to –

(A) receive a complaint or report; or

(B) carry out an investigation or prosecution,

in relation to a person involved or suspected to be involved in an offence;

(ii) any Court;

[Inserted 15/21 (cio 5/8/21).]

(e) the information is required by a colleague in the employment of the same financial institution in Mauritius or an auditor or legal representative of the financial institution who requires and is entitled to know the information in the course of his professional duties;

(f) the information is required by another financial institution for the purpose of assessing the creditworthiness of a customer, provided that the information is being sought for commercial reasons and is of a general nature;

(fa) the information is required to be disclosed by the financial institution for the purpose of discharging its responsibilities under Part VIIIA;

[Inserted 11/18 (cio 1/9/18).]

(fb) with respect to payable-through accounts, the customer due diligence information is required to be disclosed, upon request, by the financial institution to another institution with which it maintains a correspondent banking relationship, provided that the institution has given to the financial institution a written undertaking regarding the confidentiality of the information provided;

[Inserted 11/18 (cio 1/9/18).]

(fc) the customer due diligence information is required to be disclosed by the financial institution for the purpose of meeting the requirement set out by the central bank with respect to domestic or cross-border wire transfers or reliance on a third party;

[Inserted 11/18 (cio 1/9/18).]

(g) the financial institution is served with a garnishee order attaching monies in the account of the customer;

(h) any person referred to in subsection (1) is summoned to appear before a Court or Judge in Mauritius and the Court or the Judge orders the disclosure of the information;

(i) the information is required for transmission to the Credit Information Bureau, the Credit Scoring Services Agency or the Central KYC System and Central Accounts Registry established under the Bank of Mauritius Act;

[Amended 11/18 (cio 1/9/18); 7/2020 (cio 7/8/2020); 15/21 (cio 5/8/21); 18/25 (cio 9/8/25).]

(j) the financial institution is required to make a report or provides additional information on a suspicious transaction to the Financial Intelligence Unit under the Financial Intelligence and Anti-Money Laundering Act;

(k) the financial institution is required to provide information in compliance with –

(i) an order or a notice under the Financial Crimes Commission Act 2023; or

(ii) the requirements under the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act;

[Amended 18/08 (cio 19/7/08); repealed and replaced 9/11 (cio 1/2/12); amended 24/12 (cio 10/11/12); repealed and replaced 13/26 (cio 13/8/26).]

(l) the financial institution, other than a cash dealer, is required to provide information and particulars, and to do any other act, under Sub-part BA of Part VIII or Part IX of the Income Tax Act;

[Amended 18/08 (cio 19/7/08); 1/13 (cio 18/4/13); 10/17 (cio 24/7/17).]

(m) in respect of credit information, the information is required for transmission to the guarantor of a credit facility contracted by the customer;

[Inserted 18/08 (cio 19/7/08); 1/13 (cio 18/4/13); amended 27/13 (cio 21/12/13).]

(n) disclosure of information is required for the purposes of section 30, 32 or 32A;

[Inserted 1/13 (cio 18/4/13); amended 27/13 (cio 21/12/13); 21/18 (cio 1/3/19).]

(o) the information is required by the central bank for the purpose of assisting the Financial Services Commission established under the Financial Services Act or the Financial Crimes Commission established under the Financial Crimes Commission Act 2023 in the discharge of its functions under that Act or its obligations under any international agreement, convention or treaty to which it is a party;

[Inserted 27/13 (cio 21/12/13); 21/18 (cio 1/3/19); amended 1/19 (cio 15/12/23); 13/26 (cio 13/8/26).]

(p) the financial institution is required to provide information, documents and particulars to the Ombudsperson to enable him to discharge, or assist him in discharging, his functions under the Ombudsperson for Financial Services Act 2018; or

[Added 21/18 (cio 1/3/19); amended 1/19 (cio 15/12/23).]

(q) the information is required for transmission to the Mauritius Deposit Insurance Corporation Ltd.

[Added 1/19 (cio 15/12/23).]

(4) Subject to subsections (6) and (7), where the head office of a financial institution –

(a) incorporated outside Mauritius requires information from its

branch in Mauritius about any transaction of that branch; or

(b) incorporated in Mauritius requires information from its branch outside Mauritius about any transaction of that branch,

the information shall be disclosed.

(5) Subject to subsections (6) and (7), where the parent financial institution of a subsidiary operating in Mauritius and subject to consolidated supervision requires information from the subsidiary about any transaction of the subsidiary, the information shall be disclosed.

(6) Where the information which is required under subsection (4) or (5) relates to a transaction with a customer other than a financial institution, no information other than credit facilities granted to or foreign exchange transactions with the customer shall be disclosed.

(7) No information relating to deposits taken from or foreign exchange transactions with a central bank or any other entity or agency, by whatever name called, which performs the functions of a central bank, shall be disclosed.

(7A) (a) Nothing in this section shall preclude a financial institution from disclosing to the head office or the holding company of the financial institution, whether in or outside Mauritius, or any other person, designated by the head office or holding company to perform such functions, any information relating to the affairs of the financial institution or its customers for the purpose of conducting such risk management functions as may be approved by the central bank or centralised functions of audit, risk management, compliance, finance, information technology or such other centralised function as the central bank may approve.

[Amended 13/19 (cio 25/7/19).]

(b) Any person who has access to any information disclosed by the financial institution under paragraph (a) shall comply with the duty of confidentiality imposed under this section.

[Inserted 18/16 (cio 7/9/16).]

(8) Where an officer of a foreign financial institution or an officer of a central bank or banking regulator in a foreign country or any other entity or agency, by whatever name called, having the responsibility to supervise financial institutions or performing the functions of a central bank or a foreign supervisory authority having the responsibility of carrying out supervisory functions in respect of money laundering or terrorism financing, proposes to conduct an inquiry, audit or inspection of a branch or a subsidiary of such financial institution in Mauritius or to conduct such other action that would involve the duty of confidentiality imposed under this section, he shall obtain the

prior written authorisation of the central bank and be subject to the duty of confidentiality imposed under this section and any condition that the central bank may impose before information of a confidential nature be made available to him.

[Amended 11/18 (cio 1/9/18).]

(8A) (a) A financial institution shall seek the prior approval of the central bank before providing any confidential information to any person who intends to carry out due diligence on the financial institution with a view to acquiring a shareholding in the financial institution.

[Amended 15/22 (cio 2/8/22).]

(b) Any person involved in the due diligence exercise under paragraph (a) shall –

(i) make a declaration of confidentiality before the chief executive officer or deputy chief executive officer of the financial institution in the form set out in the Second Schedule;

(ii) take an oath of confidentiality in the manner set out in subsection (1)(a)(ii); or

(iii) comply with subsection (1)(aa) with such adaptations and modifications as may be necessary.

[Added 15/22 (cio 2/8/22).]

(9) The Chief Executive of the Financial Services Commission established under the Financial Services Act, the Commissioner of Police, the Director-General of the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act or any other competent authority in Mauritius or outside Mauritius who requires any information from a financial institution relating to the transactions and accounts of any person, including customer information, may apply to a Judge in Chambers for an order of disclosure of such transactions and accounts or such part thereof as may be necessary.

[Amended 38/11 (cio 15/12/11); 20/23 (cio 29/3/24); 13/26 (cio 13/8/26).]

(10) The Judge in Chambers shall not make an order of disclosure, pursuant to an application made under subsection (9), unless he is satisfied that –

[Amended 13/26 (cio 13/8/26).]

(a) the applicant is acting in the discharge of his or its duties;

(b) the information is material to any civil or criminal proceedings, whether pending or contemplated or is required for the purpose of any enquiry into or relating to the

trafficking of narcotics and dangerous drugs, arms trafficking, offences related to terrorism under the Prevention of Terrorism Act or financial crimes under the Financial Crimes Commission Act 2023; or

[Amended 20/23 (cio 29/3/24); 13/26 (cio 13/8/26).]

(c) the disclosure is otherwise necessary, in all the circumstances.

(11) Subject to this Act, the central bank or any person making an inspection or conducting an examination for it under Part V shall not reveal, unless required by a Court so to do, to any person any information in relation to the affairs of a customer obtained in the course of an inspection made or of an examination conducted under Part V.

(12) Notwithstanding subsection (11), the central bank may disclose to the auditor of a financial institution any information received under or for the purposes of this Act where it considers that disclosing the information would enable or assist it in the discharge of its supervisory responsibilities.

(13) The central bank may publish, at such times as it may determine, information or data furnished under this Act provided that the information or data do not disclose the particular financial situation of any financial institution or customer, unless the consent of the financial institution or the customer, as the case may be, has been specifically obtained.

(14) Nothing in this section shall preclude the disclosure of information by the central bank, under conditions of confidentiality, and subject to the satisfaction of such conditions as the central bank may determine –

(a) to a central bank or any other entity or agency, by whatever name called, which performs the functions of a central bank in a foreign country for the purpose of assisting it in exercising functions corresponding to those of the central bank under this Act;

(b) to Statistics Mauritius, to enable the Director of Statistics Mauritius to discharge, or assist him in discharging, any of his functions under the Statistics Act.

[Repealed and replaced 20/11 (cio 31/8/11); amended 11/18 (cio 1/9/18).]

(c) to a domestic or foreign supervisory authority where the information is required by the supervisory authority for the sole purpose of carrying out its AML/CFT supervisory functions.

[Added 11/18 (cio 1/9/18);3/26 (cio 18/4/26).]

