Central Bank of The Bahamas

PUBLIC CONSULTATION

On Legislative Reforms To

(1) **Enhance the Resolution Regime for Systemically Important Institutions**

(2) **Bring Money Transmission Businesses Under the Legislative Framework for Payment Institutions**

(3) **Streamline the Currency Framework and Strengthen the Central Bank's Supervisory Powers**

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I. INTRODUCTION

1.1 This Consultation Paper seeks public feedback on the Central Bank of The Bahamas' ("the Central Bank or the Bank") proposed revisions to legislation which seeks to:

(1) Strengthen the resolution framework for systemically important financial institutions;

(2) Migrate Money Transmission Service Providers from the Banks and Trust Companies Regulation Act, 2020 to the legislative framework for payment service providers;

(3) Introduce certain miscellaneous provisions which, inter alia, streamline the currency framework and strengthen the Central Bank's supervisory powers.

1.2. To achieve this, the Central Bank proposes amendments to the following legislation:

The Banks and Trust Companies Regulation Act, 2020 ("BTCRA")

The Central Bank of The Bahamas Act, 2020 ("CBBA")

The Protection of Depositors Act, 1999 ("PDA");

The Protection of Depositors Byelaws, 1999 ("PDB")

The Payment Systems Act, 2012 ("PSA")

The Payment Instruments (Oversight) Regulations, 2017 ("PIOR")

The Central Bank also intends to introduce the Protection of Depositors (Administrative Monetary Penalties) Regulations, 2025 ("PD(AMP) Regulations") and the Central Bank of The Bahamas (Administrative Monetary Penalties) Regulations, 2025 ("the CBB(AMP) Regulations").

1.3. The key aspects of the proposed legislation are discussed in the following sections. Annexes 1 to 8 set out the provisions of the draft legislation.

1.4. The Central Bank remains committed to maintaining a regulatory framework that is both robust and aligned with international standards and best practices. To further strengthen our oversight of our supervised financial institutions (SFIs), the Central Bank is also considering additional legislative reforms – beyond the scope of this paper – to address recurring issues, including the oversight of SFIs that are not subject to consolidated supervision by a foreign regulator.

1.5. Any legislative proposals arising from this work will be the subject of a separate consultation, at which time stakeholders will have the opportunity to review and provide feedback on any proposed reforms.

II. DETAILS OF THE PROPOSED LEGISLATION

2.1 Resolution Framework for Systemically Important Financial Institutions

2.1.1 At the request of the Central Bank, the Monetary and Capital Markets Department of the International Monetary Fund ("IMF") conducted Technical Assistance ("TA") missions in October 2021 and November 2022. The missions supported the Central Bank in the implementation of a new bank recovery and resolution framework along with reforms to the depositor protection regime.

2.1.2 The IMF acknowledged that significant progress had already been made with the enactment of the Banks and Trust Companies Regulation Act, 2020 which created a strong legal framework for bank resolution, modeled closely on international standards for effective resolution regimes for financial institutions. In addition, the 2020 amendments to the deposit insurance legislation, further clarified the role of the Deposit Insurance Corporation ("the Corporation" or "the DIC") and expanded its coverage to include co-operative credit unions. To build on this progress, and better

align The Bahamas' legislative framework with international standards and best practices, the IMF recommended that the Central Bank develop proposed amendments to relevant legislation to, among other matters:

(a) Enable the appointment of a statutory administrator of a bank's holding company;

(b) Clearly distinguish between the supervisory authorities and the resolution authorities within the Central Bank;

(c) Define the role of the Central Bank as resolution authority, to include identification of the appropriate resolution strategy for systemically important institutions and empower the Bank to implement any resolution strategy or plan or to apply any resolution measure that it deems appropriate;

(d) Empower the Central Bank to recognize resolution actions taken by a home resolution authority in relation to the operations of a foreign bank operating in The Bahamas;

(e) Clarify and place appropriate safeguards on the use of public funding for bank resolutions;

(f) Clarify the ownership arrangements for bridge banks and asset management companies; and

(g) Scale up of the DIC's operations to cover banks and co-operative credit unions and strengthen its governance and design features.

2.1.3 The IMF also advised that a dedicated resolution regime be established for failing credit unions that, *inter alia:*

- be proportional to their size, nature and features;
- includes a specified set of triggers for entry into resolution; and

- empowers the Central Bank to exercise resolution powers in respect of failing credit unions.

2.1.4 In line with these recommendations, the Central Bank proposes to enshrine the resolution framework for both banks and co-operative credit unions in the Central Bank of The Bahamas Act, 2020. Amendments are also proposed to the BTCRA, PDA, PDB and the introduction of the PD(AMP) Regulations.

2.1.5 These legislative proposals are designed to inter alia, assist the Central Bank in operationalizing the bank recovery, resolution and amended depositor protection regimes and strengthen the resolution frameworks for banks and co-operative credit unions. The proposed amendments are also intended to strengthen the framework and operational capacity of the DIC by ensuring that Bahamian depositors are always protected, irrespective of the financial balance in the Corporation's Fund. This will facilitate confidence in financial institutions, the absence of which may lead to pre-emptive runs from weak but otherwise solvent institutions. To achieve this, the draft legislation would make provision for the Corporation to have access to a dedicated, pre-arranged back-up funding arrangement with the Central Bank that is sufficient to meet liquidity needs. These emergency funds would be supported by government guarantees and repaid to the Central Bank.

Draft Central Bank of The Bahamas (Amendment) Bill, 2025

2.1.6 The draft Central Bank of The Bahamas (Amendment) Bill, 2025 ("the CBBA Amendment Bill") is set out at Annex 1. The key provisions of the CBBA Amendment Bill seek to amend the CBBA as follows:

(a) Amend section 2 of the principal Act, by:

i. Introducing new terms and definitions including:

- "affiliated operational entity" – which in relation to a bank means a company that is a subsidiary of the bank or of the bank's holding

company; operates in or from within The Bahamas; and provides services, directly or indirectly, to the bank;

- "systemically important institution" or "SII" - which captures banks as well as co-operative credit unions registered under the Bahamas Co-operative Credit Unions Act, 2015;
- "resolution measure" – which refers to a power that may be exercised in relation to a pertinent financial institution as specified under the special resolution framework for pertinent financial institutions;
- "pertinent financial institution" – which is defined as a bank or a co-operative credit unions registered under the Bahamas Co-operative Credit Unions Act, 2015, that is the subject of resolution measures.

ii. Re-defining the term "Resolution" to cover both banks and co-operative credit unions that have ceased, or are likely to cease to be viable.

iii. Re-defining the term "asset management vehicle" to clarify that an asset management vehicle may be owned by either a company wholly or partly owned by the Government, or by a bank licensed by the Central Bank which is owned by bailed in creditors with bailed in funded capital. (Clause 2)

(b) Make provision for the Central Bank to make advances to the DIC only for the purpose of maintaining financial system stability and supporting a resolution measure undertaken for a member of the Deposit Insurance Fund. In doing so, the Government must guarantee repayment in writing and the Central Bank must be satisfied that such loans are necessary to prevent systemic risk posed by the failure of a member of the Deposit Insurance Fund. (Clause 14)

(c) Remove provisions in section 26 of the principal Act that enable the Central Bank to provide financial assistance to a bridge institution and for the bridge

institution to repay the Bank in these instances. Instead, it is proposed that the PDA permit the DIC to contribute to such resolution measures as bridge institution operations, undertaken in relation to a member institution, and empower the DIC to set levies to recover any public funding outlays. (Clause 15)

(d) Amend section 28 of the principal Act to clarify that a bridge bank or asset management vehicle, is owned by the government or bailed-in creditors and not the Central Bank, consistent with standard international practices. (Clause 17)

(e) Insert a new Part IXA - **SPECIAL RESOLUTION FRAMEWORK FOR PERTINENT FINANCIAL INSTITUTIONS** and Part IXB - **LIQUIDATION OF BANKS -** and new Schedules into the principal Act. The provisions of Parts IXA and IXB are currently set out in the BTCRA which also addresses the licensing and regulatory framework for banks and trust companies. The amendments therefore seek to consolidate, under the CBBA, the provisions of the BTCRA that define the resolution and recovery framework for banks and the liquidation process, with the aim of improving clarity and coherence in the resolution regime. The key provisions in Parts IXA and IXB provides for the following:

i. Definition of the objectives of the resolution framework which are inter alia, maintaining financial stability, protecting and enhancing public confidence in the stability of the banking system, protecting depositors, minimizing the costs of resolution and protecting public funds; (proposed section 43A)

ii. Requirement for both banks and co-operative credit unions which are defined as pertinent financial institutions, to prepare and submit to the Central Bank a recovery plan to restore it to acceptable levels of financial and operational soundness which is reviewed annually, independently reviewed and tested for effectiveness; (proposed section 43B)

iii. Further definition of the Central Bank's role as resolution authority to include identification of the appropriate resolution strategy before appointing a statutory administrator. Under the BTCRA, the statutory administrator is required to prepare a report for the Central Bank on the bank to which the administrator has been appointed to determine appropriate remedial or resolution actions. This may create delays in the resolution process as the statutory administrator is unable to take immediate action to implement the selected strategy. To address this, the proposed provisions seek to empower the Central Bank to –

- conduct resolvability assessments of systemically important institutions to determine whether there are impediments to their orderly resolution and the extent of those impediments;
- devise strategies for securing an orderly resolution of a SII, and
- support the strategies by developing plans for the orderly resolution of a SII (proposed section 43C), and direct the Statutory Administrator to implement any resolution strategy or plan which the Bank deems appropriate or apply any resolution measure to a pertinent financial institution on the basis of a plan developed by the Bank; (proposed sections 43D & 43I)

iv. Empowers the Central Bank to appoint a statutory administrator of a holding company of a bank as well as an affiliated operational entity that performs critical functions or services for the bank. The statutory administrator may apply any resolution measures in the same way and to the same extent that it could to a bank under statutory administration; (proposed sections 43E & 43F)

v. Empowers the Central Bank to give legal recognition to and support the resolution actions taken by a foreign resolution authority in relation to

the operations of a foreign bank operating in The Bahamas, where this is consistent with the financial stability and depositor interests in The Bahamas; (proposed section 43V)

vi. Sets out the voluntary and compulsory liquidation procedure for banks in the new Part IXB that, inter alia, describes the powers and duties of a liquidator, priority of claims, and creditor and shareholder safeguards.

vii. Strengthens the resolution safeguards in the legislation. The BTCRA 2020 made provision for shareholder and creditor ("no creditor worse off") safeguards. To afford stronger protections for creditors and allow greater flexibility in developing resolution options in line with international standards, the Bill seeks to introduce provisions that will:

- give the Central Bank the discretion to depart from pari passu treatment of similarly ranked creditors, either to prevent contagion in the financial system or to maximize the bank's value;
- introduce depositor preference that places deposit liabilities in a more senior position than other senior unsecured creditor claims; and
- require an independent valuation of assets and liabilities to inform the Central Bank's resolution actions. (proposed sections 43FF and 43G). (Clause 20)

(f) Insert a new Second and Third Schedules that regulates security transfer instruments and property transfer instruments by setting out the parameters of application for each. (Clause 29)

Draft Banks and Trust Companies Regulation (Amendment) Bill, 2025

2.1.7 The draft Banks and Trust Companies Regulation (Amendment) Bill, 2025 ("the BTCR Amendment Bill") is set out at Annex 2. The key provisions of the BTCR Amendment Bill seek to amend the BTCRA as follows:

(a) Amend section 2 of the BTCRA by deleting the definitions for "asset management vehicle", "stabilization option", and "Domestic Systemically Important Institution", amending the definition for "bridge institution", and introducing new terms and definitions for "affiliated operational entity", "Domestic Systemically Important Bank" and "non-active financial institution. (Clause 2)

(b) Expand the sanctioning powers of the Bank under section 29 of the BTCRA to include the power to revoke the licence of a bank that is placed under statutory administration but cannot be rehabilitated or restructured; and to appoint a statutory administrator to a bank, holding company of a bank under statutory administration, or any subsidiaries of the holding company or bank that provides services to the bank (described as an 'affiliated operational entity'). (Clause 9)

(c) Repeal those sections of Part VI – *Special Resolution Framework for Banks* - that will now be moved into the Central Bank of The Bahamas Act and the Protection of Depositor's Act, to streamline the legislative framework. Consequently, what will remain are the current provisions for the Central Bank to grant a licence to a body corporate to carry on the business of a bridge institution. (Clause 12)

(d) Expand the disciplinary actions which the Central Bank may publish to include the revocation of a license of a bank that is placed under statutory administration that cannot be rehabilitated or restructured, and appointments of statutory administrators of holding companies and affiliated operational entities of banks. (Clause 13)

(e) Repeal the Third and Fourth Schedules of the BTCRA that will be moved into the Central Bank of the Bahamas Act, 2020 as a new Second and Third Schedule. (Clauses 19 and 20)

Draft Protection of Depositors (Amendment) Bill, 2025

2.1.8 The draft Protection of Depositors (Amendment) Bill, 2025 ("the PDA Amendment Bill") is set out at Annex 3. The key provisions of the PDA Amendment Bill seek to amend the PDA as follows:

(a) Amend section 2 of the PDA by inserting new terms and definitions for "asset management vehicle", "pertinent financial institution", "resolution", "resolution measure", and "systemically important institution". (Clause 2)

(b) Clarify the mandate of the DIC to state that the policy objective of the DIC includes protecting depositors up to the maximum insurance coverage provided under the PDA

(c) Amend section 15 of the PDA by introducing new provisions that establish an emergency back-up funding facility financed by funds borrowed from the Central Bank and guaranteed by the Government and expand the powers of the Corporation to include *inter alia*, the power to withdraw moneys from the Fund to support a resolution measure undertaken in relation to a member institution. (Clause 4)

(d) Insert new sections 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15I into the PDA that *inter alia* expands the powers of the Central Bank to make loans to the DIC and explains the permitted purposes in which the DIC is allowed to apply the proceeds of that loan. Any use of this emergency funding facility should be repaid from asset recoveries or levies on members (Clause 5)

(e) Repeal and replace section 21 of the PDA to clarify that the Central Bank may conduct examinations on behalf of the DIC of member institutions to assess, inter alia, risks to the financial system. (Clause 7)

(f) Insert new sections 22, 22A, 22B, 22C, 22D, 22E, and 22F which clarifies the process and procedure by which the Corporation may impose penalties on member institutions if the Bank is satisfied that a violation has occurred. (Clause 8)

(g) Insert a new section 23 into the PDA that clarifies that if the Corporation issues an official document stating the date on which it became aware of a matter under consideration, that document can be accepted as evidence without having to prove who signed it or their authority. Unless there is evidence showing otherwise, the date stated in the document will be treated as the official date that the Corporation became aware of the matter. (Clause 8)

(h) Insert a new section 24 that makes provision for persons to apply to the Supreme Court to appeal any decision of the Corporation. (Clause 8)

(i) Insert a new part IVA and sections 26, 26A and 26B into the PDA that empowers the Corporation to provide funding to support resolution measures undertaken for a member institution as the Bank may determine, while limiting the use of the DIC's funds to the amount it would have paid to depositors in a liquidation and setting a maximum of the existing fund that could be used in resolution. (Clause 9)

(j) Expand the information sharing powers of the Corporation and authorize the Corporation to exchange information with other domestic financial services regulators to facilitate contingency planning, preparing for or carrying out resolutions as well as financial crisis management or other aspects of financial stability. (Clause 10)

Draft Protection of Depositors (Amendment) Bye-laws, 2025

2.1.9 The draft Protection of Depositors (Amendment) Bye-laws, 2025 ("the PDA Amendment Bye-laws") are set out at Annex 4. The key provisions of the PDA Amendment Bye-laws seeks to amend the Protection of Depositors Bye-laws, 1999 ("the principal Bye-laws") as follows:

(a) Amend bye-law 4A of the principal byelaws to:

i. clarify that the Corporation may cancel a certificate of insurance of an institution only where the Central Bank in its role as supervisor or as resolution authority, has intervened and halted its market participation;

ii. clarify that the decision to intervene and close an institution rests solely with the Central Bank as resolution authority;

iii. reduce the length of time that certain insured deposits which are transferred from a failed member institution to a new institution are afforded protection;

iv. clarify that if the certificate of deposit insurance is cancelled, the institution must be intervened and resolved; (Clause 2)

(b) Amend bye-law 11 by the deletion of the words "owed or" to clarify that in a failure, only past due claims should be deducted before the deposit payout and not any outstanding loan balance. (Clause 3)

(c) Revoke bye-law 12 which requires depositors to file claims with the DIC for payouts and bye-law 18 which empowers the Minister to reverse a decision that that an institution is no longer viable. (Clauses 4 & 5)

Draft Protection of Depositors (Administrative Monetary Penalties) Regulations, 2025

2.1.10 The draft Protection of Depositors (Administrative Monetary Penalties) Regulations, 2025 ("the PD(AMP) Regulations") is set out at Annex 5. When enacted the key provisions of the PD(AMP) Regulations will:

(a) Incorporate co-operative credit unions under the wider ambit of the protection of depositors' regulatory framework. (Regulation 2)

(b) Outline the classification of violations as *minor*, *serious*, or *very serious.* (Regulation 4)

(c) Distinguish between late and erroneous filings and the penalties applicable to each type of violation. It is proposed that penalties for erroneous filings would vary based on whether the error was discovered by the Central Bank, or by the member institution. (Regulation 5)

2.2 Migration of Money Transmission Service Providers from the legislative framework for banks and trust companies to the legislative framework for Payment Service Providers & Strengthening the Central Bank's Oversight of Payment Systems and Payment Instruments

2.2.1 Money Transmission Service Providers are currently licensed and supervised by the Central Bank pursuant to the Banks and Trust Companies Regulation Act, 2020 ("the BTCRA") and the Banks and Trust Companies (Money Transmission Business) Regulations, 2008 ("the MTB Regulations"). The Central Bank proposes amendments to the BTCRA, the Payment Systems Act, 2012 and the Payment Instruments Oversight Regulations, 2017, to bring money transmission service providers under the broader legislative framework for payment service providers. The Central Bank also intends to repeal the MTB Regulations.