(15) This section shall be without prejudice to the obligations of Mauritius under any international treaty, convention or agreement and to the obligations of the central bank under any concordat or arrangement or under any existing or future memorandum of understanding for cooperation and exchange of information between the central bank and the Financial Services Commission established under the Financial Services Act, or between the central bank and any other foreign regulatory agency performing functions similar to those of the central bank.

(16) In the event of any conflict or inconsistency between this section and any other enactment, other than the Bank of Mauritius Act, the Financial Crimes Commission Act 2023, the Financial Intelligence and Anti-Money Laundering Act, sections 123, 123D and 124 of the Income Tax Act, the Mutual Assistance in Criminal and Related Matters Act, sections 17(1)(c) and 28(2) of the Public Inquiries Act 2025 and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act, this section shall prevail.

[Amended 9/15 (cio 14/5/15); 10/17 (cio 24/7/17); 3/26 (cio 18/4/26); repealed and replaced 13/26 (cio 13/8/26).]

[S. 64 amended by s. 30 of Act 24 of 2005 w.e.f. 1 October 2005; s. 2(g) of Act 15 of 2006 w.e.f. 1 July 2006 and 7 August 2006; s. 97(1) of Act 14 of 2007 w.e.f. 28 September 2007; s. 4(d) of Act 17 of 2007 w.e.f. 22 August 2007; s. 2(r) of Act 18 of 2008 w.e.f. 19 July 2008; s. 3(f) of Act 14 of 2009 w.e.f. 30 July 2009; s. 3(f) of Act 14 of 2009 w.e.f. 30 July 2009; s. 3(j) of Act 10 of 2010 w.e.f. 24 December 2010; s. 65 of Act 9 of 2011 w.e.f. 1 February 2012; s. 4 of Act 20 of 2011 w.e.f. 31 August 2011; s. 4(f) of Act 38 of 2011 w.e.f. 15 December 2011; s. 4 of Act 1 of 2013 w.e.f 18 April 2013; s. 3(o) of Act 27 of 2013 w.e.f. 21 December 2013; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 3(o) of Act 18 of 2016 w.e.f. 7 September 2016; s. 4 of Act 10 of 2017 w.e.f. 24 July 2017; s. 5 of Act 11 of 2018 w.e.f. 1 September 2018; s.52 of Act 17 of 2018 w.e.f. 31 January 2019; s. 3 of Act 13 of 2019 w.e.f. 25 July 2019; s. 20(2) of Act 21 of 2018 w.e.f. 1 March 2019; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020; s. 4 of Act 15 of 2021 w.e.f. 5 August 2021; s. 5 of Act 15 of 2022 w.e.f. 2 August 2022; s. 34 of Act 1 of 2019 w.e.f. 15 December 2023; s 166 of Act 20 of 2023 w.e.f. 29 March 2024; s 3 of Act 18 of 2025 w.e.f. 9 August 2025; s. 3 of Act 3 of 2026 w.e.f. 18 April 2026; s. 3 of Act 13 of 2026 w.e.f. 13 August 2026.]

PART VIIIA – PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING

64A. Programmes against money laundering and terrorism financing

(1) Financial institutions shall implement programmes against money laundering and terrorism financing, having regard to money laundering and terrorism financing risks and the size of the business, and which include the following internal policies, procedures and controls –

(a) compliance management arrangements, including the appointment of a compliance officer at the management level;

(b) screening procedures to ensure high standards when hiring employees;

(c) an ongoing employee training programme; and

(d) an independent audit function to test the system.

(2) (a) Financial groups shall implement group-wide programmes against money laundering and terrorism financing which shall be applicable and appropriate to all branches and majority-owned subsidiaries of the financial group.

(b) The group-wide programme referred to in paragraph (a) shall be the measures specified in subsection (1) and shall, in addition include –

(i) policies and procedures for sharing information required for the purposes of customer due diligence and money laundering and terrorism financing risk management;

(ii) the provision, at group-level compliance, audit and AML/CFT functions of customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes, including –

(A) information and analysis of transactions or activities which appear unusual, where such analysis was done; and

(B) suspicious transaction reports filed with the Financial Intelligence Unit established under the Financial Intelligence and Anti-Money Laundering Act, their underlying information or the fact that a suspicious transaction report has been submitted to the Financial Intelligence Unit;

(iii) the provision to branches and subsidiaries of the information referred to in subparagraph (ii) from these group-level functions when relevant and appropriate to risk management, the scope and extent of the provision of the information to be shared may be specified by the central bank, based on the sensitivity of the information, and its relevance to AML/CFT risk management; and

(iv) adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

(3) (a) Financial institutions shall ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures which are consistent with the home country's requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country's laws and regulations permit.

(b) Where the host country does not permit the proper implementation of AML/CFT measures consistent with the home country's requirements, financial groups shall apply appropriate additional measures to manage the money laundering, terrorism financing and proliferation financing risks, and inform their home supervisors.

[Added 10/24 (cio 25/7/24);3/26 (cio 18/4/26).]

(4) In this Part –

"financial group" means a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group, together with branches and subsidiaries that are subject to AML/CFT policies and procedures at the group level.

[Added 10/24 (cio 25/7/24).]

[S. 64A inserted by s.5(l) of Act 11 of 2018 w.e.f. 1 September 2018; s. 4 of Act 9 of 2019 w.e.f. 29 May 2019; repealed and replaced by s. 3 of Act 10 of 2024 w.e.f. 25 July 2024; amended by s. 3 of Act 3 of 2026 w.e.f. 18 April 2026.]

64B. Customer due diligence information

(1) The central bank may, from time to time, issue such guidelines, directives or instructions to any financial institution, class of financial institutions or holder of a licence, as the central bank considers necessary for the prevention of money laundering, terrorism financing and proliferation financing, which may provide for –

[Amended 3/26 (cio 18/4/26).]

(a) customer due diligence measures to be undertaken by financial institutions or holders of a licence to prevent money laundering and the financing of terrorism and proliferation;

[Amended 3/26 (cio 18/4/26).]

(b) an on-going duty to keep customer due diligence information up to date in respect of both new and existing customers; and

(c) the keeping of records for the purpose of paragraphs (a) and (b).

(2) A financial institution or holder of a licence which or who fails to comply with any guideline, directive or instruction issued to it under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10 million rupees and, in the case of a continuing offence, to, after conviction, a further fine of 100,000 rupees for every day or part of a day during which the offence continues.

[Amended 5/20 (cio 9/7/2020).]

[S. 64B inserted by s.5(l) of Act 11 of 2018 w.e.f. 1 September 2018; amended by s. 2 of Act 5 of 2020 w.e.f. 9 July 2020; s. 3 of Act 3 of 2026 w.e.f. 18 April 2026.]

64C. Examination of financial institutions or holders of licence

(1) (a) The central bank may, from time to time, conduct an examination of the operations and affairs of every financial institution or holder of a licence to assess whether the financial institution or holder of a licence is complying with the guidelines, directives or instructions issued under section 64B.

(b) Paragraph (a) shall apply to any affiliate, subsidiary, branch, agency or office outside Mauritius of the financial institution or holder of a licence incorporated or established in Mauritius.

(2) Sections 42 to 45 shall apply to an examination carried out under subsection (1) with such modifications, adaptations and exceptions as may be necessary.

(3) The frequency and intensity of an examination conducted under this section shall be determined on the basis of –

(a) the money laundering, terrorism financing and proliferation financing risks and the policies, internal controls and procedures associated with the financial institution or holder of a licence or its group, as identified by the central bank's assessment of the institution's or group's risk profile;

[Amended 3/26 (cio 18/4/26).]

(b) the money laundering or terrorism financing risks present in Mauritius; and

[Amended 3/26 (cio 18/4/26).]

(c) the characteristics of the financial institution or holder of a licence or its group, in particular the diversity and number of financial institutions or holder of a licence and the degree of

discretion allowed to them under the risk-based approach implemented by the central bank.

[Added 5/20 (cio 9/7/2020).]

(4) The central bank shall review the assessment of the money laundering, terrorism financing and proliferation financing risk profile of a financial institution or holder of a licence or group, including the risks of non-compliance, periodically and when there are major events or developments in the management and operations of the financial institution, holder of a licence or its group.

[Added 5/20 (cio 9/7/2020); Amended 3/26 (cio 18/4/26).]

[S. 64C inserted by s.5(l) of Act 11 of 2018 w.e.f. 1 September 2018; amended by s. 2 of Act 5 of 2020 w.e.f. 9 July 2020; s. 4 of Act 15 of 2021 w.e.f. 5 August 2021; s. 3 of Act 3 of 2026 w.e.f. 18 April 2026.]

64D. Confidentiality of examination reports

(1) Where a written report is made in respect of a financial institution or holder of a licence by the central bank following an examination conducted pursuant to section 64C, the report shall, subject to subsection (2), not be disclosed to any person by –

(a) the financial institution or holder of the licence; or

(b) any officer or auditor of the financial institution or holder of the licence.

(2) The report referred to in subsection (1) may be disclosed –

(a) by the financial institution or holder of the licence to any officer or auditor of that financial institution or holder of that licence solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that financial institution;

(b) by any officer or auditor of the financial institution or holder of the licence to any other officer or auditor of that financial institution or holder of that licence, solely in connection with the performance of their respective duties in that financial institution or as an officer of the holder of that licence;

(c) with the approval of the central bank, to the head office or the holding company of the financial institution, whether in or outside Mauritius, for the purpose of conducting centralised functions of audit, risk management or compliance; or

(d) to such other person as the central bank may approve in writing.