2.2.2 Since money transmission service providers already offer payment services and instruments, the draft Bills and Regulations would formally place them within the existing framework that governs payment instruments and electronic money. This alignment will ensure that the Central Bank can regulate and supervise money transmission service businesses in a manner that is consistent with other payment services providers. The Central Bank also intends to make other amendments to relevant legislation to strengthen its regulation and oversight of payment systems and payment instruments.

Draft Banks and Trust Companies Regulation (Amendment) Bill, 2025

2.2.3 The draft Banks and Trust Companies Regulation (Amendment) Bill, 2025 ("the BTCR Amendment Bill") is set out at Annex 2. The BTCR Amendment Bill seeks to inter alia, remove provisions that relate to money transmission businesses from the BTCRA into the payments systems legislation. Provisions for the oversight of the money transmission business sector will now be placed under the same oversight framework as other non-bank payment service providers. In this regard, the key provisions of the BTCR Amendment Bill seek to:

(a) Remove the terms "money transmission agent", "money transmission business", and "money transmission service provider" and their definitions throughout the BTCRA and revoke the Banks and Trust Companies (Money Transmission Business) Regulations, 2008 which will now be issued under the Central Bank of The Bahamas Act. (Clauses 2, 3 4, 5, 6, 7, 10, 11, 14, 15 and 16)

(b) Repeal sections 11 and 12 of the BTCRA which formerly provided for the application for licences to operate as a money transmission service providers and for the registration of money transmissions agents. (Clauses 6 and 7)

(c) Remove the requirement for money transmission service providers (MTSPs) to pay licensing and annual fees under the BTCRA by deleting references to MTSPs from the Second Schedule of the BTCRA. Instead, it is proposed that MTSPs pay

such fees pursuant to the First Schedule to the Payment Instruments (Oversight) Regulations, 2017. (Clause 18)

(d) Repeal the Banks and Trust Companies (Money Transmission Business) Regulations, 2008. (Clause 21)

Draft Payment Systems (Amendment) Bill, 2025

2.2.4 The draft Payment Systems (Amendment) Bill, 2025 ("the draft PS(A) Bill") is set out in Annex 6. The draft PS(A) Bill seeks to amend the Payment Systems Act, 2012 ("the PSA") by, inter alia, bringing the oversight of money transmission businesses within the same legislative framework as other non-bank payment service providers. When enacted, the key provisions of the Bill will:

(a) Introduce the term "payment institution" which is defined as an entity that is licensed pursuant to the Payment Instruments (Oversight) Regulations, 2017 ("the PIOR") to provide payment services. As mentioned below, the proposed amendments to the PIOR will expand the category of licensees to include money transmission services providers. (Clause 2)

(b) Remove the current definitions of "electronic money" and "payment instrument" and replace them with definitions which are consistent with the definitions used in the PIOR. (Clauses 2 and 7)

(c) Clarify that the Central Bank's oversight powers include the regulation of any services that enable deposits and withdrawals as well as the licensing of electronic money issuers and payment institutions under the guidance of the Principles for Financial Market Infrastructure 2012 issued by the Committee on Payments and Market Infrastructures. (Clause 4)

(d) Expand the list of what the Central Bank must have regard to in the exercise of its powers under the PSA to include the interests of consumers. (Clause 5)

(e) Insert a new section 22A which mandates confidentiality of reports produced by the Central Bank following examination or inspection of a participant or clearing house of an approved system. (Clause 6)

(f) Repeal and replace Part VIII of the PSA to provide for the licensing regime of electronic money issuers and payment institutions, including money transmission service providers. The new provisions also explicitly exclude the Central Bank from the licensing requirements. (Clause 7)

(g) Clarify the list of persons from whom the Central Bank has power to obtain information from; namely a clearing house, a participant or indirect participant in a system and/or a person reasonably believed to have information relevant to an enquiry by the Bank (Clause 8)

(h) Expand the category of persons that the Central Bank may enter into Memoranda of Understanding to discharge its functions to include the Securities Commission of The Bahamas, and enable the Central Bank and Securities Commission to inter alia request for the other to provide information, and take action under the PSA, the Securities Industry Act or any other relevant Act. (Clause 9)

(i) Clarify that employees, agents or consultants of participants, clearing houses, electronic money issuers and payment institutions are responsible in taking reasonable steps to ensure compliance with the requirements of the PSA as well as the accuracy and correctness of any information provided to the Central Bank. (Clause 10)

(j) Expand the category for appeals to the Supreme Court of any decision of the Central Bank to include decisions to revoke a licence granted to an electronic money issuer or a payment institution pursuant to Regulation 9(1) of the Payment Instruments (Oversight) Regulations, 2017. (Clause 11)

(k) Include payment institutions such as money transmission services providers, in the list of industries that may be granted exemptions by the Central Bank. (Clause 12)

(l) Include payment institutions in the list of industries for which the Central Bank may make regulations prescribing inter alia the standards to be maintained by payment institutions. (Clause 13)

Draft Payment Instruments Oversight (Amendment) Regulations, 2025

2.2.5 The draft Payment Instruments (Oversight) (Amendment) Regulations, 2025 ("the draft Regulations") are set out in Annex 7. The draft Regulations seek to amend the Payment Instruments (Oversight) (Amendment) Regulations, 2017 ("the principal Regulations"), and propose to, inter alia, bring the oversight of money transmission businesses within the same legislative framework as other non-bank payment service providers. When enacted, the key provisions of the draft Regulations will:

(a) Expand the definition of 'payment institution' to include money transmission service providers as a category of providers licensed under the principal Regulations to provide 'payment services'. (Regulation 2)

(b) Expand the definition of 'payment services' to make clear that such services include deposits and withdrawals in other forms of value besides cash.

(c) Introduce new definitions of 'money transmission service provider' and 'payment service provider' for consistency with other terms such as 'payment institution'. (Regulation 2)

(d) Expand the category of persons authorized to be licensed under the principal Regulations to provide payment services to include money transmission services providers. (Regulation 3)

(e) Expand the basis on which the Central Bank may revoke a payment institution's licence. New grounds for revocation would include if a payment institution "no

longer meets or is unlikely to meet the conditions required for the grant of licence", and/or "is in breach of any terms or conditions imposed or directions issued by the Central Bank". (Regulation 7)

(f) Clarify that payment institution's head offices must be located in The Bahamas and shall not be established outside of The Bahamas without the prior written approval of the Central Bank. (Regulation 8)

(g) Expand and clarify the responsibility of payment service providers to maintain accurate and complete records. (Regulation 9)

(h) Expand the scope of the principal Regulations to include persons appointed as an agent by a bank or bank and trust company who are not licenced or registered under a regulatory law. (Regulation 10)

(i) Expand public disclosure requirements for payment service providers to disclose external auditor appointments to the Bank and mandate that external auditors shall be chartered accountants or certified public accounts. (Regulation 11)

(j) Expand and clarify the Central Bank's authority to perform inspections of payment institutions to ensure that the principal Regulations, the Payment Systems Act, and any other written law administered by the Bank relating to compliance, anti-money laundering or countering the financing of terrorism and proliferation financing are being complied with. (Regulation 12)

(k) Mandate confidentiality of reports produced by the Bank following examination or inspection of a payment institution. (Regulation 13)

(l) Revoke regulation 21 of the principal Regulations which empowers the Central Bank to impose administrative monetary penalties against payment institutions for violations of the Regulations. It is proposed that those administrative

monetary penalties be set out in regulations made under the Central Bank of The Bahamas Act, 2020. (Regulation 14)

(m) Revoke the second schedule of the principal Regulations that sets out the description of each violation and the classification as minor, serious or very serious for the purpose of imposing administrative monetary penalties. (Regulation 16)

2.3 Other Miscellaneous Amendments

2.3.1 In June 2020, the International Monetary Fund conducted its first safeguards assessment of The Bahamas in connection with financial assistance provided under the Rapid Financing Instrument ("RFI") approved by the IMF Executive Board.

2.3.2 The IMF noted that "overall, the Central Bank has a broadly sound internal controls framework around its financial reporting, reserves management, banking and currency operations, and monetary data. Internal and external audit arrangements are based on international standards, and the financial statements are prepared in accordance with International Financial Reporting Standards ("IFRS"), and published on a timely basis." However, the IMF recommended further strengthening of the governance framework, including: limiting government financing and quasi-fiscal lending to public entities, and enhancing the oversight role of the Central Bank's Board and Audit Committee ("AC"), particularly in the wake of the Bank's digital currency issuance, which carries higher information security risks.

2.3.3 To address these recommendations, the Central Bank proposes further amendments to the Central Bank of The Bahamas Act, 2020 ("CBBA"), and the Banks and Trust Companies Regulation Act, 2020 ("BTCRA"). The amendments aim to:

i. introduce into the legislation the new term "Bahamian dollar digital currency", to replace the term "electronic money" throughout the Act;
ii. prioritize the primary objectives of the Central Bank;
iii. bolster the Central Bank's autonomy;
iv. streamline the Central Bank's regulatory oversight over its licensees; and
v. enhance the oversight roles of the Board and the AC.

2.3.4 The Central Bank also proposes a number of other key amendments to legislation which seek to address the following matters:

i. Clarify the Bank's authority to address issues relating to mutilated, defaced, counterfeit or demonetized currency.
ii. Broaden access to financial services by permitting licensed non-bank entities – such as payment service providers, money transmission businesses, to deliver basic banking services on behalf of licensed banks.
iii. Revise the legislative framework for the enforcement of administrative monetary penalties (AMPs).

The key provisions proposed to the legislation are discussed in further detail below.

Draft Central Bank of The Bahamas (Amendment) Bill, 2025

2.3.5 The draft Central Bank of The Bahamas (Amendment) Bill, 2025 ("the CBB Amendment Bill") is set out at Annex 1. When enacted, the key provisions of the CBB Amendment Bill will amend the CBBA as follows:

(a) Introduce a new term, "Bahamian dollar digital currency", which is defined as an electronic version of the Bahamian dollar issued by the Bank among other amendments. (Clause 2)

(b) Per the IMF's recommendations establish clear and prioritized primary objectives of the Bank including price stability and supporting the general

economic policy of the government by distinguishing them from other functions of the Bank. (Clause 3)

(c) Per the IMF's recommendation, ensure the autonomy of the Bank to attain its objectives and discharge its functions. (Clause 4)

(d) Introduce the new term "Bahamian dollar digital currency" to replace the term "electronic money" wherever it appears, and elsewhere throughout the Principal Act. (Clauses 5, 6, 7, 8, 10, 11 and 24)

(e) Make provision for the Bank to publish a notice in the Gazette to specify a period during which notes, coins and Bahamian dollar digital currency which have been called in and withdrawn from circulation and ceased to be legal tender shall be redeemable by the Bank. (Clause 8)

(f) Clarify that mutilated, imperfect or defaced bank notes and coins shall not be considered legal tender and shall be withdrawn from circulation. (Clause 9)

(g) Prohibit persons from reproducing anything that has the likeness or resemblance of bank notes, coins and Bahamian dollar digital currency without prior written approval from the Bank and other relevant provisions relative to counterfeits and reproduction of currency. (Clause 10)

(h) Empower the Bank to make regulations for the purpose of a digital currency framework. (Clause 11)

(i) Make consequential amendments to section 16 to clarify that the power of the Bank in relation to foreign exchange, shall be without prejudice to its' primary objective to promote monetary stability. (Clause 12)

(j) Clarify that the external reserves shall not at any time be less than fifty per centum of the value of the aggregate of notes, coins, and Bahamian dollar digital currency in circulation. (Clause 13)

(k) Clarify that the Central Bank may accept deposits required to be transferred to the Bank in accordance with the Bahamas Co-operative Credit Unions Act, 2015 and to pay interest on money deposited and pay out money to any entitled person. (Clause 16)

(l) Per the IMF's recommendation, clarify that the external auditors are appointed by the Board of Directors for a minimum period of five consecutive years and may be eligible for re-appointment for a maximum period of ten consecutive years (Clause 18)

(m) Introduce two new tiers in respect of maximum penalties for late filings. While late filings would continue to attract a per diem penalty of $250, the maximum penalty for late filings by small supervised financial institutions would be capped at $1,000 while the maximum penalty for late filings by all other supervised financial institutions would remain at $10,000. In this regard, the proposed amendments also seek to introduce the term 'small supervised financial institutions" which, as defined, include all non-bank and trust company licensees and registrants of the Central Bank. (Clause 21)

(n) Make consequential amendments to sections 48 and 49 of the principal Act that clarify the manner in which the Bank must proceed when a violation or contravention occurs. (Clauses 22 & 23)

(o) Preserve and clarify that all notes and coins lawfully in circulation before the commencement of the Act shall continue to be deemed legal tender issued by the Bank. (Clause 27)

(p) Make additional consequential amendments to the Schedule to empower the Board to approve the arrangements for the printing of notes and minting of coins, facilitate the appointment of external experts to committees, clarify the composition of the Board and the appointment of two Deputy Governors and

empower the Board to establish committees and appoint external experts. (Clause 28)

Draft Banks and Trust Companies Regulation (Amendment) Bill, 2025

2.3.6 The BTCR Amendment Bill is set out at Annex 2. The key provisions of the BTCR Amendment Bill seek to amend the BTCRA as follows:

(a) Make provision for banks or banks and trust companies to appoint agents to provide payment services to its customers. (Clause 6)

(b) Repeal and replace section 12 of the principal Act with a new section that clarifies that banks or bank and trust companies are liable for acts or omissions of agents if such acts or omissions relate to that business. (Clause 7)

Draft Central Bank of The Bahamas (Administrative Monetary Penalties) Regulations, 2025

2.3.7 The Central Bank established the administrative monetary penalties ('AMP') enforcement framework under the Banks and Trust Companies Regulation Act, 2000 ("the BTCRA 2000") and pursuant to the Banks and Trust Companies (Administrative Monetary Penalties) Regulations, 2016 ("the 2016 AMP Regulations"). In 2020 the BTCRA 2000 was repealed and the AMP framework was placed under Part X of the Central Bank of The Bahamas Act, 2020 ("the CBBA"). The CBBA provides for the AMP framework to apply to all financial institutions, which are supervised by the Central Bank, unlike the framework under the BTCRA 2000, which only applied to financial institutions that were licensed or approved by the Bank pursuant to the BTCRA.

2.3.8 As a consequence, the Bank intends to revoke the 2016 AMP Regulations and replace them with new regulations, the Central Bank of The Bahamas (Administrative

Monetary Penalties) Regulations 2025 ("the CBB(AMP) Regulations"), to be issued pursuant to the CBBA. It is proposed that the CBB(AMP) Regulations would apply not only to banks and trust companies but also to credit unions and payment institutions.

2.3.9 The draft CBB(AMP) Regulations, are set out in Annex 8. The key regulations which are proposed are as follows:

(a) Regulation 2 which seeks to introduce new terms in an effort to correspond with the expansion of the AMP regime. These key terms include a definition of "co-operative credit union".

(b) Regulation 4 which outlines the classification of violations as "minor, serious, and very serious." This is important as penalty amounts vary depending on the magnitude or severity of the violation.

(c) Regulation 5 which seeks to:

(i) distinguish between late and erroneous filings and the penalties applicable to each type of violation It is proposed that erroneous filings would no longer attract a per diem penalty. Instead, penalties for erroneous filings would vary based on whether the error was discovered by the Central Bank, or by the SFI. Where the error is discovered by the Central Bank, an erroneous filing would attract a penalty of $1,000 and where the error is discovered by the SFI, an erroneous filing would attract a penalty of $500; and

(ii) include new definitions of "large supervised financial institution" and "small supervised financial institution". Large supervised financial institutions would be banks and /or trust companies that conduct business with the general public, while small supervised financial

institutions would include credit unions and payment institutions registered or licensed by the Central Bank.

III. CONSULTATION PERIOD

3.1 The Central Bank invites stakeholders to provide feedback on the proposed legislative reforms discussed above and set out in the draft legislation found in Annexes 1 - 8. We request that all feedback be provided by the 31st October, 2025 and should be submitted to the:

Policy Unit

Bank Supervision Department

Email: policy@centralbankbahamas.com

ANNEX 1

CENTRAL BANK OF THE BAHAMAS (AMENDMENT) BILL, 2025

1. Short title.

This Act, which amends the Central Bank of The Bahamas Act, 2020 (No. 24 of 2020), may be cited as the Central Bank of The Bahamas (Amendment) Act, 2025.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended by-

(a) the insertion in the appropriate alphabetical order, of the following terms and definitions —

"**affiliated operational entity"** in relation to a bank means a [body corporate] that -

(a) is a subsidiary of a bank or of a bank's holding company;
(b) operates in or from within The Bahamas; and
(c) provides services, directly or indirectly, to the bank;

"**Bahamian dollar digital currency**" means an electronic version of the Bahamian Dollar issued by the Central Bank pursuant to the authority conferred upon it by this Act, fully backed by reserves held by the Central Bank and which represents a direct claim against the Central Bank;"

"co-operative credit union" has the meaning assigned in section 2 of the Bahamas Co-operative Credit Unions Act, 2015 (*No. 9 of 2015*);

"Deposit Insurance Corporation" means the corporation established under section 7 of the Protection of Depositors Act (*Ch. 317*);

"Deposit Insurance Fund" means the Deposit Insurance Fund established by section 3 of the Protection of Depositors Act *(Ch. 317;)*

"**pertinent financial institution" means a** bank or a co-operative credit union registered under the Bahamas Co-operative Credit Unions Act, 2015, that is the subject of a resolution measure;

"**resolution measure**" refers to a power that may be exercised in relation to a pertinent financial institution as specified under Part IXA;

"**Supervisory Authority**" in relation to a country or territory outside The Bahamas means a foreign entity charged with the responsibility of conducting consolidated supervision of banking [and trust] business in a bank's home country;

"**systemically important institution" or "SII**" means a bank or a co-operative credit union registered under the Bahamas Co-operative Credit Unions Act, 2015, which reported total consolidated domestic liabilities of such amount as the Governor may determine by notice, to the Bank for the preceding financial year;

(b) the deletion of the term **"asset management vehicle"** and its definition, and the substitution of the following new term and definition —

"asset management vehicle" means a company that is—

(a) incorporated under the Companies Act (*Ch. 308*);

(b) limited by shares;

(c) wholly or partially owned by the Government or a bank **[which is owned by bailed-in creditors where the capital is funded by bail-in]**; and

(d) created for receiving some or all of the assets, rights and liabilities of a bank under statutory administration or a bridge institution;"

(c) by the deletion of the number "38" in the definition of the term "demand liabilities of the Bank" and the substitution therefor of the number "37";

(d) the deletion of the term "Deputy Governor" and its definition, and the substitution of the following new term and definition–

"Deputy Governor" means the person appointed under paragraph 2(4) of the First Schedule;";

(e) the deletion of the term **"payment instruments"** and its definition, and the substitution of the following new term and definition —

"payment instruments" includes cheques, bills of exchange, promissory notes, electronic wallets, credit cards, and debit cards;"; and

(f) the deletion of the term **"Resolution"** and its definition, and the substitution of the following new term and definition —

"Resolution" means the process for addressing a pertinent financial institution that 2has ceased, or is likely to cease, to be viable that involves the application of one or more resolution measures and the performance of related functions.

(g) by the deletion of the word "Schedule" wherever it appears and the substitution therefor, of the words "First Schedule**";**

3. **Repeal and replacement of section 5 of the principal Act.**

Section 5 of the principal Act is repealed and replaced by the following –

"**5. Primary Objectives and Functions of the Bank.**

(1) The primary objectives of the Bank shall be to –

(a) promote stable monetary, credit and balance of payment conditions in order to protect the exchange rate regime and facilitate orderly and balanced growth of the economy,

(b) promote and contribute to the stability of the financial system of The Bahamas; and

(c) promote and contribute to the efficient, orderly functioning and development of the payments system.

(2) Without prejudice to the primary objective specified in subsection (1)(a), the Bank shall support the general economic policy of the Government by providing sound economic, financial and monetary advice.

(3) The functions of the Bank are as follows-

(a) contribute to the stability of the financial system of The Bahamas through collaboration with other domestic and foreign regulatory authorities;

(b) act as the Resolution Authority for pertinent financial institutions;

(c) determine and implement monetary policy;

(d) advise the Minister on the exchange rate policy and implement the exchange rate policy determined by the Minister;

(e) hold and manage all official external reserves of The Bahamas;

(f) issue and manage the currency of The Bahamas;

(g) collect and produce statistics in respect of the economy and the financial system of The Bahamas;

(h) promote and ensure the establishment and oversight of a safe, sound and efficient national payment system;

(i) regulate and supervise financial institutions;

(j) act as fiscal agent of the Government and of any public corporation of The Bahamas;

(k) advise the Minister on any matter of a financial or monetary nature referred by the Minister to the Bank for its advice;

(l) assist and co-operate with domestic and overseas regulatory authorities, and participate in international financial organizations, concerning matters related to the objectives and functions of the Bank;

(m) establish, operate, organize, promote, participate or assist in the establishment, operation, organization and promotion of, and regulate and oversee any system —

(i) for the clearing and settlement of payments and other arrangements for the making or exchange of payments;

(ii) for the clearing and settlement of payments and other arrangements for the exchange of securities;

(iii) to facilitate the clearing and settlement of securities and other arrangements for the making or exchange of payments or the exchange of securities, as well as links among systems;

(n) regulate and oversee the issuance, provision and functioning of payment instruments, operating either with or without the opening of an account, including the issuance of digital currency or any other forms of stored value; and

(o) regulate and oversee the operation of deposit accounts used to receive or transmit payments.

(4) In addition to the powers conferred by Part IXA, the Bank has ancillary power to do in The Bahamas or elsewhere all that is necessary to facilitate, or is incidental or conducive to, the fulfilment of its objectives and performance of its functions under this Act.

(5) For the purposes of this section, "Resolution Authority" means the authority which is responsible for the resolution of pertinent financial institutions, including carrying out resolution planning functions."

(6) For the purposes of Part IXA of this Act, the Bank may in addition to its other powers –

(a) grant a loan to the Deposit Insurance Corporation, if the Government guarantees the repayment in writing; and

(b) do all such things as are necessary or expedient to be done for the orderly resolution of a pertinent financial institution."

4. **Insertion of new section 5A into the principal Act.**

The principal Act is amended by the insertion immediately after section 5, of the following new section –

"5A. Autonomy of the Bank.

To attain its objectives and discharge its functions, the Bank shall be autonomous in choosing its actions and exercising its powers."

5. Amendment of section 8 of the principal Act.

Section 8 of the principal Act is amended—

a. in subsection (1) by the deletion of the words "electronic money" and the substitution therefor of the words "Bahamian dollar digital currency"; and

b. by the deletion of subsection (3).

6. Amendment of section 10 of the principal Act.

Section 10 of the principal Act is amended –

a. in subsection (1) by the deletion of the words "notes and coins" and the substitution therefor of the words "notes, coins and Bahamian dollar digital currency;

(b) in subsection (2)--

(i) by the deletion of the word "and" after the semicolon in paragraph (a);

(ii) by the deletion of the full stop in paragraph (b) and the substitution of a semicolon;

(iii) by the insertion immediately following paragraph (b) of the following—

"(c) arrange for the minting and storage of Bahamian dollar digital currency;"

(d) arrange for the issue, re-issue and redemption of Bahamian dollar digital currency; and"

(e) arrange for the safe preparation, distribution, commissioning or decommissioning of Bahamian dollar digital currency."

(c) in subsection (3) by the deletion of the words "notes or coins" and the substitution therefor of the words "notes, coins or Bahamian dollar digital currency".

7. Amendment of section 11 of the principal Act.

Section 11 of the principal Act is amended in paragraph (a) by the deletion of the words "notes and coins" and the substitution therefor of the words "notes, coins and Bahamian dollar digital currency".

8. Amendment of section 12 of the principal Act.

Section 12 of the principal Act is amended—

a. in subsection (1) by the deletion of the words "electronic money" and the substitution therefor of the words "Bahamian dollar digital currency";
b. by the deletion of subsection (3);
c. by the re-numbering of subsection (4) as subsection (3);
d. by the repeal of subsection (5) and the substitution therefor of the following —

"(4) The Bank may, by notice published in the Gazette, specify a period during which any notes, coins or Bahamian dollar digital currency which have been called in and withdrawn from circulation and ceased to be legal tender shall be redeemable by the Bank on the demand of any person and upon the expiration thereof, such notes, coins or Bahamian dollar digital currency shall no longer be redeemable."

e. by the re-numbering of subsection (6) as subsection (5).
f. by the repeal of subsection (7).

9. Amendment of section 13 of the principal Act.

Section 13 of the principal Act is amended by –

(a) the insertion, immediately before subsection (1), of the following new subsection (1) as follows —

"(1) A note or coin which is mutilated or imperfect is one which has been impaired, diminished in size or lightened otherwise than by fair wear and tear, or which has been defaced by stamping, engraving or piercing shall not be legal tender in The Bahamas and shall be withdrawn from circulation.

(b) by the renumbering of subsections (1) and (2) as subsections (2) and (3) respectively.

10. Repeal and replacement of section 14 of the principal Act.

Section 14 of the principal Act is repealed and replaced by the following new section—

"14. Counterfeits and reproduction of currency.

(1) A person shall not, without the prior written approval of the Bank -
   (a) make, design, engrave, print, reproduce, use, issue, or publish any article or thing resembling or having a likeness to a note, coin or any Bahamian dollar digital currency, current or historical, issued by the Bank as to be likely to be confused with or mistaken for such note, coin or Bahamian dollar digital currency; or
   (b) reproduce any images of notes, coins or any Bahamian dollar digital currency, current or historical, for trade, business undertaking, advertising, promotion or any other purpose.

(2) Any person who wishes to reproduce images of notes, coins or Bahamian dollar digital currency shall apply in writing to the Bank for approval.

(3) A person making an application under subsection (2) shall provide –
   (a) full names and address of the applicant;
   (b) nationality of the applicant;
   (c) information relating to the manner and purpose for which the images are intended to be used;
   (d) specimen of the works over which such use is intended; and
   (e) a declaration that the intended use would not infringe on the Bank's copyright over the images of any notes, coins or Bahamian dollar digital currency.

(4) An application for authority to reproduce the images shall be considered by the Bank within fourteen days of receipt and the Bank shall notify the applicant of its decision in writing.

(5) The Bank's decision under subsection (4) shall be final and the Bank shall not be obliged to render the reasons upon which any decision was reached.

(6) The Bank shall require a person to withdraw from circulation —

(a) any note, coin or Bahamian dollar digital currency;

(b) any article or thing having likeness or resemblance to a note, coin or Bahamian dollar digital currency, which the Bank or the person knows or suspects has been counterfeited or altered; or

(c) any article or thing having an image of a note, coin or Bahamian dollar digital currency, which the Bank has not approved.

(7) A person commits an offence who —

(a) counterfeits or alters any note, coin or Bahamian dollar digital currency that is legal tender in The Bahamas or abroad or any payment instrument which is denominated in the Bahamian dollar or a unit of foreign currency;

(b) possesses or transports any counterfeited or altered note, coin or payment instrument with the knowledge that it was counterfeited or altered; or

(c) reproduces an image of a note, coin or Bahamian dollar digital currency, which the Bank has not approved.

(8) A person who commits an offence under subsection (7) is liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years or to both.

(9) A person who fails to comply with a requirement of the Bank under subsection (6) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars and, where the offence is continued after conviction, commits a further offence and is liable to a fine of ten thousand dollars for every day or part thereof on which the offence is continued."

11. **Repeal and replacement of section 15 of the principal Act**.

Section 15 of the principal Act is repealed and replaced by the following—

"**15 Power of Bank to make regulations for digital currency framework**

The Bank shall make regulations for the purpose of prescribing the framework and criteria under which Bahamian dollar digital currency issued by the Bank as legal tender may be held or used by financial institutions and customers."

12. **Repeal and replacement of section 16 of the principal Act.**

Section 16 of the principal Act is repealed and replaced by the following –

"16. Power of the Bank in relation to foreign exchange, etc.

Without prejudice to the primary objective of the Bank to promote monetary stability -

(a) the Minister, in consultation with the Bank, shall determine the exchange rate policy; and

(b) the Bank shall implement the exchange rate policy determined by the Minister under paragraph (a)."

13. Amendment of section 17 of the principal Act.

Section 17 of the principal Act is amended by the repeal of subsection (3) and the substitution of the following-

"(3) The value of the external reserve shall not at any time be less than fifty per centum of the value of the aggregate of notes, coins, Bahamian dollar digital currency in circulation and other demand liabilities of the Bank."

14. Amendment of section 21 of the principal Act

Section 21 of the principal Act is amended—

(a) by the deletion of subsection (2) and the substitution of the following –

"(2) Subsection (1) does not apply to:

(a) intra-day credits which shall be guaranteed by negotiable Government securities, and

(b) moneys extended by the Bank to the Deposit Insurance Corporation which are guaranteed by the Government."

(b) by the insertion, immediately after subsection (4), of the following new subsection (5) as follows —

"(5) Notwithstanding subsection (1), the Bank may, for the purpose of maintaining financial system stability and supporting a resolution measure undertaken for a member of the Deposit Insurance Fund and for other matters relating to the measure taken, lend money on such terms and conditions as the Bank deems fit, to the Deposit Insurance Corporation, where –

(a) the Government guarantees the repayment in writing, and

(b) it is satisfied that such loans are necessary to prevent systemic risk posed by the failure of a member of the Deposit Insurance Fund or to preserve financial stability."

15. Amendment of section 26 of the principal Act.

Section 26 of the principal Act is amended by the deletion of subsections (5) and (6).