(3) In granting approval for any disclosure under subsection (2)(c), the central bank may impose such conditions or restrictions as it thinks fit on the financial institution or holder of the licence, any officer or auditor of that financial institution or holder of that licence or the person to whom disclosure is made, and that financial institution, the holder of that licence, officer, auditor or person, as the case may be, shall comply with those conditions or restrictions.

(4) The obligations of an officer or auditor under subsections (1) and (3) shall continue after the termination or cessation of the employment or appointment of the officer or auditor by the financial institution or holder of the licence.

(5) Any person who contravenes subsection (1), or fails to comply with any condition or restriction imposed by the central bank under subsection (3), shall commit an offence and shall, on conviction, be liable –

(a) in the case of an individual, to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 3 years; or

(b) in any other case, to a fine not exceeding one million rupees.

(6) Any person to whom the report referred to in subsection (1) is disclosed and who knows or has reasonable grounds to believe, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) or who is in possession of the report without reasonable justification, shall commit an offence and shall, on conviction, be liable –

(a) in the case of an individual, to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 3 years; or

(b) in any other case, to a fine not exceeding one million rupees.

(7) Where a person is charged with an offence under subsection (6), it shall be a defence for the person to prove that –

(a) the disclosure was made without the person's consent;

(b) where the disclosure was made in any written or printed form, he, as soon as practicable, took all reasonable steps to surrender the report and all copies of the report to the central bank; and

(c) where the disclosure was made in an electronic form, he, as soon as practicable, took all reasonable steps to ensure that all electronic copies of the report were deleted and that the report and all copies thereof in other forms were surrendered to the central bank.

[S. 64D inserted by s.5(I) of Act 11 of 2018 w.e.f. 1 September 2018.]

64E. Cooperation and exchange of information with domestic and foreign counterparts

(1) Notwithstanding this Act, the central bank may, spontaneously or upon request, cooperate and exchange supervisory information, with domestic and foreign counterparts, related to, or relevant for, AML/CFT purposes.

[Amended 3/26 (cio 18/4/26).]

(2) The central bank may exchange with foreign competent authorities, information domestically available to it, including information held by financial institutions, in a manner proportionate to their respective needs.

(3) The central bank may exchange the following types of information when relevant for AML/CFT purposes, in particular with other domestic or foreign supervisors that have a shared responsibility for financial institutions operating in the same group –

(a) regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors;

(b) prudential information, such as information on the financial institution's business activities, beneficial ownership, management, and fit and properness; and

(c) AML/CFT information, such as internal AML/CFT procedures and policies of financial institutions, customer due diligence information, customer files, samples of accounts and transaction information.

(4) The central bank may, upon request, conduct inquiries on behalf of foreign counterparts and, where appropriate, authorise or facilitate the ability of foreign counterparts to conduct inquiries in financial institution, for the purpose of facilitating effective group supervision.

(5) (a) The central bank shall ensure that it has the prior authorisation of the requested financial supervisor for any dissemination of information exchanged, or use of that information for supervisory and non-supervisory purposes, unless the central bank is under a legal obligation to

disclose or report such information, in which case the central bank shall promptly inform the requested financial supervisor of this obligation.

(b) The central bank shall ensure that its prior written authorisation is sought by the requesting financial supervisor, for any dissemination of the information exchanged, or use of that information for supervisory and non-supervisory purposes, unless the requesting financial supervisor is under a legal obligation to disclose or report the information exchanged, in which case the requesting financial supervisor shall be required to promptly inform the central bank of this obligation.

[RR 3/26 (cio 18/4/26).]

(6) (a) The central bank may exchange information indirectly with non-counterparts, applying the relevant principles set out in this section, provided that the competent authority that requests information indirectly shall, at all times, make it clear for which purpose and on whose behalf the request is made.

(b) For the purpose of paragraph (a) –

"exchange of information indirectly" means the requested information passing from the requested authority through one or more domestic or foreign authorities before being received by the requested authority and where such an exchange of information and its use may be subject to the authorisation of one or more competent authorities of the requested country.

(7) Any information given under this section –

(a) shall be used only for the purpose, and by the domestic or foreign supervisors or counterpart, as the case may be, for which the information was sought or provided, unless the prior authorisation has been given by the central bank; and

(b) may be given subject to such other conditions as may be specified by the central bank, including conditions restricting the use and disclosure of the information imparted.

[Added 3/26 (cio 18/4/26).]

[S. 64E inserted by s. 3 of Act 10 of 2024 w.e.f. 25 July 2024; Amended by s. 3 of Act 3 of 2026 w.e.f. 18 April 2026.]

[PART VIIIA inserted by s. 5(l) of Act 11 of 2018 w.e.f. 1 September 2018.]

PART IX – CONSERVATORSHIP

65. Appointment of conservator

Where the central bank deems it necessary in order to protect the assets of a financial institution for the benefit of its depositors and other creditors, it may appoint a conservator, which may be the central bank or any other person directed by the central bank to be conservator, if the central bank has reasonable cause to believe that –

(a) the capital of the financial institution is impaired or there is a threat of such impairment; or

(b) the financial institution has, or its directors have –

(i) engaged in practices detrimental to the interests of its depositors;

(ii) knowingly or negligently permitted its chief executive officer, any of its other managers, officers or employees or agents to violate the banking laws, any enactment relating to anti-money laundering or prevention of terrorism or directives, guidelines and instructions issued by the central bank; or

[Amended 7/2020 (cio 7/8/2020).]

(c) actions or violations referred to in paragraph (b)(ii) are about to occur, or the assets of the financial institution are not sufficient to give adequate protection to the bank's depositors or creditors.

(S. 65 came into operation on 1 June 2007; amended by s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.)

66. Powers and duties of conservator

(1) The conservator shall take charge of the financial institution and all of its property, books, records and effects and shall exercise all powers necessary to preserve, protect and recover any of the assets of the financial institution, collect all monies and debts due to it, assert causes of action belonging to the financial institution and file, prosecute and defend suits on its behalf.

(1A) The conservator shall have all the powers of the shareholders, directors and officers of the financial institution and may operate the financial institution in its own name unless otherwise specified by the Board.

[Inserted 7/2020 (cio 7/8/2020).]

(1B) The conservator may, with the approval of the Board –

(a) succeed to all rights, titles, powers and privileges of the financial institution or any of its shareholders with respect to the financial institution and its assets; and

(b) without the approval or consent of the financial institution or any of its shareholders, offer the assets or shares of the financial institution for sale.

[Amended 18/25 (cio 9/8/25).]

[Inserted 7/2020 (cio 7/8/2020).]

(2) The conservator may –

(a) overrule or revoke actions of the board of directors and management of the financial institution; or

(b) suspend the powers of the board of directors of the financial institution during the period of the conservatorship.

(3) The conservator may –

(a) subject to subsection (4), suspend, in whole or in part, the repayment or withdrawal of deposits and other liabilities of the financial institution;

(b) subject to subsection (5), disaffirm or repudiate any contract or lease to which the financial institution is a party other than a financial contract such as a securities contract, forward contract, repurchase agreement, swap agreement or other similar agreement that the Board determines to be a financial contract for the purposes of this provision;

[Amended 7/2020 (cio 7/8/2020).]

(c) enforce any contract, other than a financial contract, entered into by the financial institution, notwithstanding any provision of the contract providing for termination, default or acceleration by reason of insolvency or the appointment of a conservator;

(d) execute any instrument in the name of the financial institution; or

[Added 7/2020 (cio 7/8/2020).]

(e) initiate, defend and conduct in its name any action or proceedings to which the financial institution may be a party.

[Added 7/2020 (cio 7/8/2020).]

(4) Any deposit and other credits received while the financial institution

is under conservatorship shall not be subject to any limitation as to repayment or withdrawal but shall be segregated and not used to liquidate any indebtedness of the financial institution existing at the time the conservator was appointed or subsequent indebtedness incurred in order to discharge such indebtedness.

(5) The conservator may disaffirm or repudiate a financial contract that, in his opinion, is fraudulent.

(6) The conservator, where it is not the central bank itself, shall report to and be responsible to the Board.

(S. 66 came into operation on 1 June 2007; amended by s. 2 of Act 7 of 2020 w.e.f. 7 August 2020;s. 3 of Act 18 of 2025 w.e.f 9 August 2025.)

67. Term of office and remuneration of conservator

(1) The term of office of the conservator shall continue, unless replaced by a successor, until such time as the Board finds that –

(a) the financial institution is rehabilitated or reorganised, so that it may be returned to management or a new management under such conditions as are necessary to prevent recurrence of the conditions that gave rise to the conservatorship; or

(b) the financial institution is in such condition that its continuance in business would involve probable loss to its depositors and other creditors, in which case Part XI shall apply.

(1A) Notwithstanding subsection (1), a financial institution shall not be placed under conservatorship for more than 180 days unless the Board determines otherwise.
[Inserted 7/2020 (cio 7/8/2020).]

(2) The remuneration of the conservator and the indemnification of the conservator from liability to third persons on account of all actions taken in good faith shall be borne by the financial institution.

(S. 67 came into operation on 1 June 2007)

[S. 67 amended by s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

68. Resumption of office by directors upon conclusion of conservatorship

(1) Subject to subsection (2), every director of the financial institution shall return to his office following the conclusion of the conservatorship.

(2) Subsection (1) does not apply to a director who has, after conclusion of the conservatorship, been found by the central bank to cease to be a fit and proper person for a directorship.

(S. 68 came into operation on 1 June 2007.)