16. Amendment of section 27 of the principal Act.

Section 27 of the principal Act is amended—

(a) in subsection (1) by the insertion of the words "or the Bahamas Co-operative Credit Unions Act, 2015" immediately after the words "2020";

(b) in subsection (4) by the insertion of the words "or co-operative credit union, as the case may be," immediately after the word "bank";

(c) in subsection (7)(a) and (b) by the insertion of the words "or co-operative credit union, as the case may be," immediately after the word "bank"; and

(d) by the deletion of subsection (10) and the substitution of the following –

"(10) The Bank may, in accordance with the investment plan for the Fund prepared by the dormant funds investment committee, invest and reinvest any amount transferred to the Bank pursuant to section 78(4) of the Banks and Trust Companies Regulation Act, 2020 and section 45(6) of the Bahamas Co-Operative Credit Union Act, 2015.".

17. Amendment of section 28 of the principal Act.

Section 28 of the principal Act is amended by the deletion of subsection (3) and (4) and the substitution of the following –

"(3) The Bank may establish a body corporate for the purposes of carrying out the functions of —

(a) a bridge institution; or

(b) an asset management vehicle."

18. Amendment of section 37 of the principal Act

Section 37 of the principal Act is amended –

(a) by the deletion of subsection (5) and the substitution of the following-

"(5) The Board shall appoint an external auditor for a minimum period of five consecutive years.";

(b) by the insertion immediately after subsection (5) of the following new subsection (5A)

"(5A) Where the Board appoints an external auditor pursuant to this section, the external auditor is eligible for re-appointment for a cumulative audit period which shall not exceed ten consecutive years."

19. Amendment of section 43 of the principal Act.

Section 43 of the principal Act is amended in subsection (1) by –

(a) the deletion in paragraph (b) of the words " the Banks and Trust Companies Regulation Act, 2020" and the substitution of the words "this Act"; and

(b) the deletion of paragraph (c) and the substitution of the following —

"(c) an independent valuer appointed by the Bank under section 43P(11);"

(c) the insertion immediately after paragraph (c) of the following new paragraph (d) -

"(d) any person appointed to assist the Bank in the making of a valuation under section 43G(3);"

(d) the re-numbering of paragraphs (d) to (g) as (e) to (h);

(e) the deletion of paragraph (g) and the substitution of the following -

"(h) any other persons who provide or have provided services directly or indirectly, permanently or occasionally, to persons referred to in paragraphs (a) to (g),"

20. Insertion of new Parts IXA and IXB into the principal Act.

The principal Act is amended by the insertion immediately after section 43 of the new Parts IXA and IXB as follows –

"PART IXA – SPECIAL RESOLUTION FRAMEWORK FOR PERTINENT FINANCIAL INSTITUTIONS

RECOVERY OF PERTINENT FINANCIAL INSTITUTIONS IN FINANCIAL DISTRESS, ETC.

43A. Objectives of Resolution framework.

(1) The powers granted under this Act to —

(a) the Bank;

(b) a statutory administrator appointed by the Bank; or

(c) a liquidator appointed by the Bank, in relation to statutory administration or liquidation shall be exercised by the Bank, a statutory administrator or liquidator appointed by the Bank, as the case may be, to achieve the following objectives of —

(i) maintaining financial stability;

(ii) protecting and enhancing public confidence in the stability of the banking system of The Bahamas;

(iii) protecting depositors including by ensuring prompt payouts of or access to deposits of a pertinent financial institution in liquidation;

(iv) minimizing the costs of resolution and avoiding unnecessary destruction of value;

(v) protecting public funds.

(2) In subsection (1), the reference to financial stability includes, in particular, a reference to the continuity of critical banking services.

(3) The order in which the objectives are listed in this section is not significant and they are to be balanced by the Bank as appropriate in each case.

43B. Recovery Plans.

(1) A pertinent financial institution shall prepare and submit periodically to the Bank, a plan for the rapid and orderly recovery of such pertinent financial institution to restore it to an acceptable level of financial and operational soundness based on

different scenarios of financial distress or failure, whether on an individual basis or on a group basis.

(2) The bank's senior management shall be responsible for the development and maintenance of the bank's recovery planning process.

(3) The board of the co-operative credit union--

(a) must conduct a review of the plan and attest the adequacy of the recovery plan as evidence of its approval; and

(b) shall be responsible for the development and maintenance of the co-operative credit union's recovery planning process.

(4) The Bank may issue a directive to a pertinent financial institution and determine general or individual standards and guidelines for pertinent financial institutions, specifying the matters which shall be included in a plan required under subsection (1) and such plan shall be referred to as a **"recovery plan"** or **"the plan"**.

(5) A pertinent financial institution shall —

(a) review its recovery plan at least annually;

(b) if required by the Bank, obtain an independent review of its recovery plan as frequently as required by the Bank;

(c) test the effectiveness of the plan and update it as frequently as required by the Bank; and

(d) notify the Bank promptly of any material changes to its recovery plan and, in any event, within one month of making such change.

(6) Where the Bank is of the opinion that a recovery plan submitted by a pertinent financial institution pursuant to subsection (1) is deficient in any material respect it shall notify the pertinent financial institution in question of the deficiencies in the plan and issue a directive requiring such pertinent financial institution to resubmit the recovery plan within a specified time frame and with such revisions as may reasonably be required by the Bank to –

(a) address any deficiency in the recovery plan; or

(b) remove any impediment to the implementation of the recovery plan.

(7) Without limiting subsection (6), the directive issued by the Bank may require a pertinent financial institution to make changes to its organization and structure (including its operational, legal and financial structures).

(8) Where a pertinent financial institution fails to submit or resubmit a recovery plan in the period required by the Bank, the Bank may —

(a) impose more stringent prudential requirements, restrictions or both, on the growth, activities, or operations of the pertinent financial institution, or any branch or subsidiary thereof in the case of a bank; or

(b) take any other actions the Bank may determine, until such time as the pertinent financial institution resubmits a plan that in the opinion of the Bank, remedies the deficiencies.

(9) The Bank may direct a pertinent financial institution to implement all or a specified part of the pertinent financial institution's recovery plan.

(10) A plan submitted in accordance with this section shall not be binding on the Bank or its agents, in the recovery of a pertinent financial institution.

(11) No private right of action may be based on any plan submitted in accordance with this section.

43C. Resolvability Assessments and Resolution Planning

(1) The Bank may conduct a resolvability assessment to determine whether there are any impediments to the orderly resolution of a SII and if so, the extent of those impediments.

(2) The Bank may from time to time –

(a) devise strategies for securing an orderly resolution of a SII; and

(b) support the strategies mentioned in paragraph (a) by developing plans for the orderly resolution of a SII (including at a consolidated level in consultation with any other domestic regulatory authority or a Supervisory Authority), using information and analysis submitted by the SII.

(3) The plans referred to in subsection (2) shall set out options for resolving the SII in different scenarios including systemic instability, and shall include details of how resolution powers and tools may be applied to resolve the SII where necessary, in a manner that promotes continuity in its critical functions.

(4) The Bank shall update the resolution plan of a SII as frequently as is necessary given the risk profile of the SII.

(5) Where the Bank is of the opinion that significant impediments to orderly resolution exist, it may by written notice direct the SII to take, within the time specified in the notice, such measures that are, in the opinion of the Bank, reasonably required to

address or remove such impediments and the SII shall comply with such direction of the Bank.

(6) The Bank shall —

(a) give reasons for issuing a direction under subsection (5);

(b) state when the direction takes effect; and

(c) specify a reasonable period within which the SII may make representations to the Bank about the direction.

(7) The Bank must consider representations made pursuant to subsection (6)(c) and decide —

(a) whether to confirm or revoke the notice; and

(b) if the notice is revoked, whether to serve a new notice containing a different direction.

(8) The Bank must serve written notice on the SII of its decision under subsection (7).

(9) If no representation is made by the SII within the period specified under subsection (6)(c), the Bank must serve written notice on the SII that the notice under subsection (5) is confirmed.

(10) A SII shall cooperate with the Bank in the exercise of its powers under this section.

(11) Every person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment and in the case of a continuing offence to a further fine not exceeding two thousand five hundred dollars for each day during which the offence continues.

STATUTORY ADMINISTRATION

43D. Appointment of a Statutory Administrator.

(1) The Bank may, by notice in writing, appoint a statutory administrator pursuant to section 29(1)(f) of the Banks and Trust Companies Regulation Act, 2020 or section 88C(1) of the Bahamas Co-operative Credit Unions Act, 2015, where —

(a) in the opinion of the Bank, the pertinent financial institution is either in The Bahamas or elsewhere, contravening the provisions of this or any other Act, or

of any order or regulations made under this or any other Act, or any directive issued by the Bank pursuant to this or any other Act, or any term or condition subject to which its licence was issued or its registration was granted;

(b) the pertinent financial institution's capital level falls below (or is likely to fall below within the next twelve months) the minimum capital required by the Bank;

(c) the pertinent financial institution fails in any manner to cooperate with its external auditors; or

(d) the pertinent financial institution fails to cooperate with the Bank to enable the Bank to perform its supervisory responsibilities, including through concealment or failure to submit for inspection any of the pertinent financial institution's books, papers or records;.

(e) in any case where the pertinent financial institution is a bank –

(i) it has engaged or is engaging in any unsafe and unsound practice in such a manner as to weaken the bank's condition, threaten depositors' interests or dissipate the bank's assets;

(ii) the capital and value of the assets of the bank have, in the opinion of the Bank, reached or are likely to reach a level or are eroding in a manner that may detrimentally affect its depositors or creditors, with no reasonable prospects of timely restoration of such capital and value;

(iii) the Bank has reasonable cause to believe that the bank or its directors, officers or a significant shareholder has engaged or is engaging in illegal activities in a manner which jeopardizes depositors' interests;

(iv) the Bank is of the opinion that the realizable value of the assets of the bank is not sufficient to give adequate protection to the depositors and creditors of the bank, or is less than its liabilities, or the bank's financial condition suggests that it will shortly be in that circumstance;

(v) the Bank is of the opinion that the bank is unable to or is likely to become unable to meet its liabilities and other obligations as they mature or become due, or pay its depositors' demands in the normal course of business; or

(f) in any case where the pertinent financial institution is a co-operative credit union -

(i) it has engaged or is engaging in any unsafe and unsound practice in such a manner as to weaken the co-operative credit union's condition, threaten members' interests or dissipate the co-operative credit union's assets;

(ii) the capital and value of the assets of the co-operative credit union have, in the opinion of the Bank, reached or are likely to reach a level or are eroding in a manner that may detrimentally affect its members or creditors with no reasonable prospects of timely restoration of such capital and value;

(iii) the Bank has reasonable cause to believe that the co-operative credit union or a director or officer has engaged or is engaging in illegal activities in a manner which jeopardizes members' interests;

(iv) the Bank is of the opinion that the realizable value of the assets of the co-operative credit union is not sufficient to give adequate protection to the members and creditors of the co-operative credit union, or is less than its liabilities, or the co-operative credit union's financial condition suggests that it will shortly be in that circumstance;

(v) the Bank is of the opinion that the co-operative credit union is unable to or is likely to become unable to meet its liabilities and other obligations as they mature or become due, or pay its members' demands in the normal course of business; or

(g) the Bank is satisfied that the appointment is appropriate, having regard to any other matter that the Bank considers relevant.

(2) Where the Bank determines that a statutory administrator should be appointed pursuant to subsection (1), the Bank may direct the statutory administrator to –

(a) implement any resolution strategy or plan which it deems appropriate, including the strategies and plans referred to in section 43C(2); or

(b) apply any resolution measure to, or exercise any other power under this Act, which may involve the disposal of any entity within the financial group that is the cause of the capital deficiency referred to in paragraph (b) of subsection (1),

and the statutory administrator shall as soon as practicable comply with such direction.

(3) Where the Bank determines that a statutory administrator should be appointed pursuant to subsection (1), the Bank shall notify the Minister of its decision.

(4) Where the Bank appoints a statutory administrator of a pertinent financial institution, the Bank shall promptly notify the pertinent financial institution of the appointment and shall specify in the notice, the grounds for the appointment.

(5) The Bank shall simultaneously publish notice of the appointment of a statutory administrator in the Gazette.

(6) The statutory administrator may be a person from the private sector or an official of the Bank.

(7) The statutory administrator may be appointed for —

(a) a period not exceeding twelve months; and

(b) a further period not exceeding twelve months, if it appears to the Bank that additional time is required to ensure an orderly restructuring of the pertinent financial institution under this Act.

(8) The Bank may —

(a) vary the terms of appointment of a statutory administrator;

(b) at any time replace a statutory administrator; and

(c) remove a statutory administrator prior to the end of any of the periods specified in subsection (7)(a) or (b), by written notice to the statutory administrator.

(9) The variation of the terms of appointment of a statutory administrator or the termination of such appointment shall take place on such date as is specified in the notice referred to in subsection (8).

(10) If a statutory administrator has any direct or indirect interest in a pertinent financial institution under statutory administration he shall disclose his interest to the Bank as soon as possible.

(11) Any transaction involving a pertinent financial institution under statutory administration in which the statutory administrator has a direct or indirect material interest in the matter may be engaged in only with the prior written approval of the Bank.

43E. Appointment of a Statutory Administrator of a Holding Company of a Bank

(1) Where the Bank determines that a statutory administrator should be appointed in respect of a bank pursuant to section 43D(1), it may, by notice in writing, appoint a statutory administrator of a holding company of the bank.

(2) Without limiting subsection (1), the statutory administrator may apply any resolution measure to, or exercise any other power under this Act in respect of, the holding company in the same way, and to the same extent, that it could if the holding company were a bank under statutory administration.

(3) Notwithstanding subsection (2), a statutory administrator may only initiate the resolution of a holding company if the Bank is satisfied that, because of the way in which the group of companies is structured and operates, an orderly resolution of the bank that meets the resolution objectives can be more effectively achieved by resolving the holding company.

43F. Appointment of a Statutory Administrator of an affiliated operational entity

(1) Where the Bank determines that a statutory administrator should be appointed in respect of a bank pursuant to section 43D(1), it may, by notice in writing, appoint a statutory administrator of an affiliated operational entity.

(2) Without limiting subsection (1), the statutory administrator may apply any resolution measure to, or exercise any other power under this Act in respect of, the affiliated operational entity in the same way, and to the same extent, that it could if the affiliated operational entity were a bank under statutory administration.

(3) Notwithstanding subsection (2), a statutory administrator may only initiate the resolution of an affiliated operational entity if the Bank is satisfied that –

(a) the resolution of the affiliated operational entity is necessary to secure the continued provision by the affiliated operational entity of services that it provides, directly or indirectly, to the bank;

(b) the services that the affiliated operational entity provides are essential to the continued performance of critical financial functions in The Bahamas; and

(c) an orderly resolution of the bank, or of a holding company of that bank, that meets the resolution objectives cannot be achieved by any means other than by resolving the affiliated operational entity.

43G. Valuations

(1) Before issuing a directive pursuant to section 43D(2), the Bank shall make a valuation for informing any decisions to be made by the Bank as to any of the following matters—

(a) whether the conditions for applying a resolution measure are satisfied;

(b) if the conditions for applying a resolution measure are satisfied, which resolution measure to apply;

(c) what is to be transferred by a securities transfer instrument or property transfer instrument, and

(d) value of any consideration due in respect of whatever is so transferred.

(2) A valuation made under subsection (1) must—

(a) be fair in all the circumstances, be based on prudent and realistic assumptions, including assumptions as to rates of default and severity of losses, and take into account—

(i) if appropriate, available information from which a market price for assets and liabilities could be derived; and

(ii) accounting principles to the extent that they are relevant in assisting in the making of a valuation that is suitable for the purpose for which it is being made;

(b) not assume that any financial support or assistance will be provided, directly or indirectly, to the pertinent financial institution by the Government, other than in the ordinary course of business;

(c) take account of the fact that expenses incurred by the Bank in connection with the application of a resolution measure to the pertinent financial institution may be recovered from the pertinent financial institution; and

(d) take account of the fact that, if the application of a resolution measure to a bank includes the use of public funds for a purpose mentioned in section 15B(1)(b) or (d) of the Protection of Depositors Act (*Ch. 317*), interest or fees may be charged in respect of the funds used and recovered from the bank.

(3) Subject to subsection (4), the Bank may, on such terms and conditions as determined by the Bank, appoint a person to assist in the making of a valuation under subsection (1).