69. Rehabilitation or reorganisation of financial institution

(1) The conservator shall seek authority from the Board to –

(a) rehabilitate the financial institution and return it to management; or

(b) reorganise the financial institution in accordance with this Part.

(2) Where the Board authorises the conservator to proceed to reorganise the financial institution, the conservator shall, after granting a hearing to all interested parties, propose a reorganisation plan and send a copy of it to all depositors and other creditors who shall not receive full payment under the plan.

(3) The copy of the reorganisation plan shall be accompanied by a notice stating that where the reorganisation plan is not refused in writing within a period of 30 days by persons holding not less than one third of the aggregate amount of deposits and creditors comprising not less than one third in value of the aggregate of the claims of creditors other than subordinated creditors, the conservator shall, with the approval of the Board, proceed to carry out the reorganisation plan.

(3A) Where the reorganisation plan is refused in writing within a period of 30 days by persons holding not less than one-third of the aggregate amount of deposits and creditors comprising not less than one-third in value of the aggregate of the claims of creditors other than subordinated creditors, the conservator may, subject to subsection (3), propose another reorganisation plan to all depositors and other creditors who shall not receive full payment under the plan.

[Inserted 7/2020 (cio 7/8/2020).]

(4) The approval of a reorganisation plan by the Board shall be subject to its finding that the reorganisation plan shall –

(a) be equitable under the circumstances, to depositors, other creditors and shareholders;

(b) provide for bringing in new funds so as to establish adequate ratios between –

(i) capital and deposits;

(ii) capital and risk assets;

(iii) liquid assets and deposits; and

(c) provide for the removal of any director, chief executive officer, manager, officer or employee responsible for the circumstances which necessitated the appointment of the conservator.

(5) Where in the course of reorganisation it appears that circumstances render the plan inequitable or its execution undesirable, the conservator may recommend to the Board to order the compulsory liquidation of the financial institution in accordance with Part XI.

(S. 69 came into operation on 1 June 2007; amended by s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.)

PART X – VOLUNTARY LIQUIDATION

70. Procedures to go into voluntary liquidation

(1) Notwithstanding any other enactment, any financial institution which proposes to go into voluntary liquidation shall obtain the authorisation of the Board.

(2) The Board may, where –

(a) the financial institution is solvent and has sufficient liquid assets to repay its depositors and other creditors without delay; and

(b) the proposed liquidation has been approved by shareholders representing three quarters of the voting rights at a meeting called expressly for this purpose,

authorise the financial institution to go into liquidation.

(3) Where the financial institution has received the authorisation of the Board under subsection (2), it shall –

(a) immediately cease to do business, retaining only the powers to do the necessary business for the purpose of effecting an orderly liquidation;

(b) repay its depositors and other creditors;

(c) wind up all operations undertaken prior to the receipt of the authorisation.

(4) The procedures for voluntary liquidation shall be in accordance with the relevant sections and Parts of the Insolvency Act and those sections and Parts shall apply to the extent that they are consistent with the provisions of this Part.

(S. 70 came into operation on 1 June 2007.)

[S. 70 amended by s. 2(h) of Act 15 of 2006 w.e.f. 7 August 2006; s. 3(k) of Act 10 of 2010 w.e.f. 24 December 2010.]

71. Notice and publication of voluntary liquidation

The financial institution shall –

(a) not later than 30 days from the receipt of an authorisation under section 70, send by mail a notice of voluntary liquidation, specifying such information as the central bank may prescribe, to all depositors, other creditors, and persons otherwise entitled to the funds or property held by the financial institution as a fiduciary, lessor of a safe deposit box, or bailee;

(b) post a notice of voluntary liquidation conspicuously on the premises of each office and branch of the financial institution; and

(c) give publication of the voluntary liquidation in such manner as the central bank may direct.

(S. 71 came into operation on 1 June 2007.)

72. Rights of depositors and creditors

(1) The authorisation to go into voluntary liquidation shall not prejudice the rights of a depositor or other creditor to payment in full of his claim nor the right of an owner of funds or other property held by the financial institution to the return thereof.

(2) All lawful claims shall be paid promptly and all funds and other property held by the financial institution shall be returned to their rightful owners within such maximum period as the central bank may prescribe.

(S. 72 came into operation on 1 June 2007.)

73. Distribution of assets

(1) Where, in the opinion of the central bank, the financial institution has discharged all of its obligations, its licence shall be revoked and the remainder of its assets shall be distributed among its shareholders in proportion to their respective rights.

(2) No distribution shall be made before –

(a) all claims of depositors and other creditors have been paid or, in the case of a disputed claim, before a financial institution has turned over to the central bank, or to any other person proposed by the liquidating financial institution and approved by the central bank, sufficient funds to meet any liability that may be judicially determined;

(b) any funds payable to a depositor or other creditor who has not claimed them have been turned over to the central bank or to any other person proposed by the liquidating financial institution and approved by the central bank;

(c) any other funds and property held by the financial institution that could not be returned to the rightful owners in accordance with section 72 have been transferred to the central bank, or to any other person proposed by the liquidating financial institution and approved by the central bank, together with the relevant inventories.

(3) Any funds or property not claimed within a period of 10 years following their transfer shall be presumed to be abandoned funds or property and shall be dealt with as determined by the Board.

(S. 73 came into operation on 1 June 2007.)

74. Insufficient assets

Where the central bank finds that the assets of a financial institution whose voluntary liquidation has been authorised shall not be sufficient for the full discharge of all of its obligations or that completion of the voluntary liquidation is unduly delayed, it shall appoint any person as receiver, to take possession of the financial institution and commence proceedings leading to its compulsory liquidation in conformity with the procedures specified in Part XI.

(S. 74 came into operation on 1 June 2007.)

PART XI – COMPULSORY LIQUIDATION

75. Board to appoint a receiver

The Board shall, notwithstanding any other enactment, appoint any person as receiver to take possession of a financial institution where –

(a) the capital of the financial institution is impaired or its condition is otherwise unsound;

(b) the ratio of its capital to total assets is less than 2 per cent;

(c) the business of the financial institution is being conducted in an unlawful, unsafe or unsound manner;

(d) the continuation of the activities of the financial institution is detrimental to the interests of its depositors;

(e) the licence of the financial institution has been revoked.

(S. 75 came into operation on 1 June 2007.)

76. Notice of appointment of receiver

(1) Where the receiver takes possession of a financial institution, he shall post on the premises of the financial institution a notice announcing its action under this Part and the time when such possession shall be deemed to take effect which shall not be earlier than the posting of the notice.

(2) A copy of the notice shall be transmitted to the Bankruptcy Court.

(S. 76 came into operation on 1 June 2007.)

77. Duties of receiver

The receiver shall –

(a) commence proceedings leading to compulsory liquidation of the assets of the financial institution;

(b) take such other measures as it thinks fit in accordance with section 78 in respect of a financial institution of which it has taken possession within a period of not more than 30 days from the date of the taking of possession; or

(c) terminate the taking of possession.

(S. 77 came into operation on 1 June 2007.)

78. Powers of receiver

(1) After entering into possession of a financial institution, the receiver may –

(a) manage and control the financial institution;

(b) discontinue its operations;
[Amended 18/16 (cio 7/9/16).]

(c) stop or limit the payment of its obligations;

(d) employ any necessary staff;

(e) execute any instrument in the name of the financial institution;

(f) initiate, defend and conduct in its name any action or proceedings to which the financial institution may be a party; and
[Amended 18/16 (cio 7/9/16).]

(g) –
[Repealed 18/16 (cio 7/9/16)]

(h) liquidate or take such other measures as it thinks fit under this section.

(2) The receiver shall succeed to all rights, titles, powers and privileges of the financial institution, of any shareholder, account holder, depositor, officer, or director of the financial institution with respect to it and its assets.

(3) The receiver may, with the approval of the Board under section 79 –

(a) merge or consolidate a financial institution with any other financial institution;

(b) transfer any asset or liability of the financial institution; or

(c) without the approval or consent of the financial institution or any of its shareholders, offer the assets or shares of a financial institution for sale to the central bank or as security for loans from the central bank.
[Amended 18/25 (cio 9/8/25).]

(S. 78 came into operation on 1 June 2007.)

[S. 78 amended by s. 3(j) of Act 18 of 2016 w.e.f. 7 September 2016; s. 3 of Act 18 of 2025 w.e.f. 9 August 2025.]

79. Powers of central bank under this Part

(1) The central bank may, at the direction of its Board –

(a) confirm and facilitate the actions of the receiver under section 78;

(b) purchase any assets of the financial institution or assume any of its liabilities; and

(c) make loans to any other financial institution merging or consolidating with or assuming the liabilities and purchasing the assets of the financial institution.

(2) The central bank may provide any investor acquiring control of, merging with, consolidating with or acquiring the assets of a financial institution with the financial assistance that it is authorised to provide under this section.

(3) The central bank may, pending such further action as is contemplated under subsection (1) or (2), grant a licence for the operation of a temporary financial institution for not more than 2 years.

[Amended 9/15 (cio 14/5/15); 18/16 (cio 7/9/16.).]

(4) The temporary financial institution may –

(a) assume such deposits and other liabilities; and

(b) purchase such assets of a financial institution that becomes subject to this Part,

as the central bank thinks fit.

(5) The board of directors of the temporary financial institution shall be appointed by and be responsible to the central bank.