(4) A person that is appointed to assist the Bank pursuant to subsection (3) shall be a person that the Bank is satisfied—

(a) has the expertise, experience and resources that are, in the opinion of the Bank, necessary to assist in the making of a valuation under subsection (1); and

(b) does not have an actual or material interest in common or in conflict with either of the following that could influence, or be reasonably perceived to influence, the person's judgement in assisting in the making of a valuation under subsection (1) in relation to the pertinent financial institution concerned—

(i) the pertinent financial institution;

(ii) an entity that is a member of the same group of companies as the pertinent financial institution

(5) The remuneration and expenses of any person appointed under subsection (3) shall be paid by the pertinent financial institution.

43H. Expenses of the statutory administrator.

The statutory administrator shall receive such remuneration as the Bank may determine and all costs and expenses incurred on account of the statutory administration shall be borne by and charged to the pertinent financial institution under statutory administration.

43I. General powers of the statutory administrator.

(1) Upon the appointment of a statutory administrator —

(a) all powers, functions and responsibilities of the shareholders, directors and officers of a pertinent financial institution under statutory administration, shall vest in the statutory administrator, except where the statutory administrator requests the shareholders or directors or officers to carry out any activity provided under this Act; and

(b) any action or decision taken by or on behalf of the pertinent financial institution subject to statutory administration shall, unless they are taken by or under the authority of the statutory administrator, be null and void.

(2) The statutory administrator shall have full and exclusive powers to manage and operate the pertinent financial institution, including taking any action as necessary or appropriate to —

(a) carry on the business of the pertinent financial institution;

(b) exercise the rights and powers of a bank's shareholders;

(c) continue or discontinue any or all of its operations;

(d) stop or limit the payment of the pertinent financial institution's obligations;

(e) remove any or all directors and officers;

(f) employ any necessary officers or employees;

(g) execute any instrument in the name of the pertinent financial institution;

(h) initiate, defend and conduct in the name of the pertinent financial institution any action or proceedings to which the pertinent financial institution may be a party;

(i) so far as the statutory administrator is able to do so, sell or otherwise dispose of a subsidiary of the bank;

(j) preserve and safeguard the assets and property of the pertinent financial institution;

(k) in order to ensure that it is possible for the performance of critical functions to be legally or operationally separated from the performance of other functions, change the legal or operational structure of a subsidiary of the bank; or

(l) implement a resolution strategy or plan of action with respect to the pertinent financial institution that has been approved by the Bank.

(3) The statutory administrator may employ, at the expense of the pertinent financial institution under statutory administration, counsel and attorneys at law, auditors and other independent professionals or consultants to assist the statutory administrator on such terms as the Bank may approve.

43J. Central Bank Oversight of Statutory Administrator.

(1) The statutory administrator shall act in accordance with regulations made pursuant to this or any other Act or directions issued by the Bank to facilitate the purposes of this or any other Act or of regulations made under this or any other Act and shall only be accountable to the Bank for the performance of his duties and the exercise of his powers as statutory administrator.

(2) The statutory administrator may delegate any of his powers or duties to other persons, subject to the prior written approval of the Bank.

(3) The Bank may issue its approval pursuant to subsection (2) and may make such approval subject to such conditions as the Bank deems appropriate.

43K. Suspension of payment of capital distributions.

The statutory administrator shall immediately suspend the payment of capital distributions in general and payment of any kind to directors, officers and significant shareholders; provided, however, that base compensation may be paid to directors and officers for services rendered to the statutory administrator.

43L. Moratorium and effect of statutory administration on proceedings.

(1) The Bank may for a period not exceeding xxxx, impose a moratorium temporarily suspending some or all payments by a pertinent financial institution under statutory administration as the Bank may consider necessary to protect the interest of depositors and the stability of the financial sector.

(2) No person or class of persons shall, for a period not exceeding xxxx, begin or continue a proceeding or petition in a court or other forum against a pertinent financial institution under statutory administration or exercise rights under a mortgage, charge, or other security or collateral over the property of a pertinent financial institution under statutory administration, or issue any execution, attach any debt, or otherwise enforce or seek to enforce any judgment or order obtained in respect of a pertinent financial institution under statutory administration.

(3) For the purposes of this section, **"proceedings"** or **"petitions"** include counterclaims or cross-claims against the pertinent financial institution and the appointment of a statutory administrator against subsidiaries of the bank but excludes actions taken by the Bank, regulatory authorities, the Public Prosecutor and other public agencies, in respect of any matter in existence or violations or misconduct prior to the statutory administration.

(4) Where statutory administration has not yet been terminated, the Bank may, where it is of the opinion that it is no longer necessary to impose a moratorium, publish in the Gazette a notice that the moratorium has been lifted.

43M. Taking control of the pertinent financial institution.

(1) The statutory administrator shall immediately upon appointment, secure the property, offices, books, records, and assets of a pertinent financial institution under statutory administration to prevent their dissipation by theft or other improper action, by taking actions including, but not limited to, the following —

(a) changing the locks and limiting access to the new keys on external entrances to the pertinent financial institution's offices and on doors to internal offices which contain financial assets or information or equipment which could enable a person to gain unlawful access to financial assets;

(b) changing or establishing access codes to the pertinent financial institution's computers and granting access only to a limited number of trustworthy employees;

(c) issuing new photo identification passes for entrance of authorized employees to the pertinent financial institution's premises and controlling the access of other persons to the pertinent financial institution's premises;

(d) cancelling authorizations of persons to conduct financial transactions for or on behalf of the pertinent financial institution and issuing new authorizations, as appropriate, and notifying third parties; and

(e) informing correspondent banks, registrars and transfer agents of securities, and external asset managers of the pertinent financial institution's assets that persons who previously had authorization to give instructions on behalf of the pertinent financial institution with respect to dealing in the pertinent financial institution's assets or assets held in trust by the pertinent financial institution are no longer so authorized and that only the statutory administrator, and persons authorized by the statutory administrator have such authority.

(2) The statutory administrator shall have unrestricted access to and control over the offices, books of account and other records, and other assets of the pertinent financial institution and its subsidiaries in the case of banks.

(3) The statutory administrator may call upon any director, officer, employee or agent or any former, director, officer, employee or agent of a pertinent financial institution under statutory administration to make available to the statutory administrator any records and information relating to the pertinent financial institution that the statutory administrator shall require and such director, officers, employee or agent of the pertinent financial institution shall provide such records or information to the statutory administrator, as the case may be.

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

(5) Any person who shall obstruct the statutory administrator in the exercise of his functions under this Act commits an offence and shall be liable on summary conviction thereof to a fine not exceeding one hundred thousand dollars or to imprisonment for a term of not less than one year nor more than five years or to both,

and in the case of a continuing offence, to an additional fine of one thousand dollars for each day during which the offence continues.

43N. Inventory of assets and liabilities of the pertinent financial institution.

(1) Within a period specified by the Bank, the statutory administrator shall prepare and deliver to the Bank —

(a) a written inventory of the assets and liabilities of the pertinent financial institution under statutory administration, classifying the assets according to their different risk profiles and classifying the non-performing loans according to the Bank's directives; and

(b) a written assessment of the amount of assets likely to be realized in a liquidation of the pertinent financial institution.

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

(3) The Bank may —

(a) approve the report mentioned in subsection (2), without modification or subject to such conditions as it thinks necessary; or

(b) refuse to approve the report.

43O. Capital increase by existing shareholders.

(1) On the basis of the plans developed under section 43C(2), the statutory administrator may take the following actions to increase a bank's capital through the issuance of new shares —

(a) determine the extent of losses and prepare the bank's balance sheet covering the amount of such losses through the bank's profits, reserves and, if necessary, capital; and

(b) notify existing shareholders of the amount of additional capital needed to bring the bank's capital into compliance with all capital requirements and allow such shareholders to subscribe and purchase additional shares, by submitting binding commitments equal to the full amount of additional capital needed, within three business days of such notification.

(2) Existing shareholders of a bank under statutory administration shall have no pre-emptive or other right to purchase additional shares issued except as provided in this section.

(3) The statutory administrator may take action to increase the bank's capital through the issuance of shares to new shareholders in the following circumstances —

(a) in the event that binding commitments are not submitted by existing shareholders in an amount equal to the full amount of additional capital needed by existing shareholders; or

(b) without offering shares to existing shareholders, if the Bank determines that —

(i) an expedited resolution of a bank is necessary to maintain financial stability, or

(ii) the existing shareholders are no longer fit and proper to maintain a controlling shareholding in the bank.

(4) For the purpose of carrying out a recapitalization by new shareholders of a bank under statutory administration, the statutory administrator shall —

(a) determine the extent of losses and prepare the bank's balance sheet covering the amount of such losses through the bank's profits, reserves and, if necessary, capital;

(b) if necessary to reflect losses, reduce the par value of outstanding shares, restructure or write down debt or other capital instruments, notwithstanding the provision of any other law;

(c) determine the amount and type of funding needed to bring the bank into compliance with all capital requirements; and

(d) cause the bank to issue additional shares in the amount necessary, carry out the sale of shares and facilitate the purchase of such shares by new investors.

(5) Notwithstanding any existing law or other laws that may come into effect to regulate the securities market and other disclosures by issuers of securities, the Securities Commission shall take the necessary action to permit issuance of a bank's securities in accordance with the provisions of this section within a maximum of three business days.

(6) The powers provided in subsections (1), (3) and (4) and section 43P(1), (3) and (10) may be exercised by a statutory administrator only upon the written authorization of the Bank.

(7) Where a statutory administrator pursuant to subsection (4) —

(a) writes down equity or other instruments of ownership of a bank, unsecured and uninsured creditor claims;

(b) converts into equity or other instruments of ownership of a bank all or parts of unsecured and uninsured creditor claims,

the statutory administrator shall take the action referred to in paragraph (a) and (b) in a manner that respects the hierarchy of claims in liquidation under this Act.

43P. Mergers, sales and other restructuring.

(1) Subject to section 43M, and on the basis of the report produced under subsection 43C(2)(b), the statutory administrator may carry out a merger of the pertinent financial institution under statutory administration or a transfer, in whole or in part of -

(a) in the case of a bank, shares or other securities issued by the bank; or

(b) the pertinent financial institution's assets, rights and liabilities.

(2) A transfer of the shares or other securities, assets, rights and liabilities as the case may be, pursuant to subsection (1) may be to —

(a) a purchaser;

(b) a bridge institution for a temporary period;

(c) an asset management vehicle, for the purpose of resolving the bank.

(3) The statutory administrator may transfer to a purchaser, a bridge institution or an asset management vehicle —

(a) shares or other securities of a bank under statutory administration by making one or more securities transfer instruments; or

(b) assets, rights or liabilities of a pertinent financial institution under statutory administration by making one or more property transfer instruments.

(4) Where a statutory administrator has first transferred any securities issued by a bank under statutory administration or any assets, rights or liabilities of pertinent financial

institution under statutory administration to a bridge institution, the statutory administrator may —

(a) by making one or more securities transfer instruments, transfer securities issued by the bridge institution or securities issued by a bank under statutory administration and held by the bridge institution to another —

(i) bridge institution (an onward bridge institution); or

(ii) entity; or

(b) by making one or more property transfer instruments, transfer assets, rights or liabilities of the bridge institution (however accruing or arising) to another entity.

(5) The *Second Schedule* has effect with respect to securities transfer instruments.

(6) The *Third Schedule* has effect with respect to property transfer instruments.

(7) The transferee of assets of the bank under statutory administration shall have no liability to depositors, creditors, or shareholders of the bank except to the extent liabilities are explicitly assumed.

(8) Where a transfer is made under subsection (3) the Bank shall inform the Minister about the transfer as soon as practicable after the transfer is completed.

(9) The Minister shall cause a copy of each report under subsection (8) to be laid before each House of Parliament.

(10) Subject to the written approval of the Bank, the statutory administrator may carry out a restructuring of the liabilities of a bank under statutory administration, through arrangements with the bank's creditors, including a reduction, modification, re-scheduling or novation of their claims.

(11) When action is taken by the statutory administrator pursuant to subsection (1), the Bank shall —

(a) by instrument in writing appoint an independent valuer to verify the adequacy of the compensation provided to the transferor regarding the transferred assets, rights and liabilities; and

(b) publish notice of the appointment of the independent valuer in the *Gazette*.

(12) Any measure conducted under statutory administration under this section will not constitute a voidable preference, a transaction at undervalue or a fraudulent trading pursuant to sections 241, 242 and 243 of the Companies Act (*Ch. 308*).

43Q. Transfer of assets, rights or liabilities to asset management vehicle.

(1) A statutory administrator may transfer the assets, rights or liabilities of —

(a) a bank under statutory administration; or

(b) a bridge institution,

to an asset management vehicle by making one or more property transfer instruments.

(2) Without prejudice to section 43JJ, shareholders or creditors of a bank under statutory administration and other third parties whose assets, rights or liabilities have not been transferred to the asset management vehicle shall not have any rights over or in relation to assets, rights or liabilities which have been transferred to the asset management vehicle.

(3) An asset management vehicle, its management body and senior management, shall not owe any legal duty or responsibility to shareholders or creditors of the bank under statutory administration and the management body and senior management of the vehicle shall have no liability to such shareholders or creditors for acts or omissions in the discharge of their legal duties.

43R. Management of assets by asset management vehicle.

An asset management vehicle must manage the assets transferred to it with a view to maximizing their value through eventual sale or orderly wind down.

43S. Onward property transfer from asset management vehicle.

(1) This section applies if the statutory administrator has made a property transfer instrument under section 43Q (hereafter referred to as **"**the original instrument") in respect of an asset management vehicle.

(2) The statutory administrator may, by making one or more property transfer instruments, transfer assets, rights or liabilities of the asset management vehicle (whether accruing or arising before or after the original instruments is made) to another entity.

(3) A property transfer instrument may relate to assets, rights or liabilities of an asset management vehicle whether or not they were transferred to that vehicle by an instrument made under this section.

43T. Central Bank to report to Minister.

(1) If the statutory administrator transfers to an asset management vehicle under section 43Q any assets, rights or liabilities of a bank under statutory administration or of a bridge institution, the Bank must report to the Minister on —

(a) the activities and audited financial position of the asset management vehicle; and

(b) the progress that has been made towards maximizing the value of the assets transferred to it through eventual sale or orderly wind down.

(2) The first report under subsection (1) must be made as soon as practicable after audited financial statements are available for the year in which a transfer is first made to the asset management vehicle.

(3) A report under subsection (1) must be made for each subsequent year after the year mentioned in subsection (2).

(4) The reporting obligation under subsection (3) does not apply in respect of any year during which the asset management vehicle does not hold any assets or rights, or have any liabilities, mentioned in subsection (1).

(5) The Minister must cause a copy of each report under subsection (1) to be laid before each House of Parliament.

43U. Termination of statutory administration.

(1) Subject to subsection (2) the statutory administration shall terminate at the expiry of the term specified in the notice appointing the statutory administrator or any extension of the term of such appointment by the Bank.

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

(a) statutory administration is no longer necessary because the grounds for appointment of the statutory administrator have ceased to exist;

(b) the bank under statutory administration cannot be rehabilitated or restructured and the Bank issues a decision to revoke the bank's license under section 29(1)(vi) of the Banks and Trust Companies Regulation Act, 2020 and to commence liquidation proceedings under section 43II; or

(c) the co-operative credit union under statutory administration cannot be rehabilitated or restructured and the Bank issues a decision to cancel the co-operative credit union's registration under section 88C(2) and to commence liquidation proceedings under section 99 of the Bahamas Co-operative Credit Unions Act, 2015.

(3) Where the statutory administration is terminated in circumstances mentioned in subsection (1) and the reason for the appointment of the statutory administrator continues to exist, the Bank shall either,

(a) in the case of a bank, issue a decision to revoke the licence and commence a compulsory winding-up proceeding under section 43II, or

(b) in the case of a co-operative credit union, issue a decision to cancel the registration of the co-operative credit union under section 88C(2)and commence a compulsory winding-up proceeding under section 99 of the Bahamas Co-operative Credit Unions Act, 2015.