(6) In determining the course of action to be taken in any given case, the Board shall have regard to –

(a) the financial implications thereof, and any funds that it may administer in order to protect depositors, taking into consideration the ultimate viability of the temporary financial

institution;

(b) the convenience to the community in maintaining banking facilities; and

(c) the tendency to create a monopoly or to restrict competition in the area served.

(S. 79 came into operation on 1 June 2007.)

[S. 78 amended by s. 3(j) of Act 18 of 2016 w.e.f. 7 September 2016.]

79A. Licensing of temporary financial institution

(1) An application for a licence to operate as a temporary financial institution shall be made in such form and medium as the central bank may determine.

(2) An application made under subsection (1) shall be accompanied by such information as the central bank may determine.

(3) The central bank may, following the determination of an application under subsection (1), grant or refuse the application.

(4) The central bank shall give notice of its determination to the applicant within 15 working days of the receipt of a complete application under subsection (1) or the supply of any supplementary information called for by the central bank.

(5) Where the central bank grants a licence under this section, it shall notify the applicant in writing within 7 days of its decision, and shall issue a licence to the temporary financial institution.

(6) The licence under subsection (5) shall –

(a) specify the name of the licensee; and

(b) be subject to such terms and conditions as the central bank may impose.

(7) The temporary financial institution shall comply with such prudential requirements as the central bank may specify.

(8) The central bank may, by guidelines, instructions or directives, require the temporary financial institution to comply with such provision of this Act as it considers appropriate so as to ensure effective supervision of the temporary financial institution.

(9) The central bank may cause an inspection of the operations and affairs of a temporary financial institution to be made by its officers or such other duly qualified person as it may appoint so as to assess whether the temporary financial institution complies with the banking laws and any guidelines, instructions or directives issued by the central bank.

(10) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

[S. 79A inserted by s. 3(r) of Act 18 of 2016 w.e.f. 7 September 2016.]

80. Receiver taking possession of a financial institution

(1) Where the receiver has taken possession of a financial institution –

(a) any term, statutory, contractual or otherwise, on the expiration of which a claim or right of the financial institution would expire or be extinguished shall be extended by 6 months from the date of the taking of possession;

(b) any attachment or lien, other than a lien existing 6 months prior to the taking of possession of the financial institution, shall be vacated and no attachment or lien, other than a lien created by the receiver in the application of these provisions, shall attach to any of the property or assets of the financial institution so long as such possession continues; and

(c) subject to subsection (2), any transfer of an asset of the financial institution made after or in contemplation of its insolvency or the seizure of the assets with intent to effect a preference within 5 years thereof shall be void.

(2) The receiver may recover the asset transferred or its value from the initial transferee or any subsequent transferee other than a transferee who has acquired the asset for value in good faith.

(S. 80 came into operation on 1 June 2007.)

81. Execution against assets of a financial institution

No execution shall be returned against the seized assets of a financial institution except, in the discretion of the Bankruptcy Court, an execution effected pursuant to a judgment delivered prior to the date of the seizure for an amount not exceeding 100,000 rupees.

(S. 81 came into operation on 1 June 2007.)

82. Further powers of receiver

(1) The receiver may –

(a) suspend, in whole or in part, the repayment or withdrawal of deposits and other liabilities of the financial institution;

(aa) suspend or reduce, as from the date of his appointment or any subsequent date, the right of creditors of the financial institution to claim or receive interest on any money owing to them by that financial institution;

[Inserted 9/15 (cio 14/5/15).]

(ab) cancel any agreement between the financial institution and any other party to advance moneys becoming due after the date of the receiver's appointment, or cancel any agreement to extend any existing facility, where –

(i) in the opinion of the receiver such advance or any loan under such facility would not be adequately secured or would not be repayable on terms satisfactory to the receiver;

(ii) the financial institution lacks the necessary funds to meet its obligations under any such agreement; or

(iii) any such act would not otherwise be in the interests of the financial institution;

[Inserted 9/15 (cio 14/5/15).]

(b) disaffirm or repudiate any contract or lease to which the financial institution is a party other than a financial contract, such as securities contract, forward contract, repurchase agreement, swap agreement or other similar agreement that the Board determines to be a financial contract for the purposes of this section;

(c) disaffirm or repudiate a financial contract that in his opinion is fraudulent; or

(d) enforce any contract, other than a financial contract entered into by the financial institution, notwithstanding any provision of the contract providing for termination, default or acceleration by reason of insolvency or the appointment of a receiver.

(2) The receiver shall, as soon as possible, take the necessary steps to

terminate all fiduciary functions performed by the financial institution, return all assets and property held by the financial institution as a fiduciary to the owner thereof, and settle its fiduciary accounts.

(S. 82 came into operation on 1 June 2007.)

[S. 82 amended by s. 4 of Act 9 of 2015 w.e.f. 14 May 2015.]

83. Inventory of assets

(1) The receiver shall, as soon as possible after taking possession, make an inventory of the assets of the financial institution and transmit a copy there of to the Bankruptcy Court.

(2) A copy of the inventory shall be available for examination by interested parties at the Bankruptcy Court.

(3) The receiver shall, not later than 120 days after his appointment, send by mail, at the address shown on the financial institution's books, to all depositors, other creditors, safe deposit box lessees, and the bailors of property held by the financial institution, a statement of the nature and amount for which their claim is shown on the financial institution's books.

(4) The statement shall note that any objection shall be filed with the receiver before a specified date not later than 60 days thereafter and shall invite safe deposit box lessees and bailors to withdraw their property in person.

(S. 83 came into operation on 1 June 2007.)

84. Safe deposit box

(1) Any safe deposit box the contents of which have not been withdrawn before the date specified shall be opened in the manner specified by the receiver.

(2) The contents specified in subsection (1) and any unclaimed property held by the financial institution as bailee, together with inventories pertaining thereto, shall be deposited in the central bank or in such depository as the central bank may direct and shall be kept for 10 years, unless claimed by the owner before the expiration of that period.

(3) On the expiration of the time specified in subsection (2), any funds or property not claimed shall be presumed to be abandoned funds or property and shall be dealt with as determined by the Board.

(S. 84 came into operation on 1 June 2007.)

85. Receiver dealing with claims

(1) Within 60 days after the last day specified in the notice for the filing of claims, the receiver shall –

(a) reject any claim where it doubts the validity thereof;

(b) determine the amount, if any, owing to each known depositor or other creditor and the priority class of his claim under this Part;

(c) prepare for filing with the Bankruptcy Court a schedule of the steps proposed to be taken; and

(d) notify each person whose claim has not been allowed in full and publish once a week for 3 consecutive weeks, in a newspaper of general circulation approved by the Bankruptcy Court, a notice of the date and place where the schedule of the steps it proposes to take will be available for inspection, and the date, which shall be not less than 30 days from the date of the third publication in the newspaper, on which the receiver shall file the schedule with the Bankruptcy Court.

(2) Within 20 days after the filing of the schedule specified in subsection (1)(c), any depositor, other creditor or shareholder, and any other interested party may file with the receiver an objection to any step proposed.

(3) Any objection filed under subsection (2) shall be considered by the Bankruptcy Court upon such notice to the receiver, and any interested parties as the Court may designate.

(4) Where an objection is sustained, the Bankruptcy Court shall direct that an appropriate modification of the schedule be made.

(5) After filing the schedule, the receiver may make partial distribution to the holders of claims which are undisputed or which have been allowed by the Bankruptcy Court, on condition that a proper reserve is established for the payment of disputed claims.

(6) After all objections have been decided upon, the receiver shall make final distribution.

(S. 85 came into operation on 1 June 2007.)

86. Priority of claims

(1) Notwithstanding any other enactment, including the Code Civil

Mauricien, claims as set out hereunder against the general assets of a financial institution, shall be settled in the following order of priority –

(a) necessary and reasonable costs, charges and expenses incurred by the receiver, including his remuneration, in application of this Part;

(b) wages and salaries of officers and employees of the financial institution in liquidation for the 3 month period preceding the taking possession of the financial institution;

(c) taxes, rates and deposits owed to the Government of Mauritius;

(d) any premium contributions due and payable by the bank or non-bank deposit taking institution to the Mauritius Deposit Insurance Corporation Ltd;

[RR 1/19 (cio 15/12/23).]

(da) liabilities incurred by the Mauritius Deposit Insurance Corporation Ltd in respect of insured deposits, up to the amount of compensation paid or payable out of the Deposit Insurance Fund referred to in the Mauritius Deposit Insurance Scheme Act 2019;

[Inserted 1/19 (cio 15/12/23).]

(e) other deposits;

(f) other liabilities.

(2) In the event of the winding up of a financial institution holding a banking licence, section 91 shall apply.

(3) After payment of all other claims filed, with interest thereon at a rate to be fixed by the receiver with the approval of the Bankruptcy Court, any remaining claims which were not filed within the prescribed time shall be paid.

(4) Where the amount available for any class is insufficient to provide payment in full, the amount shall be distributed *pro rata* among the members of that class.

(5) Any assets remaining after all claims have been paid shall be distributed among all the shareholders in proportion to their participation.

(6) Unclaimed funds remaining after the final distribution shall be deposited by the receiver in the central bank or in such depository as the central bank may direct and shall be kept for 10 years, unless claimed by the owner

before the expiration of that period.

(7) On the expiration of the period specified in subsection (6), any funds or property remaining unclaimed shall be presumed to be abandoned funds or property and shall be dealt with as determined by the Board.

(S. 86 came into operation on 1 June 2007.)

[S. 86 amended by s. 34 of Act 1 of 2019 w.e.f. 15 December 2023.]