(4) In the case of a termination of statutory administration that does not involve a closure of a pertinent financial institution, the statutory administrator shall carry out the duties of the pertinent financial institution's directors and officers, until nomination or election of new directors and appointment of officers, at which time all powers of control over the affairs of the pertinent financial institution and its properties, offices, assets books and records that were vested in the statutory administrator shall vest in the pertinent financial institution.

(5) Within thirty days of the termination of the appointment or such further period as the Bank may approve, the statutory administrator shall prepare and submit to the Bank a final report and accounting of the statutory administration.

43V. Recognition of foreign resolutions

(1) For the purposes of this section –

"foreign resolution authority", in relation to a foreign country or territory outside The Bahamas, means an authority in that country or territory which, whether alone or together with one or more other authorities of that country or territory, is responsible for the foreign resolution of banks , or for preparing plans for a foreign resolution;

"foreign resolution" means any action by a foreign resolution authority to do either or both of the following:

(a) to maintain financial stability;

(b) to deal with any serious problem in a foreign bank of that country or territory which affects the ability of a bank to continue its business or operations, and which, if not dealt with, may cause the bank to be no longer able to continue its business or operations as a bank;

"foreign bank" means a bank established or incorporated in a country or territory outside The Bahamas that has —

(a) a branch located in outside The Bahamas; or

(b) a subsidiary incorporated in outside The Bahamas, that is licensed by the Bank under the Banks and Trust Companies Regulation Act, 2020;

"**Bahamas creditor**", in relation to a foreign bank, means —

(a) a creditor of the foreign bank, in respect of a liability incurred by the operations of its branch located in The Bahamas; or

(b) a creditor of a subsidiary incorporated in The Bahamas of the foreign bank;

"**Bahamas shareholder**", in relation to a foreign bank, means the holder of shares or similar instruments of a subsidiary incorporated in The Bahamas of the foreign bank.

(2) This section applies where a foreign resolution authority of a country or territory outside The Bahamas makes a request to the Bank to recognise a foreign resolution in relation to a foreign bank by the foreign resolution authority.

(3) Upon the request of a foreign resolution authority, the Bank shall make a determination that -

(a) the foreign resolution should be recognised in whole or in part; or

(b) the foreign resolution should not be recognised.

(4) The Bank shall, subject to such conditions as it may require, make a determination that the foreign resolution should be recognised in whole or in part if it is satisfied that all of the following conditions are fulfilled:

(a) recognition would not have an adverse effect on financial stability in The Bahamas;

(b) recognition would not deliver outcomes that are inconsistent with the resolution objectives; or

(c) recognition of the foreign resolution or part would not result in inequitable treatment of any Bahamas creditor or Bahamas shareholder (or both) relative to other creditors or shareholders of the foreign bank.

(5) In making a determination pursuant to subsection (3), the Bank may take into account any fiscal implications for The Bahamas.

(6) Upon making a determination, the Bank shall notify the Minister of its decision

(7) Any person to which a condition mentioned in subsection (4) applies, and who has been given written notice of that condition by the Bank, must comply with the condition.

(8) Any person who fails to comply with a condition imposed by the Bank under subsection (7), commits an offence and is liable on conviction to a fine not exceeding **[two hundred and fifty thousand]** dollars and, in the case of a continuing offence, to a further fine not exceeding **[twenty-five thousand]** dollars for each day or part thereof during which the offence continues.

(9) Where the Bank determines that a foreign resolution should be recognised in whole or in part, the Bank shall, as soon as practicable, by order declare that the foreign resolution is to be recognised.

(10) An order made pursuant to subsection (9) shall –

(a) take effect from a date specified in the order, and

(b) have the same legal effect in The Bahamas that it would have produced had it been made, and been authorized to be made, under the laws of The Bahamas.

(11) Where an order is made by the Bank pursuant to subsection (9), the Bank shall as soon as practicable after making the order send a copy of the order to the foreign bank.

(12) The Bank shall not make an order pursuant to subsection (9) unless it is satisfied that an arrangement that meets the criteria mentioned in subsection (13) is in place.

(13) Any Bahamas creditor or Bahamas shareholder is eligible to claim compensation under an arrangement with the foreign resolution authority that took the foreign resolution action (or the part of it) that is to be recognized by the order that is broadly consistent with the safeguards provided by section43JJ.

(14) A person that refuses or fails to comply with a provision of the order under subsection (9) that applies to the person, shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding [one hundred and twenty-five dollars] or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding [twelve thousand five hundred dollars] for every day or part of a day during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding **[two hundred and fifty thousand]** and, in the case of a continuing offence, to a further fine not exceeding **[twenty-five thousand]** for every day or part of a day during which the offence continues after conviction.

(15) Where a person is charged with an offence under subsection (14), it is a defence for the person to prove that —

(a) the person was not aware of the contravention of the provision of the order; and

(b) the person has complied with the provision of the order within a reasonable time after becoming aware of the contravention.

(16) Except as provided in subsection (15), it is not a defence for a person charged with an offence under subsection (14) that the person did not intend to or did not knowingly contravene the provision of the order.

PART IXB - LIQUIDATION OF BANKS

43W. Liquidation of banks.

(1) The winding-up of a bank shall be undertaken pursuant only to the provisions of this Act, and the Companies Act (*Ch. 308*) as modified by this Act.

(2) The Bank may issue regulations, rules, orders, directions, or other instruments regarding the winding-up of a bank pursuant to this Act.

43X. Voluntary liquidation of banks.

(1) Notwithstanding sections 190(1) and 211 of the Companies Act (*Ch.308*), no bank may petition the court to be wound-up voluntarily, except with the prior written approval of the Bank.

(2) The Bank may, subject to such terms and conditions as it deems appropriate, approve the voluntary winding-up of a bank if it is satisfied that —

(a) the bank is solvent and has sufficient liquid assets to repay its depositors and other creditors in full and without delay;

(b) the winding-up has been approved by the holders of at least two-thirds of the issued voting shares of the bank; and

(c) there are clear procedures in place for repayment of the bank's depositors and creditors within three days.

(3) Where the Bank approves the voluntary winding up of a bank pursuant to subsection (2), the bank shall —

(a) surrender its license and all copies thereof to the Bank which shall forthwith accept the surrender of such license;

(b) apply to the Supreme Court for its winding up;

(c) cease to do business, retaining only such staff as is necessary for an orderly winding-up under the supervision of a voluntary liquidator appointed with the approval of the Bank, and thereafter exercise its powers only to the extent, necessary to effect its orderly liquidation;

(d) repay in full its depositors within three days and other creditors within a reasonable period of time; and

(e) wind-up all operations which were commenced or undertaken prior to the receipt of the approval to wind-up.

(4) Notwithstanding the provisions of section 212 of the Companies Act (*Ch. 308*), a voluntary winding-up is deemed to commence from the time the Bank approves the voluntary winding-up pursuant to subsection (2).

(5) Notwithstanding the provisions of section 216 of the Companies Act (*Ch. 308*)—

(a) no person shall pass a resolution to remove a voluntary liquidator appointed pursuant to paragraph (c) of subsection (3) from office unless that person gives the Bank prior notice of his intention to pass such a resolution;

(b) a person who makes an application to the court pursuant to section 216(3) of the Companies Act (*Ch. 308)* for an order that a voluntary liquidator appointed under paragraph (c) of subsection (3) be removed from office, shall notify the Bank of the application within twenty-four hours of the filing of the application.

(6) Notwithstanding the provisions of section 217 of the Companies Act, (*Ch. 308*), where a voluntary liquidator appointed pursuant to paragraph (c) of subsection (3) intends to resign, he shall notify the Bank of his intention prior to his resignation.

(7) Notwithstanding section 218(1) of the Companies Act (*Ch. 308*), notice of a voluntary winding-up shall be filed, served or published within ten days of receipt of the approval of the Bank given pursuant to subsection (2).

(8) The voluntary liquidator shall notify the Bank in any case where an application for a supervision order is made to the Supreme Court or where a court issues a supervision order pursuant to sections 219, 225, 226 and 227 of the Companies Act (*Ch. 308*).

(9) The voluntary liquidator shall submit a report and an account of the winding-up to the Bank, every six months.

(10) The voluntary liquidator shall submit a report and an account of the winding-up within twenty-one days of the date on which the bank's affairs are fully wound up.

(11) The Bank shall have power to issue directives to a voluntary liquidator and require the voluntary liquidator to produce such other reports as the Bank may require.

43Y. Compulsory winding up and appointment of liquidator.

(1) The Bank shall appoint a liquidator for a bank if a statutory administration is terminated pursuant to subsection 43U(2)(b) of this Act.

(2) The liquidator shall be a person from the private sector or an officer of the Bank who meets the qualifications established by the Bank.

(3) The Bank shall —

(a) have the power to vary or revoke the appointment of the liquidator at any time upon written notice to the person so appointed, and that person immediately shall cease to act as liquidator; and

(b) appoint a replacement who shall be a person from the private sector or an officer of the Bank who meets such qualifications as may be established by the Bank.

(4) The terms of the liquidator's compensation shall be set by the Bank and may include incentives for meeting the objectives described in subsection 43Z(2) and may include penalties for failure to meet such objectives.

(5) The compensation of the liquidator and experts that he engages, reimbursement of their expenses and expenses of the Bank in execution of provisions of this section with respect to a bank, shall be paid from the assets of the bank.

(6) Payments to the liquidator shall be made on a current basis if in the judgment of the liquidator and upon approval of the Bank, there are sufficient liquid assets.

(7) Any moneys owing to the liquidator at the end of the term of liquidation shall be paid from the proceeds of the sales of the bank's assets in accordance with the priority described in section 43FF.

43Z. Powers and duties of the liquidator.

(1) Where the Bank appoints a liquidator of a bank pursuant to section 43Y, the liquidator shall become the sole legal representative of the bank, and, shall succeed to all rights and powers of the shareholders and directors and officers responsible for the management of the bank.

(2) The liquidator shall exercise his powers with due regard to the objectives of resolution as set out in section 43A.

(3) The liquidator may borrow money guaranteed with the bank's assets, or without guarantee, with the prior approval of the Bank.

(4) The liquidator may —

(a) not take any new deposits;

(b) extend credit only to an existing customer in accordance with the terms of an agreement in force at the time of the appointment of the liquidator and with the prior approval of the Bank provided however that the liquidator shall have the power to repudiate such loan commitments where such repudiation is in the best interest of the insolvency estate.

(5) The liquidator shall have unrestricted access to and control over the offices, books of account and other records, and other assets of the bank and its subsidiaries.

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

(7) Any person who wilfully obstructs the liquidator in the exercise of his functions under this Act, commits an offence and shall be liable on summary conviction thereof to a

fine not exceeding one hundred thousand dollars or to imprisonment for a term of not less than one year nor more than five years or to both, and in the case of a continuing offence, to an additional fine of one thousand dollars for each day during which the offence continues.

(8) The liquidator shall secure the property, offices, books, records, and assets of the bank to prevent their dissipation by theft or other improper action, by taking actions including, but not limited to, the following —

(a) changing the locks and limiting access to the new keys on external entrances to the bank's offices and on doors to internal offices which contain financial assets or information or equipment which could enable a person to gain unlawful access to financial assets;

(b) changing or establishing access codes to the bank's computers and granting access only to a limited number of trustworthy employees;

(c) issuing new photo identification passes for entrance of authorized employees to the bank's premises and controlling the access of other persons to the bank's premises;

(d) cancelling authorizations of persons to conduct financial transactions for or on behalf of the bank and issuing new authorizations, as appropriate, and notifying third parties;

(e) informing correspondent banks, registrars and transfer agents of securities, and external asset managers of the bank's assets that persons who previously had authorization to give instructions on behalf of the bank with respect to dealing in the bank's assets or assets held in trust by the bank are no longer so authorized and that only the liquidator and persons authorized by the liquidator have such authority; and

(f) suspending the payment of capital distributions in general and payment of any kind to directors, officers and principal shareholders; provided, however, that base compensation may be paid to directors and officers for services rendered to the liquidator.

(9) The liquidator shall establish a new balance sheet for the bank, based on his determination of liquidation values of the bank’s assets with a corresponding reduction in the value of the bank’s liabilities in the reverse order of priority in payment of distributions in the liquidation of a bank’s assets.

(10) The liabilities of a bank placed in liquidation under section 43Y shall be deemed due and payable and interest shall cease to accrue as of the date of the appointment of the liquidator.

(11) Within one month of taking possession of a bank —

(a) the liquidator shall make an inventory of the assets and property of the bank and transmit a copy thereof to the Bank; and

(b) the Bank shall make a copy of the inventory available for examination by the public.

(12) The powers of the shareholders and directors and officers responsible for the management of the bank shall be terminated upon the appointment of the liquidator; provided, however, that directors or officers may be instructed by the liquidator to exercise specified functions for the bank; and further, provided that such persons shall be subject to dismissal by the liquidator from their positions at the bank and shall thereupon cease to receive compensation from the bank.

(13) When part of the business of a bank is sold in accordance with section 43P(1), the liquidator must cooperate with any request of the Bank to enter into an agreement for the residual entity to provide services or facilities to the transferor.

(14) The liquidator shall immediately, following his appointment —

(a) file a copy of his instrument of appointment with the Registrar;

and

(b) post in each branch of the bank a notice of —

(i) the revocation of the license of the bank in liquidation;

and

(ii) his appointment as liquidator of the bank and specify in such notice:

(aa) the effective date and time when he took possession of the bank; and

(bb) specify that persons who previously had authorization to act or give instructions on behalf of the bank are no longer so authorized.

(15) The liquidator shall —

(a) publish notice of his appointment in the Gazette and in a local newspaper of general circulation, each week for four consecutive weeks; and

(b) co-ordinate such publication with the Deposit Insurance Corporation for the purpose of payment of insured deposits to eligible depositors pursuant to the Protection of Depositors Act (*Ch. 317*).

(16) Within sixty days after the appointment of a liquidator, the liquidator shall —

(a) deliver a notice of his appointment to all known depositors, creditors and lessees of safe-deposit boxes held by the bank;

(b) publish in the Gazette and a local newspaper of general circulation a notice specifying the manner and time in which any claim against the bank may be filed with the liquidator, not being earlier than sixty days from the date of delivery or publication of the notice.

(17) As of the date of appointment of a liquidator —

(a) any claim or right of the bank which would expire or be extinguished upon the expiration of a statutory, contractual or other term, shall be suspended;

(b) the calculation of interest and penalties against the bank's obligations shall be suspended and no other charge or liability shall accrue on the obligations of the bank;

(c) all legal proceedings against the bank are stayed and the exercise of any right in respect of the bank's assets shall be suspended;

(d) no right shall be exerted over the bank's assets during the bank's liquidation, except rights given to the liquidator;

(e) no creditor may attach, sell or take possession of any assets of the bank as a means of enforcing his claim or initiate or continue any legal proceeding to recover the debt or perfect security interests in the bank's assets;

(f) any attachment or security interest (except one existing six months prior to the effective date of the liquidation) shall be vacated, and no attachment or security interest, except one created by the liquidator in the application of this section shall attach to any of the assets or property of the bank so long as such liquidation continues;

(g) shareholders' rights shall be extinguished except for the right to receive proceeds, if any, under section 43FF(5).

43AA. Termination of Contracts.

(1) A liquidator may, within thirty days of the date of his appointment, repudiate any unfulfilled or partially fulfilled contract, to the extent that the fulfilment of such contract is determined to be burdensome for the bank and the repudiation would promote the orderly administration of the bank's affairs and protect depositors' interests.

(2) Notwithstanding any other law, any liability arising from a repudiation pursuant to subsection (1) shall be determined as of the date of repudiation and shall be limited to actual direct damages incurred and shall not include any damage for lost profits or opportunity or non- monetary damages.

(3) Subject to any law governing conditions of employment, the liquidator of a bank may terminate, not later than three months after his appointment —

(a) any employment contract of the bank;

(b) any contract for services to which the bank is a party; and

(c) any obligations of the bank as a lessee of property.

(4) A lessor of any property referred to in subsection (3) —

(a) shall be given notice of not less than thirty days of the intended termination of the obligations of a bank;

(b) has no claim for rent other than rent accrued up to and including the date of the termination of the obligation of the bank; and

(c) has no right to consequential or other damages which arise by reason only of any termination of the obligations of the bank, notwithstanding any term of the lease to the contrary.