87. Submission of audited accounts to Bankruptcy Court

(1) Where all assets have been distributed in accordance with this Part, the receiver shall submit audited accounts to the Bankruptcy Court.

(2) On approval of the accounts by the Bankruptcy Court –

(a) the licence of the financial institution shall be revoked;

(b) the Registrar of Companies shall be notified; and

(c) the receiver shall be relieved of any liability in connection with the liquidation.

(S. 87 came into operation on 1 June 2007.)

88. Liquidation of a financial institution

On completion of the procedures provided under section 87, the Bankruptcy Court shall declare the liquidation of the financial institution and shall terminate its juridical existence in Mauritius.

(S. 88 came into operation on 1 June 2007.)

89. Civil and criminal actions

The conservator or receiver or the central bank may bring a civil action against any director, chief executive officer, manager, officer, employee, agent or independent contractor of a financial institution for gross negligence or intentional wrong for damages caused to that financial institution and may recommend to the Director of Public Prosecutions the criminal prosecution of any such person.

(S. 89 came into operation on 1 June 2007.)

PART XII – WINDING UP OF FINANCIAL INSTITUTIONS GENERALLY

90. Winding up of financial institutions

(1) The provisions of Sub-Part II of Part III and Parts IV and VII of the Insolvency Act and such regulations as may be prescribed shall apply in relation to the winding up of a financial institution, where the provisions of Parts X and XI are not resorted to, or any of the provisions of those Parts are not otherwise applicable.

(2) The amounts shown in the books of a financial institution as standing to the credit of depositors shall, unless the liquidator shows that there is reason to doubt the entry, be presumed to be proof of those amounts without further proof from the depositors.

[S. 90 amended by s. 3(l) of Act 10 of 2010 w.e.f. 24 December 2010.]

91. Priority of deposit liabilities

Subject to section 92, where a financial institution becomes unable to meet its obligations or becomes insolvent or suspends payment, the assets of the financial institution in Mauritius shall be available to meet all deposit liabilities of the financial institution in Mauritius, and those deposit liabilities shall have priority over all unsecured liabilities of the financial institution other than those expenses and debts specified in the Insolvency Act to have priority of claim over all other liabilities of the company in the event of a winding up.

[S. 91 amended by s. 3(m) of Act 10 of 2010 w.e.f. 24 December 2010.]

92. Priority of deposit and other liabilities in case of winding up of a bank and non-bank deposit taking institution

(1) Notwithstanding any other enactment, in the event of a winding up of a bank and non-bank deposit taking institution, the deposit liabilities of the bank and non-bank deposit taking institution shall be settled in the manner specified in subsection (2).

(2) All assets of the bank and non-bank deposit taking institution shall be available to meet all deposit liabilities of the bank and non-bank deposit taking institution in the following order of priority –

(a) deposit liabilities incurred by the bank and non-bank deposit taking institution with non-bank customers;

(b) deposit liabilities incurred by the bank and non-bank deposit taking institution with other banks;

(c) other liabilities of the bank and non-bank deposit taking institution.

(3) The deposit or other liabilities in each class specified in subsection (2) shall rank in the order specified in that subsection but as between deposit or other liabilities of the same class shall rank equally between themselves and shall be paid in full unless the assets of the financial institution are insufficient to meet them in which case they shall be settled in equal proportions between themselves.

(4) For the purposes of section 91 and this section, "deposit liabilities" means sums of money paid on terms –

(a) under which they shall be repaid, with or without interest or at a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the persons making the payments and the bank receiving them;

(b) which are not referable to the provisions of property or services or to the giving of security.

(5) For the purposes of subsection (4), money shall be paid on terms which are referable to the provisions of property or services or to the giving of security only where –

(a) it is paid by way of advance or part-payment for the sale, hire or other provision of property or services of any kind and shall be repayable only in the event that the property or services is or are not in fact sold, hired or otherwise provided;

(b) it is paid by way of security for payment for the provision of property or services of any kind provided or to be provided by the bank and non-bank deposit taking institution by whom or on whose behalf the money is accepted; or

(c) it is paid by way of security for the delivery or return of any property, whether in a particular state of repair or otherwise.

[S. 92 amended by s. 3 (g) of Act 14 of 2009 w.e.f. 30 July 2009.]

PART XIII – MISCELLANEOUS

93. –

[S. 93 repealed by s. 34 of Act 1 of 2019 w.e.f. 15 December 2023.]

94. Derogations from articles 1659, 1660, 1661, 1673, 2087 and 2088 of Code Civil Mauricien for the purposes of repurchase transactions

(1) Pursuant to article 2094, alinea 2 of the Code Civil Mauricien and notwithstanding any other enactment –

(a) articles 1659, 1660, 1661 and 1673 of the Code Civil Mauricien shall not apply to commercial contracts involving purchases made with a provision for repurchase of –

(i) Government securities;

(ii) Bank of Mauritius Bills; or

(iii) such other instruments as the central bank may specify,

among banks and such other financial institutions as the central bank may specify; and

(b) articles 2087 and 2088 of the Code Civil Mauricien shall not apply to securities given for the repurchase of instruments referred to in paragraph (a).

(2) The central bank shall, by direction, specify the terms and conditions under which repurchase transactions may be entered into.

[S. 94 amended by s. 2 (s) of Act 18 of 2008 w.e.f. 19 July 2008.]

95. Protection from liability

No action shall lie against Government, the central bank, any officer or employee of the central bank or any person acting under the direction of the central bank for anything done or omitted to be done in good faith in the administration of this Act, or in the execution of any powers or duties authorised or required under any other enactment that are relevant to this Act.

96. –
[R21/18 (cio 1/3/19).]

[S. 96 repealed by s. 20(c) of Act 21 of 2018 w.e.f. 1 March 2019.]

96A. Protection of customers of financial institutions

(1) For the purposes of discharging its functions, the central bank may develop and promote such programmes and initiatives, where it thinks necessary in collaboration with financial institutions or bodies representing the

financial institutions, to inform and educate customers or potential customers of financial products and financial services.

(2) Every financial institution, other than a cash dealer, shall appoint an officer to deal with complaints and grievances from their customers.

(3) (a) Any customer of a financial institution who is aggrieved by any act or omission of the financial institution may, subject to paragraph (b), make a complaint in writing to the financial institution for remedial action.

(b) The financial institution shall not entertain a complaint where it is made more than 7 years from the date of the act or omission giving rise to the complaint.

(4) (a) Any complaint made under subsection (3) shall be dealt with by the financial institution in the manner and within such period as provided for in the Ombudsperson for Financial Services Act 2018 or any guideline, instruction or requirement issued thereunder.

[RR 7/2020 (cio 7/8/2020).]

(b) Where the complainant is dissatisfied with the reply or does not receive a reply within the period referred to in paragraph (a), he may refer the complaint to the Ombudsperson in the manner provided for in the Ombudsperson for Financial Services Act 2018.

[RR 21/18 (cio 1/3/19).]

(c) –

[R 21/18 (cio 1/3/19).]

(5) –

[R 21/18 (cio 1/3/19).]

(6) The central bank may issue such instructions or guidelines as may be necessary for the purposes of this section.

[S. 96A inserted by s. 3(c) of Act 27 of 2012 w.e.f. 21 December 2012; s. 20(d) of Act 21 of 2018 w.e.f. 1 March 2019; amended by s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

96B. Limitation of interest

(1) Notwithstanding articles 1154 and 2202-6 of the Code Civil Mauricien, where the amount of the principal of a non-performing loan or credit facility granted in Mauritius currency on or after 1 January 2014 in respect of an individual is outstanding and the interest, in accordance with the contract between the bank or non-bank deposit taking institution and the individual, is equal to the outstanding amount of the principal, only simple interest at the prevailing key rate determined by the central bank shall be charged on the

outstanding balance of the principal.
[Amended 12/23 (cio 16/1/23).]

(2) Notwithstanding section 16 of the Borrower Protection Act, no bank or non-bank deposit taking institution shall, in respect of any individual, charge penalty interest at a rate exceeding 2 per cent per annum above the normal interest rate chargeable under the contract referred to in subsection (1).

(3) No penalty or interest on a penalty shall, in respect of an individual, be charged by a bank or non-bank deposit taking institution, on the early repayment of any outstanding amount of a loan taken by, or credit facility referred to in subsection (1) granted to, that individual.

[S. 96B inserted by s. 3(p) of Act 27 of 2013 w.e.f. 21 December 2013; amended by s. 9 of Act 12 of 2023 w.e.f. 16 January 2023.]

96C. Decision of United Nations Security Council

(1) The central bank may, from time to time –

(a) make such regulations –

(i) concerning any financial institution, class of financial institutions or holder of a licence; or

(ii) relating to the activities of any financial institution, class of financial institutions or holder of a licence; and

(b) issue such guidelines, directives or instructions to a financial institution, class of financial institutions or holder of a licence,

as the central bank considers necessary in order to discharge, or facilitate the discharge of, any obligation binding on Mauritius by virtue of a decision of the United Nations Security Council.

(2) Notwithstanding any enactment or contract to which a financial institution or holder of a licence is a party, the financial institution or holder of the licence to which regulations made under subsection (1)(a) apply or which is bound by guidelines, directives or instructions made under subsection (1)(b) shall comply with those regulations, guidelines, directives or instructions, as the case may be.

(3) A financial institution or holder of a licence shall not, in carrying out any act in compliance with the regulations, guidelines, directives or instructions made under subsection (1), be treated as being in breach of any such enactment or contract.