43BB. Notice of Claims.

A liquidator shall, not later than ninety days after the last day specified in the notice for filing claims against a bank being compulsorily wound-up —

(a) where he doubts the validity of any claim, reject the claim;

(b) determine the amount, if any, owing to each known depositor or other creditor, and the priority of each claim under this Act;

(c) file with the Bank a schedule of the actions proposed to be taken for the purpose of the compulsory winding-up of the bank provided that such filing

shall exclude deposits that are uninsured but which are included in the definition of "deposit" under section 2(1) of the Protection of Depositors Act (*Ch.317*), and which have been fully paid out or transferred to another entity;

(d) notify each person whose claim is allowed in full; and

(e) publish, once a week for three consecutive weeks, in the Gazette and in a newspaper of general circulation in The Bahamas —

(i) a notice of the date and place where the schedule referred to in paragraph (c) will be available for inspection; and

(ii) the last date, not being earlier than thirty days from the date of publication, on which the liquidator will file that schedule with the Bank.

(f) The Bank may approve the schedule of actions referred to in paragraph (c) subject to such terms and conditions as it may require.

(g) The Bank shall, in approving the schedule referred to in paragraph (c), ensure that all of the deposits that are uninsured but which are included in the definition of "deposit" under section 2(1) of the Protection of Depositors Act (*Ch. 317*) are paid out in an expeditious manner.

43CC. Objections.

(1) Within twenty days of the filing of a schedule under section 43BB(c), a depositor or other creditor or shareholder of the bank concerned, or other interested person, may file with the Bank any objection that person has to any action proposed in such schedule.

(2) The Bank may direct that an objection filed pursuant to subsection (1) be served on the liquidator and such interested parties as the Bank may require, and shall subsequently hear the objection and issue a Notice setting out its determination thereon as it considers appropriate in the circumstances.

(3) When the Bank allows an objection, the Notice shall set out the manner in which the schedule referred to in section 43BB is to be modified.

43DD. Distributions.

(1) Where a liquidator has filed a schedule in respect of a bank, pursuant to subsection 43MM(c), the liquidator shall make periodic distributions of recoveries on liquidated assets to claimants, if the liquidator establishes an adequate reserve (as determined by the Bank) for the payment of disputed claims against the bank.

(2) As soon as practicable after all objections against the distribution proposed by the liquidator have been heard and determined, final distribution of the assets of the bank concerned shall be made by the liquidator.

43EE. Avoidance of pre-liquidation transfers.

(1) The liquidator may declare void a transaction based on a forged or fraudulent document that the bank has executed to the detriment of creditors within the five years preceding the effective date of the liquidation.

(2) The liquidator may declare void the following transactions affecting the assets of the bank or to recover from third parties the transfers by the bank —

(a) gratuitous transfers to, or to persons related to, directors and officers and principal shareholders of or holders of significant interests in the bank made within the five years preceding the effective date of the liquidation;

(b) gratuitous transfers to third parties made within the three years preceding the effective date of the liquidation;

(c) transactions in which the consideration given by the bank considerably exceeded the received value obtained, made within the three years preceding the effective date of the liquidation;

(d) any act done within the five years preceding the effective date of the liquidation, with the intention of all parties involved to withhold assets from the bank's creditors, or otherwise impair their rights;

(e) transfers of property of the bank to, or for the benefit of, a creditor on account of a debt incurred within the six months preceding the effective date; of the liquidation which has the effect of increasing the amount that the creditor would receive in a liquidation of the bank; provided however that payment of deposits in an amount equal to or less than two thousand dollars per depositor shall not be subject to this provision.

(f) transactions with persons related to the bank conducted within one year prior to the effective date of the liquidation, if detrimental to the interest of depositors and other creditors; and

(g) any attachment or security interest, except one existing six months prior to the effective date of the liquidation.

(3) An action to declare a transfer void may be brought by the liquidator within one year following the effective date of the liquidation.

(4) Notwithstanding the foregoing subsections, the liquidator may not declare void a payment or transfer by the bank if it was made in the ordinary course of the bank's business, or if it was part of a contemporaneous exchange for reasonably equivalent value, or to the extent that following the transfer the recipient extended new unsecured credit to the bank which had not been satisfied by the bank as of the effective date of the liquidation.

(5) The liquidator may recover property or the value of property transferred by the bank from a transferee of an initial transferee only if the second transferee did not give fair value for the property and knew or reasonably should have known that the initial transfer could be set aside.

(6) The liquidator may file notice of an action to declare a transfer void in the public records for real estate ownership and any other rights in property and a person taking title to or acquiring any security interest or other interest in such property after the filing of such a notice takes his or her title or interest subject to the rights of the bank to recover the property.

(7) Notwithstanding subsection (1) —

(a) irrevocable money and securities transfer orders entered by a bank into a payment or securities settlement system recognized as such by the Bank shall be legally enforceable and binding on third parties, even upon a decision revoking the bank's license and appointing a liquidator, but only if the transfer orders become irrevocable before such decision takes effect; or

(b) a bank enters irrevocable money or securities transfer orders into a payment or securities settlement system after the decision revoking the bank's license and appointing a liquidator takes effect and the transfer orders are carried out on the day of such decision, the transfer orders shall be legally enforceable and binding on third parties, unless the liquidator proves that the system operator was aware of the decision before the transfer orders became irrevocable.

(8) No law, regulation or practice on the setting aside of contracts and transactions issued or adopted before the decision revoking the bank's license and appointing a liquidator takes effect shall, as a consequence of such decision, lead to the unwinding

of a netting by a payment or securities settlement system recognized as such by the Bank because of that decision.

(9) For the purposes of subsections (7) and (8) —

(a) a payment order entered into a payment or securities settlement system becomes irrevocable at the time defined by the regulations of that system; and

(b) **"netting"** means the conversion into one net claim or one net obligation of claims and obligations resulting from transfer orders which a participant or participants in a settlement system either issue to, or receive from, one or more other participants in that system with the result that only a net claim or a net obligation remains.

(10) Nothing in this Act and no decision made under this Act shall prevent or prohibit the set off by operation of law of obligations between a bank being subject to the liquidation proceedings under this Act and its counterparty.

(11) In determining the rights and obligations between a bank in liquidation and its contractual counterparty —

(a) 87 after its validation as a claim of the counterparty on the bank.

(12) For the purposes of this section —

(a) **"eligible financial contract"** means swaps, options and other derivative transactions related to interest rates, foreign exchange swaps, commodities, and guarantee of liabilities, but also includes any type of financial contract from time to time specified by the Bank by regulation for such purpose; and

(b) **"net termination value"** means the net amount obtained after setting off the mutual obligations between the parties to an eligible financial contract in accordance with its provisions.

(13) Except as provided under this section, no set-off shall be allowed with respect to claims against the bank after the decision to revoke the bank's license and the appointment of a liquidator takes effect or within three months before such decision.

(14) Save for deposits insured under the Protection of Depositors Act (*Ch.317*), claims against the bank arising from deposits shall be set-off against any sum due by a depositor to the bank as of the date on which the license is revoked and the liquidator is appointed —

(a) automatically if such sum is matured or past due;

(b) at the option of the depositor, if the sum is not matured or past due.

43FF. Priority of claims.

(1) In any liquidation of a bank's assets, allowed secured claims shall be paid to the extent of the realization of the security or the security shall be delivered to the secured creditor.

(2) The following unsecured claims have priority against the general assets of a bank being compulsorily wound-up under this Act, namely —

(a) subrogated claims of the Deposit Insurance Corporation under the Protection of Depositors Act (*Ch. 317*) in respect of insured deposits except deposits due to a depositor identified in paragraph (d);

(b) necessary and reasonable expenses incurred by the statutory administrator or liquidator, including professional fees in carrying out their functions under this Act;

(c) deposits that are uninsured but not excluded from the definition of "deposit" under section 2(1) of the Protection of Depositors Act (*Ch. 317*) except deposits due to a depositor identified in paragraph (d);

(d) deposits due to directors, officers and significant shareholders of the bank;

(e) credits extended to the bank by the Bank until the appointment of the liquidator to the extent not sufficiently secured by collateral;

(f) wages and salaries of the officers and employees of the bank (whether or not earned wholly or in any part by way of commission) including any amount payable by way of allowance or reimbursement under any contract of employment or award or agreement regulating conditions of employment, that accrued during the three months immediately preceding the appointment of a statutory administrator or liquidator under this Act, provided that such amount does not exceed ten thousand dollars per person;

(g) all taxes due and other imposts owing to the Government of The Bahamas;

(h) the fees, and assessments owing to the Bank;

(i) credits extended to the bank after the appointment of the liquidator;

(j) all other unsecured claims of creditors;

(k) subordinated debt;

(l) any sum claimed by the Deposit Insurance Corporation from a bank under section 15E, 15F or 15G of the Protection of Depositors Act (*Ch. 317*) .

(3) Notwithstanding subsection (2), the Bank may take actions that would treat similarly situated creditors differently, but only if the Bank determines that:

(a) the category of claims that are benefitted by the action are of strategic importance to the economy or the action is necessary to contain potential systemic impact or to maximize the value for the benefit of all creditors as a whole; and

(b) no creditor will receive less in the liquidation than it would have without the disparate treatment.

(4) After payment of all other claims against the bank, all remaining claims against the bank that were not filed within the time limited therefore under this Act may then be paid.

(5) Where the amount available to pay the claims of any class of claimant specified in this section in respect of priorities is not sufficient to provide payment in full to all claimants in that class, the amount available shall be distributed by the liquidator on a *pro rata* basis among the claimants in that class.

(6) The assets of a bank being compulsorily wound-up that remain after the final distribution to claimants pursuant to subsection (2) shall be distributed by the liquidator among the shareholders of the bank in proportion to their respective rights.

(7) For the purpose of determining the net amount due to any depositor under subsections (2) (b), (c) and (d), the Bank shall aggregate the amounts of all deposits in the bank which are maintained by a depositor in the same capacity.

43GG. Final reporting.

(1) A liquidator appointed pursuant to section 43YY shall, prepare a report and an account of the winding up showing how it has been conducted and how the bank's property has been disposed of and thereupon shall call a general meeting of the bank for the purpose of laying before it the account and giving an explanation for it.

(2) The liquidator shall submit the report and an account of the winding up described in subsection (1) to the Bank.

(3) At least twenty-one days before the meeting the liquidator shall send a notice specifying the time, place and object of the meeting to each contributory in any manner authorised by the company's articles and published in the Gazette.

(4) The liquidator shall, no later than seven days after the meeting, make a return to the Registrar in the prescribed from specifying —

(a) the date upon which the meeting was held; and

(b) if a quorum was present, particulars of the resolutions, if any, passed at the meeting.

(5) A liquidator who fails to call a general meeting of the company as required by subsection (1) or fails to make a return as required by subsection (3) shall be liable to pay a penalty not exceeding ten thousand dollars.

43HH. Automatic Termination Rights.

The entry into resolution and the exercise of any resolution powers shall not trigger statutory or contractual set-off rights, or constitute an event that entitles any counterparty of a bank in resolution, to exercise contractual acceleration or early termination rights, provided the substantive obligations under the contract continue to be performed.

43II. Creditor Safeguards.

The powers of the Bank or statutory administrator under section 43D shall not be used to —

(a) transfer assets of a bank in resolution against which a liability is secured (under a lien, mortgage or any other type of security interest) unless the liability and the benefit of the security interest is also transferred; or

(b) transfer only some but not all of the rights and liabilities protected under a netting clause contained in an eligible financial contract.

(c) For the purposes of this section, “eligible financial contract” has the meaning ascribed under subsection 43EE(12)(a).

43JJ. Shareholder and Creditor Safeguards.

(1) If, in accordance with a valuation determined by an independent valuer, who meets qualification requirements specified by the Bank, any shareholder or creditor of the bank under statutory administration establishes that as a result of any merger, purchase and assumption, sale or restructuring under section 43P, it is in a position

that is worse than if the bank had been liquidated, (not taking into account the effects of any financial or other support from the Bank, the Government, or the Deposit Insurance Corporation to the bank or an acquirer of the bank under section 43P of this Act), that shareholder or creditor shall be entitled to compensation in an amount that would restore the shareholder or creditor to the same position as he would have been in had the bank been liquidated provided however that such compensation will only be payable to the shareholder or creditor if recoveries from the liquidation of assets would have exceeded other claims.

(2) For the purposes of subsection (1) the Bank shall pay the compensation and shall decide whether to pay it wholly or partly in cash or wholly or partly in any other form, including shares, that the Bank considers appropriate.

(3) Subject to subsection (1) in determining the amount of compensation to which a person is entitled, the following shall not be taken into account —

(a) shares or other interest or right received by another person as a result of a transfer made pursuant to section 43P or retained by another person; and

(b) any common shares received by another person as a result of a conversion of shares or liabilities in accordance with the contractual terms of those shares or liabilities.

(4) Payment of the compensation by the Bank under subsection (2) discharges the Bank from its obligations under that subsection and in no case is the Bank under any obligation to see to the proper application in any way of any such payment.

(5) An independent valuer may appoint a person to assist in the performance of the independent valuer's functions, subject to the written approval of the Bank.

(6) The Bank shall determine the remuneration to be paid to an independent valuer and any person appointed pursuant to subsection (5).

(7) The valuation under subsection (1) shall determine the following —

(a) the treatment that shareholders and creditors, would have received if the institution under statutory administration had entered liquidation at the time when the decision was made to place the bank under statutory administration;

(b) the actual treatment that shareholders and creditors have received in the resolution of the institution under statutory administration;

(c) whether there is any difference between the treatment referred to in paragraph (a) and the treatment referred to in paragraph (b).

(8) The valuation under subsection (1) shall —

(a) assume that the bank under statutory administration would have entered normal liquidation proceedings at the time when the decision to appoint a statutory administrator pursuant to section 29(1(f) of the Banks and Trust Companies Regulation Act, 2020, was taken,

(b) assume that the resolution action or actions had not been effected, and

(c) disregard any provision of extraordinary public financial support to the institution under statutory administration.

(9) Where the valuation carried out under subsection (1) determines that any shareholder or creditor referred to in that subsection, has incurred greater losses than they would have incurred in a winding up under normal insolvency proceedings, it is entitled to the payment of the difference from the Fund in compensation.

(10) Any affected shareholder or creditor may apply to the independent valuer appointed under section 43P(11) for compensation in accordance with subsection (1).

(11) The independent valuer to whom an application is made shall determine the amount of compensation due to any person who has made an application under subsection (10).

(12) Before any determination under subsection (11) has been made, the following persons may make submissions to the independent valuer concerned and the independent valuer shall consider any such submissions —

(a) the Bank;

(b) the Minister;

(c) any affected shareholders or creditors.

(13) Where the independent valuer has determined, in accordance with subsection (11) the amount of compensation, if any, payable to each person who has applied for it, the independent valuer shall report in writing to the Bank the following —

(a) the name of each such person;

(b) whether compensation is payable to each such person;

(c) the amount of compensation, if any, payable to each such person.

(14) A report under subsection (13) shall set out the following —

(a) a summary of the evidence on which the independent valuer relied in making his or her determination;

(b) the independent valuer's reasons for making the determination.

(15) The Bank shall cause the independent valuer's report under subsection (13) to be published as soon as is practicable.

(16) As soon as practicable after the publication of the independent valuer's report, the Bank shall —

(a) notify each applicant in writing whether or not compensation has been determined to be payable to him, and

(b) pay compensation in accordance with the report to each person to whom compensation has been so determined to be payable.

(17) The Bank, or a shareholder or creditor who has or claims a right to compensation, may lodge an appeal with the Supreme Court against the determination of the independent valuer under subsection (11).

(18) The independent valuer is to be the respondent to an appeal under subsection (17).

(19) On hearing an appeal under subsection (17), the Court may substitute its own determination or confirm, annul or vary the determination appealed from and may make any other consequential order.

(20) In deciding, for the purposes of an appeal under subsection (17) whether the independent valuer's determination should be confirmed, annulled or varied, the test to be applied by the Supreme Court is whether the appellant has established, as a matter of probability, taking into account the degree of expertise and specialist knowledge possessed by the independent valuer and taking the process as a whole, that the determination was vitiated by a serious and significant error or a series of such errors.