(4) Except where a Court orders such disclosure, a financial institution or holder of a licence shall not disclose the guidelines, directives or instructions issued under subsection (1)(b) where the central bank notifies the financial institution that the central bank is of the opinion that the disclosure of those guidelines, directives or instructions is against the public interest.

(5) A financial institution or holder of a licence which –

(a) contravenes any regulations made under subsection (1)(a);

(b) fails or refuses to comply with guidelines, directives or instructions issued to it under subsection (1)(b); or

(c) discloses a guideline, a directive or an instruction issued to it in contravention of subsection (4),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees.

[S. 96C inserted by s. 5(m) of Act 11 of 2018 w.e.f. 1 September 2018.]

97. Offences and penalties

(1) Any person who transacts banking business, Islamic banking business, digital banking business, private banking business, deposit taking business, business of cash dealer, without a licence, or, if applicable, the written authorisation from the central bank, shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.
[Amended 27/13 (cio 21/12/13); 18/16 (cio 7/9/16); 7/2020 (cio 7/8/2020).]

(2) Any person who fails to comply with the requirements of the central bank under section 43(2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) Any person who, without any valid reason, hinders or obstructs the central bank in the exercise of its powers of special examination under section 43 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees for each day on which the offence occurs or continues and to imprisonment for a term not exceeding 2 years.

(4) Any person who knowingly furnishes any document or information which is false or misleading in a material way or particular in relation to an application for a banking licence under section 5 or to an application for a licence under section 14 shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not

exceeding 5 years.

(5) Any financial institution which fails to –

(a) display its licence in accordance with section 9 or 15; or

(b) comply with section 57(7) or (8),

shall commit an offence, and shall, on conviction, be liable to a fine which shall not be less than 10,000 rupees and not more than 50,000 rupees for each day on which the offence occurs or continues.

(6) Any financial institution which opens or keeps open a new place of business, closes or keeps closed an existing place of business or changes its location without the approval of the central bank shall commit an offence.

(7) Any person who, without being licensed, or without written authorisation by the central bank, under this Act –

(a) uses the word "bank", "foreign exchange dealer", "money changer", "deposit taking" or any of their derivatives in any language in the description or title under which that person is carrying on his activities in Mauritius;

(b) uses, as part of the name, description or title under which he carries on his activities, any word or term likely to indicate the nature of his activities to be those of a bank or any other financial institution;

(c) makes any representation or uses any word or term in any billhead, letter, notice, advertisement or in any manner whatsoever indicating that he is carrying on the activities of a bank or any other financial institution,

shall commit an offence.

(8) Any director or senior officer who commits an offence under subsection (5), (6) or (7) shall, on conviction, be liable to a fine which shall be not less than 25,000 rupees for each day on which the offence occurs or continues.

(9) (a) Any bank or non-bank deposit taking institution which contravenes section 23(2) shall commit an offence and shall, on conviction, be liable to a fine not less than 10,000 rupees and not more than 50,000 rupees for each day on which the offence occurs or continues.

[Amended 38/11 (cio 15/12/11).]

(b) On a conviction pursuant to paragraph (a), the Court shall, in

addition to the fine, order the bank or non-bank deposit taking institution to pay to the central bank a charge at a rate of interest which shall not be more than 3 times the legal rate of interest, calculated on –

[Amended 38/11 (cio 15/12/11).]

(i) the amount by which the minimum holding of liquid assets have been proved in Court to be deficient; and

(ii) the period over which the minimum holding of liquid assets has been proved in Court to be deficient.

(c) The charge ordered to be paid under paragraph (b) may be recovered by the central bank by deduction of any balance of, or money owing to, the bank or non-bank deposit taking institution concerned, or as if it were a civil debt.

[Amended 38/11 (cio 15/12/11).]

(d) Paragraphs (b) and (c) shall apply notwithstanding anything to the contrary in any other enactment.

(10) Any person who fails to comply with section 31 shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(11) Any financial institution which fails to comply with section 34(5), (6) or 35 shall commit an offence and shall, on conviction, be liable to a fine which shall be not less than 10,000 rupees and not more than 50,000 rupees for each day on which the offence occurs or continues.

(12) Any person who does not take the necessary corrective action mandated under section 38 shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than 10,000 rupees and not more than 50,000 rupees for each day the offence occurs or continues.

(13) Any financial institution or its affiliate which fails to produce any book or other document or information required under section 44 shall commit an offence and shall, on conviction, be liable to a fine which shall be not less than 10,000 rupees and not more than 50,000 rupees for each day on which the offence occurs or continues.

(14) Any financial institution or its affiliate which gives information or produces any book or other document required under section 44, which is false in any material particular, shall commit an offence and shall, on conviction, be liable to a fine which shall be not less than one million rupees and not more than 5 million rupees.

(15) (a) Where any financial institution does not take the measures

specified by the central bank pursuant to section 45(1)(ii), it shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees in respect of each day on which the offence occurs or continues and the director, chief executive officer, manager, officer, employee or shareholder holding a significant interest responsible shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(b) Where a financial institution or any of its directors, senior officers, employees or shareholders holding a significant interest, fails to –

(i) cease or desist from actions and violations specified in a cease and desist order issued by the central bank under paragraph (a) of section 45(2);

(ii) take such affirmative action, as is specified in the order, to correct the conditions resulting from any such actions or violations,

the financial institution or any of its directors, senior officers, employees or shareholders, as the case may be, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees.

(c) Where a financial institution fails to comply with an order issued under of section 45(2)(b), it shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees.

(16) Any person who contravenes section 47 shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(17) Any director or senior officer who fails to comply with section 48 shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(18) Any bank which fails to comply with the requirements of section 50(2), 51(3), 51(4), 52(2), 52(6)(a) or 53 shall commit an offence and shall, on conviction, be liable to a fine not less than 10,000 rupees and not more than 50,000 rupees for each day on which the offence occurs or continues.

(19) Any financial institution which contravenes section 55 shall commit an offence and shall, on conviction, be liable to a fine which shall be not less than one million rupees and not more than 5 million rupees.

(20) Any person who contravenes section 64 shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and

to imprisonment for a term not exceeding 5 years.

(21) Any person who, being a director, chief executive officer, manager, officer, employee or agent of a financial institution –

(a) makes, with intent to deceive, any false or misleading statement or entry or omits any statement or entry in any book, account, report or statement of the financial institution;

(b) obstructs an inspection or examination, by an officer of the central bank or such other duly qualified person as it may authorise, of the affairs of the financial institution or the proper performance by an auditor of his duties under this Act;

(c) fails to take all reasonable steps to ensure compliance by the financial institution with this Act; or

(d) is privy to any offence committed under this subsection and fails to report it to a senior officer or, in the case of a director, to the Board of the central bank,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(22) Any person who contravenes this Act shall commit an offence and shall –

(a) in the case of the offences referred to in the preceding subsections, on conviction, be liable to the penalties specified in those subsections;

(b) in any other case, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 97 amended by s. 2(i) of Act 15 of 2006 w.e.f. 7 August 2006; s. 4(g) of Act 38 of 2011 w.e.f. 15 December 2011; s. 3(q) of Act 27 of 2013 w.e.f. 21 December 2013; s. 3(s) of Act 18 of 2016 w.e.f. 7 September 2016; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

98. Prosecution for offence

No prosecution for an offence under this Act or any regulations made thereunder shall be instituted except by or with the consent of the Director of Public Prosecutions.

99. Compounding of offences

(1) The central bank may, with the consent of the Director of Public Prosecutions, compound any offence committed by a person under this Act which is prescribed as a compoundable offence, where the person agrees in writing to pay such amount not exceeding the maximum penalty specified for the offence, acceptable to the central bank.

[Amended 27/13 (cio 21/12/13).]

(2) Every agreement to compound shall be final and conclusive and on payment of the agreed amount, no further proceedings in regard to the offence shall be taken against the person who agreed to the compounding.

(3) (a) The Bank may cause to be published, in such form and manner as it may determine, a public notice setting out the particulars of the agreed amount under subsection (1).

(b) A notice under subparagraph (a) shall not contain any information which the Bank considers to be sensitive.

[Added 27/13 (cio 21/12/13).]

(4) Where the Director of Public Prosecutions does not give his consent to compound the offence or a person does not agree to compound the offence, the central bank shall refer the matter to the relevant law enforcement authority for investigation.

[Added 3/26 (cio 18/4/26).]

[S. 99 amended by s. 3(r) of Act 27 of 2013 w.e.f. 21 December 2013; s. 3 of Act 3 of 2026 w.e.f. 18 April 2026.]

100. Directives, guidelines or instructions

[Amended 7/2020 (cio 7/8/2020).]

(1) The central bank may make such directives, guidelines or instructions as it may determine for the purposes of this Act.

[Amended 7/2020 (cio 7/8/2020).]

(2) Any directives, guidelines or instructions made under subsection (1) shall apply to all financial institutions or to one or more categories of financial institutions and shall take effect on the date of their issue to the financial institutions or on such later date as may be specified in the directives, guidelines or instructions.

[Amended 7/2020 (cio 7/8/2020).]

(2A) Notwithstanding subsection (2), the central bank may issue specific instructions to any financial institution and such instructions shall take effect on the date of their issue to the financial institution or on such later date as may be specified in the instructions.

(2B) The central bank may issue such guidelines, instructions or directives as it may determine to ultimate and intermediate financial holding companies incorporated in Mauritius which have, within the group, at least one subsidiary or joint venture or such other ownership structure as the central bank may determine, which is a bank or a non-bank deposit-taking institution.

[Inserted 18/16 (cio 7/9/16).]

(2C) The central bank may, by guidelines, instructions or directives issued under subsection (2B), require the ultimate and intermediate financial holding companies incorporated in Mauritius which have, within the group, at least one subsidiary or joint venture or such other ownership structure as the central bank may determine, which is a bank or a non-bank deposit-taking institution, to comply with such specific provision of this Act as it considers appropriate so as to ensure effective supervision of the institution.

[Inserted 18/16 (cio 7/9/16).]

(3) Any person to whom directives, guidelines or instructions are issued shall comply with those directives, guidelines and instructions.

[Amended 7/2020 (cio 7/8/2020).]

(3A) –

[Inserted 27/13 (cio 21/12/13); repealed 9/15 (cio 14/5/15).]

(4) Any person who fails to comply with the directives, guidelines or instructions made under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and, in the case of continuing offence, to, after conviction, a further fine of 100,000 rupees for every day or part of a day during which the offence continues and to imprisonment for a term not exceeding 2 years.

[Amended 11/18 (cio 1/9/18); 7/2020 (cio 7/8/2020).]

[S. 100 amended by s. 3(n) of Act 10 of 2010 w.e.f. 24 December 2010; s. 3(s) of Act 27 of 2013 w.e.f. 21 December 2013; s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; s. 3(t) of Act 18 of 2016 w.e.f. 7 September 2016; s. 5(n) w.e.f. 1/9/18; s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

101. Regulations

(1) The Minister may –

(a) make such regulations as he thinks fit for the purposes of this Act;

(b) by regulations, prescribe the offences which shall be compoundable offences for the purposes of section 99;

(c) by regulations, amend the Schedules, other than the Third Schedule.

[Amended 1/13 (cio 18/4/13).]

(2) Any regulations made under this section may –

(a) provide for the payment of fees and the levying of charges; and

(b) provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 3 years.

(3) Notwithstanding subsections (1) and (2), the central bank may, with the approval of the Minister, make regulations for the purpose of prescribing any processing fee or licence fee under section 7(7A) or 11A(3)(a) and (c) and of discharging or facilitating the discharge of any obligation binding on Mauritius by virtue of a decision of the United Nations Security Council.

[Amended 11/18 (cio 1/9/18)]

[S. 101 amended by s. 5 of Act 1 of 2013 w.e.f 18 April 2013; s. 3(t) of Act 27 of 2013 w.e.f. 21 December 2013.]

102. Transitional provision

Any bank licensed before the commencement of section 4(b) of the Finance (Miscellaneous Provisions) Act 2017 shall, on the commencement of that section, raise its capital to not less than –

(a) 300 million rupees by 30 June 2018; and

(b) 400 million rupees by 30 June 2019.

[S. 102 amended by s. 4 of Act 10 of 2017 w.e.f. 24 July 2017.]

103. –

104. Repeal and savings

(1) The following enactments are repealed –

(a) the Banking Act; and

(b) the Foreign Exchange Dealers Act.

(2) Notwithstanding the repeal of the enactments specified in subsection (1) –

(a) any licence or certificate issued, any approval given or authorisation granted under the repealed enactments and in

force on the date immediately before the coming into operation of this Act shall be deemed to have been issued, given or granted under this Act and any such licence, certificate, approval or authorisation shall remain valid for the period specified therein;

(b) any Category 1 Banking Licence or Category 2 Banking Licence issued under the repealed enactment referred to in subsection (1)(a) shall, on the commencement of this Act, be deemed to be a banking licence issued under this Act;

(c) any licence fee paid under the repealed enactments referred to in subsection (1) shall, on the commencement of this Act, be deemed to have been paid under this Act for the remaining period to which it applies;

(d) any guidelines or instructions issued by the central bank under the repealed enactments and in force on the date immediately before the coming into operation of this Act shall be deemed to have been issued under this Act;

(e) all proceedings, judicial or otherwise under the repealed enactments commenced before and pending on the date immediately before the coming into operation of this Act shall be deemed to have been commenced and may be continued under this Act;

(f) any act or thing done under the repealed enactments shall be deemed to have been done under this Act.

105. –

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FIRST SCHEDULE
[Section 64(1)(a)]

OATH OF CONFIDENTIALITY

IN THE SUPREME COURT OF MAURITIUS

I, ……, being appointed ……, do hereby swear/solemnly affirm/declare* that I shall maintain during or after my relationship with …….. the confidentiality of any matter relating to the banking laws which comes to my knowledge in my capacity as…….. or in any other capacity with…….. …… and shall not, on any account and at any time, disclose directly or indirectly to any person, any matter or information relating to the affairs of ….. ……otherwise than for the purposes of the performance of my duties or the exercise of my functions under the banking laws or when lawfully required to do so by a Judge in Chambers or any Court of law or under any enactment.

……..
Signature of declarant

Taken before me,……, the Master and Registrar of the Supreme Court on …….. (date).

* *Delete as appropriate*

[First Sch. repealed and replaced by s. 3(o) of Act 10 of 2010 w.e.f. 24 December 2010.]

SECOND SCHEDULE

[Section 64(1)(a)]

DECLARATION OF CONFIDENTIALITY

I ..... being appointed ..... do hereby declare that I shall maintain during or after my relationship with ..... the confidentiality of any matter relating to the banking laws which comes to my knowledge and shall not, on any account and at any time, disclose directly or indirectly to any person, any matter or information relating to the affairs of ..... otherwise than for the purposes of the performance of my duties or the exercise of my functions under the banking laws or when lawfully required to do so by a Judge in Chambers or any Court of law or under any enactment.

Signature of declarant .....

Made before me this .....

Signature .....

Name .....
Chief Executive Officer/
Deputy Chief Executive Officer

[Second Sch. amended by Act 14 of 2009 w.e.f 30 July 2009.]

THIRD SCHEDULE

[Section 32A]

1. Where the central bank authorises the transfer of the whole or part of the undertaking of a bank under section 32A –
[Amended 9/15 (cio 14/5/15).]

(a) all assets and liabilities that form part of the undertaking of the transferor bank on the day immediately before the appointed day and are listed in the final list of assets and liabilities submitted to the Registrar-General under section 32A(8), shall, on the appointed day, vest in and continue to be the assets and liabilities of the transferee bank, without the need for any further formality;

(b) the transferor bank shall, in respect of the transferred undertaking, on the appointed day, be released from all liabilities and obligations that form part of its undertaking on the day immediately before the appointed day;
[Amended 9/15 (cio 14/5/15).]

(c) all proceedings started and pending by or against the transferor bank that form part of the undertaking of the transferor bank on the day immediately before the appointed day shall, in respect of the transferred undertaking, on the appointed day, be continued by or against the transferee bank, and the transferee bank shall be entitled to all defences, claims, counterclaims and rights of set-off or compensation which would have been available to the transferor bank in relation to such proceedings;
[Amended 9/15 (cio 14/5/15).]

(d) any ruling, order or judgment in favour of or against the transferor bank in respect of the undertaking of the transferor bank on the day immediately before the appointed day shall, in respect of the transferred undertaking, on the appointed day, be enforceable by or against the transferee bank;

(e) any mortgage, privilege, charge, bond, pledge, guarantee or any other security interest that form part of the undertaking of the transferor bank on the day immediately before the appointed day and was made or given to secure past, present and future advances, facilities or services by the transferor bank shall, in respect of the transferred undertaking, on the appointed day, remain in full force and be considered to be a mortgage, privilege, bond, pledge, guarantee or instrument given to or in favour of the transferee bank, as security for past, present and future advances, facilities or services by the transferee bank, without the need for any further formality;

(f) every book, record and other document of the transferor bank that form part of its undertaking, on the day immediately before the appointed day shall, in respect of the transferred undertaking on the appointed day, vest in the transferee bank.

2. (a) Every person who, in relation to the transferred undertaking, on the day immediately before the appointed day, is employed by the transferor bank shall be entitled to be transferred to the transferee bank on terms and conditions which shall be not less favourable than those of his previous employment at the transferor bank.

(b) The period of service of every person employed by the transferor bank who is transferred to the transferee bank shall be deemed to be an unbroken period of service with the transferee bank.

(c) No person employed by the transferor bank shall, on account of his transfer to the transferee bank or any resulting change in his job title, be entitled to claim that his employment has been terminated or adversely affected in breach of any enactment.

(d) Any pension or similar scheme operated by the transferor bank for the benefit of its employees on the day immediately before the appointed day shall, as from the appointed day, be operated by the transferee bank.

3. (a) Subject to paragraph (b), every person who is a shareholder of the transferor bank on the day immediately before the appointed day –

(i) shall, on the appointed day, be considered to hold in the transferee bank a number of shares representing his proportionate share of the net asset value that the transferred undertaking bears to the net asset value of the transferee bank following the completion of the transfer; or

[Amended 9/15 (cio 14/5/15).]

(ii) may exercise his right to require the transferor bank to purchase his shares in accordance with section 32A(5).

(b) Paragraph (a) shall be without prejudice to the right of any shareholder, other than Government, to cease to be a shareholder –

(i) of the transferor bank immediately before the appointed day; or

(ii) of the transferee bank on or after the appointed day.

[Third Schedule added by s. 6 of Act 1 of 2013 w.e.f. 18 April 2013.]

FOURTH SCHEDULE

[Fourth Sch. added by s. 4 of Act 9 of 2015 w.e.f. 14 May 2015; repealed by s. 2 of Act 7 of 2020 w.e.f. 7 August 2020.]

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