43KK. Independent valuer to meet qualifications.

(1) A person may not be appointed as an independent valuer by the Bank unless they meet the qualifications specified in writing by the Bank.

(2) The Bank must exercise the powers that it has under this Act to, as far as practicable, provide access, or procure the provision of access, for the independent valuer of any records and documents of the bank under statutory administration, or of a connected

person, that are, or any other information that is, relevant to the performance by the independent valuer of functions under this Act.

(3) For the purposes of subsection (2) **"connected person"** has the meaning given in subsection 38(10)(d).

(4) The Bank may revoke the appointment of an independent valuer if —

(a) the person is incapable of performing the functions of an independent valuer;

(b) the person is not performing the functions of an independent valuer impartially and independently;

(c) the person is guilty of serious misconduct;

(d) the person no longer satisfies the criteria for appointment specified by the Bank.

(5) Where the Bank revokes the appointment of an independent valuer pursuant to subsection (4), or where the independent valuer resigns the Bank shall appoint a new independent valuer as soon as practicable following such revocation or resignation.

(6) As soon as practicable after a new independent valuer is appointed under subsection (5), the Bank may, by notice in writing served on the person who has ceased to hold the office of independent valuer, require the person to provide the documents, records or accounts to which this subsection applies to the person appointed as the successor of the person in that office within the period, and in the manner, specified in the notice.

(7) Subsection (6) applies to—

(a) any document provided to the person in the capacity of independent valuer;

(b) any records or accounts kept by the person as required under subsection (6); and

(c) any other records made by the person in the capacity of independent valuer that are relevant to the performance by a successor independent valuer of functions under this Act.

(8) A person who, without reasonable excuse, fails to comply with a requirement under subsection (6) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of one thousand dollars for every day during which the offence continues.

(9) A person who produces any document for complying with a requirement under subsection (6) that the person knew, or ought reasonably to have known, to be false in a material particular commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for six months.

(10) The acts of a person acting as an independent valuer are valid despite the fact that it is afterwards discovered that there was a defect in the appointment of the independent valuer, other than a defect arising because the independent valuer did not meet the criteria specified by the Bank.

43LL. Central Bank may publish action.

The Bank may, if satisfied that the circumstances so warrant, at any time make public and publish notice of any action it has taken under sections 43L, 43M or 43V."

21. Amendment of section 47 of the principal Act.

Section 47 of the principal Act is amended—

(a) in subsection (1)(c), by the deletion of the word "(2)"and the substitution of the word "(3)";

(b) in subsection (3)(b) —

(a) by the deletion of subparagraph (i) and the substitution of the following —
"(i) a minor violation that consists of a late filing by a small supervised financial institution, one thousand dollars;"

(b) by the re-lettering of subparagraphs (ii) and (iii) as subparagraphs (iii) and (iv);

(c) by the insertion, immediately after subparagraph (i), of the following new subparagraph (ii) —
"(ii) all other minor violations, ten thousand dollars";

(c) in subsection (4), by the deletion of the words " or erroneous"; and

(d) by the deletion of subsection (6) and the substitution of the following —

"(6) For the purposes of this subsection —

(a) subsection (5) does not apply to a penalty fixed under subsection (1)(c); and

(b) "small supervised financial institution" means —

(i) a licensee that is a trust company that is authorized by the Central Bank to conduct trust business with specified persons only or to offer nominee services only;

(ii) a Registered Representative;

(iii) a co-operative credit union registered under The Bahamas Co-operative Credit Unions Act (*Ch. 314A*);

(iv) a payment institution licensed under the Payment Instruments (Oversight) Regulations, 2017 (*S. I. No. 53 of 2017*).".

22. Amendment of section 48 of the principal Act.

Section 48 of the principal Act is amended--

(a) in subsection (1) by the deletion of the word "contravention", and the substitution of the word "violation"; and

(b) in subsection (2), by the deletion of the words "violation as a contravention", and the substitution of the words "contravention as a violation".

23. Amendment of section 49 of the principal Act.

Section 49 of the principal Act is amended in subsection (3)—

(a) in paragraph (a) by the deletion of the word "contravention" and the substitution of the word "violation" ;

(b) in paragraph (b) -

(aa) by the deletion of the word "contravention" and the substitution of the word "violation"; and

(bb) by the deletion of the word "of" and the substitution of the word "or"."

24. Amendment of section 52 of the principal Act.

Section 52 of the principal Act is amended by the deletion of subsection (2) and the substitution of the following —

"(2) Notes, coins and Bahamian dollar digital currency issued by the Bank are exempt from the payment of stamp duty."

25. Amendment of section 55 of the principal Act.

Section 55 of the principal Act, is amended —

(a) in paragraph (b) of subsection (2), by the insertion of a hyphen between the words "Attorney" and "General";[1] and

(b) in subsection (5), by the insertion of a hyphen between the words "Attorney" and "General", where they second appear.

26. Amendment of section 61 of the principal Act.

Section 61 of the principal Act is amended —

(a) by the deletion of subsection (1) (d) and the substitution of the following —

"(d) any person duly authorized by the Bank under or pursuant to subsections 29(1)(d), (e) or (f) of the Banks and Trust Companies Regulation Act, 2020; subsection 43D(1) or subsection 43Y(1) or (2) of this Act;";

(b) the deletion of subsection (1)(g) and the substitution of the following —

"(g) an independent valuer appointed under this Act;";

(c) by the deletion of the comma appearing at the end of paragraph (g) and the substitution of a semi-colon;

(d) the deletion in subsection (2) of the words " the Banks and Trust Companies Regulation Act, 2020" and the substitution of the words "this Act".

27. Amendment of section 65 of the principal Act.

Section 65 of the principal Act is amended —

(a) by the deletion of the period at the end of paragraph (b) and the substitution of a semi-colon;

(b) by the insertion, immediately after paragraph (b), of the new paragraph (c) as follows —

"(c) in the case of legal tender, subject to sections 12 (3) and 13(1), all notes and coins lawfully in circulation immediately before commencement of this Act are deemed for all purposes to be legal tender issued by the Bank under this Act.".

28. Amendment of the Schedule of the principal Act

The Schedule of the principal Act is amended –

(a) in the heading by the deletion of the word "SCHEDULE" and the substitution of the words "FIRST SCHEDULE";

(b) in paragraph 1(2)-

(i) by the deletion of sub-subparagraph (q) and the substitution therefor of the following—

"(q) approve the arrangements for--

(i) printing notes and minting coins and the issuance, re-issuance, and redemption of notes and coins,;

(ii) safe preparation, minting and storage of Bahamian dollar digital currency, the issuance, re-issuance, and redemption of Bahamian dollar digital currency, and the distribution, commissioning or decommissioning of Bahamian dollar digital currency, referred to in section 10 and the advice rendered to the Minister under section 11;"

(ii) by the insertion immediately after sub-subparagraph (r) of the following new sub-subparagraph (s) –

"(s) appoint one external expert to each of the committees which it establishes pursuant to sub-subparagraph (r);

(iii) by re-lettering sub-subparagraph (s) as sub-subparagraph (t);

(c) in paragraph 2(1)

(i) by the deletion of sub-subparagraph (b);

(ii) by re-lettering of sub-subparagraph (c) as sub-subparagraph (b);

(iii) in subparagraph (3), by the deletion of the word "four" and the substitution of the word "six";

(iv) by the insertion immediately after subparagraph (3) of the following new subparagraph (4)

"(4) There shall be two deputy governors ("**Deputy Governors**") of the Bank each of whom shall be –

(a) appointed by the Governor-General on the advice of the Minister and after consultation by the Board and;

(b) appointed for a term of five years and eligible for reappointment for no more than two additional terms.";

(v) in subparagraph (5), by the deletion of the number "(4)" wherever it appears and the substitution of the number "(5)";

(vi) by re-numbering subparagraphs (4), (5) and (6) as subparagraphs (5),(6) and (7), respectively;

(d) in paragraphs 4 and 9 by the deletion of the brackets and numbers "2(4)" wherever they appear and the substitution of the number "2(5)".

(e) in paragraph 4(2)(b) by the deletion of the word "in" immediately before the word 'incapacitated'.

(f) in paragraph 7-

(i) by the insertion immediately after subparagraph (5) of the following new subparagraphs (6) and (7)–

"(6) The Deputy Governors may attend all meetings of the Board but shall not have the right to vote at those meetings.

(7) Notwithstanding subparagraph (6) of this paragraph where a Deputy Governor presides as Chairman pursuant to paragraph 3(1)(a) he shall have the right to vote.";

(ii) by re-numbering subparagraphs (6) and (7) as subparagraphs (8) and (9), respectively;

(g) in paragraph 12 by(1)(b)(i) by the insertion of the words "*ex officio*" immediately after the words "the Bank";

(h) by the insertion immediately after paragraph 12 of the following new paragraph 12A

"12A **Committees and External Experts.**

(1) In addition to the Committees prescribed in paragraphs 9, 10, 11 and 12 the Board may establish other Committees to assist the Board in carrying out its functions, and may appoint an external expert to each Committee established.

(2) Persons appointed as externals expert to Committees of the Board established pursuant to subparagraph (1), shall be persons who--

(a) have not been a director, Deputy Governor, or employee of the Bank for three years preceding the appointment; and

(b) have recognized expertise that is relevant to the functions of the Committee to which he or she is appointed.

(3) Subject to paragraph 2(6) a person appointed as an external expert to a Committee established under subparagraph (1)—

(a) shall not be appointed to a Committee if any of the matters prescribed in paragraph 2(5) apply to such person.

(b) may be removed from office if—

(i) any of the matters prescribed in paragraph 4(2)(b) or (c) apply to such person; or

(ii) the person has been absent from xxx or more consecutive meetings of the Committee to which he or she has been appointed without the permission of the Board or without reasonable cause.

(4) Without prejudice to paragraph 12(3) an external expert under paragraph (1) shall be appointed for a term of four years and eligible for re-appointment for no more than two additional terms.

(5) Committees established under subparagraph (1) shall meet at any place or may meet virtually and as often as may be required for the performance of their functions and, in any event, at least three times each year.

(6) The Board shall prescribe the responsibilities, composition, and procedures of a Committee established pursuant to subparagraph (1).

(7) A Committee established pursuant to subparagraph (1) shall report to the Board on the performance of its functions, at least quarterly.

29. Insertion of a new Second and Third Schedules into the principal Act.

The principal Act is amended by the insertion immediately after the First Schedule of a new Second and Third Schedule as follows-

SECOND SCHEDULE

(section 43P(5))

SECURITIES TRANSFER INSTRUMENTS

Part A - General

1. Interpretation.

In this Schedule —

"prescribed entity" means —

(a) a bank under statutory administration;

(b) a holding company of a bank under statutory administration;

(c) an affiliated operational entity of a bank under statutory administration;

(d) a bridge institution to which —

(i) securities issued by an entity mentioned in paragraph (a), (b) or (c) have been transferred by a securities transfer instrument; or

(ii) assets, rights or liabilities of such an entity have been transferred by a property transfer instrument;

(e) an asset management vehicle to which assets, rights or liabilities mentioned in paragraph 43P(3)(b) have been transferred by a property transfer instrument;

"securities" includes —

(a) shares and stock;

(b) debentures, including —

(i) debenture stock,

(ii) loan stock,

(iii) bonds,

(iv) certificates of deposit, and

(v) any other instrument creating or acknowledging a debt.

(c) warrants or other instruments that entitle the holder to acquire anything in paragraph (a) or (b).

2. Securities transfer instrument.

(1) A securities transfer instrument is an instrument that —

(a) provides for the transfer of securities issued by a prescribed entity; and

(b) makes any other provision for the purpose of, or in connection with, the transfer of securities issued by a prescribed entity (whether or not the transfer has been or is to be affected by that instrument, by another share transfer instrument or otherwise).

(2) A securities transfer instrument may relate to —

(a) specified securities; or

(b) securities of a specified description.

3. Procedure.

As soon as practicable after making a securities transfer instrument in respect of a prescribed entity, the Bank must —

(a) send a copy to —

(i) the transferor;
(ii) the transferee; and
(iii) the Minister;

(b) publish a copy of the instrument on its internet website;

(c) arrange for the publication of a copy of the instrument on the internet website (if any) of the prescribed entity; and

(d) cause notice of the making of the instrument to be published in the Gazette.

4. Effect of securities transfer instrument.

(1) A transfer of securities and any other provision contained in a securities transfer instrument takes effect by operation of this Act.

(2) A transfer takes effect at the times, or on the date, specified in the securities transfer instrument.

(3) A transfer takes effect despite any restriction arising under contract or legislation or in any other way.

(4) A securities transfer instrument may provide for a transfer to take effect free of any trust, liability or other encumbrance (and may include provision about the extinguishment of any trust, liability or other encumbrance).

(5) A securities transfer instrument may extinguish rights to acquire securities.

(6) This paragraph does not affect the right of a person to make, as a beneficiary under a trust or a party to a contract, a claim against a pre- resolution creditor or pre-resolution shareholder who is or was the trustee under the trust or a counterparty to the contract if any assets, rights or liabilities that are or were the subject of the trust or contract are affected by a securities transfer instrument.

(7) In this paragraph —

"restriction" includes —

(a) any restriction, inability or incapacity affecting what can and cannot be assigned or transferred (whether generally or by a particular person); and

(b) a requirement for consent (however described);

"transfer" means a transfer of securities under a securities transfer instrument.

5. Continuity.

(1) A securities transfer instrument may provide for a transferee to be treated for any purpose connected with the transfer as the same person as the transferor.

(2) A securities transfer instrument may provide for agreements made or other things done by, or in relation to, a transferor to be treated as made or done by, or in relation to, the transferee.

(3) A securities transfer instrument may provide for anything (including legal proceedings) that relates to anything transferred and is in the process of being done by, or in relation to, the transferor immediately before the transfer date to be continued by, or in relation to, the transferee.

(4) A securities transfer instrument may modify references (express or implied) to a transferor in an instrument or other document.

(5) A securities transfer instrument may permit or require —

(a) a transferor to provide a transferee with information and assistance; and

(b) a transferee to provide a transferor with information and assistance.

6. Conversion and de-listing.

(1) A securities transfer instrument may provide for securities to be converted from one form or class to another.

(2) A securities transfer instrument may provide for the listing of securities on a recognized stock exchange to be cancelled or dealings in securities on a recognized stock exchange to be suspended.

7. Removal of directors etc.

(1) A securities transfer instrument may revoke the appointment of a person as a director, or as the chief executive officer or deputy chief executive officer, of a prescribed entity with effect from a date, or the occurrence of an event, specified in the instrument.

(2) The exercise of a power under subparagraph (1) does not affect the rights of any party to a contract of employment or services under which a director, chief executive officer or deputy chief executive officer is employed by, or acts for or on behalf of or under an arrangement with, a prescribed entity.

8. Instruments.

(1) A securities transfer instrument may permit or require the execution, issue or delivery of an instrument.

(2) A securities transfer instrument may provide for a transfer to have effect irrespective of —

(a) whether an instrument has been produced, delivered, transferred or otherwise dealt with; or

(b) registration.

(3) A securities transfer instrument may provide for the effect of an instrument executed, issued or delivered in accordance with the securities transfer instrument.

(4) A securities transfer instrument may modify or annul the effect of an instrument.

(5) A securities transfer instrument may —

(a) entitle a transferee to be registered in respect of a security; and

(b) for that purpose, require a person to effect registration.

9. Incidental provision, etc.

(1) A securities transfer instrument may include incidental, consequential or transitional provisions.

(2) In relying on subparagraph (1), a securities transfer instrument —

(a) may make provision generally or only for specified purposes, cases or circumstances; and

(b) may make different provision for different purposes, cases or circumstances.

Part B - Supplemental Securities Transfer Instrument

10. Supplemental securities transfer instrument

(1) This Part applies if the Statutory Administrator has made a securities transfer instrument under section 43P (original instrument).

(2) The Statutory Administrator may make one or more supplemental securities transfer instruments.

(3) A supplemental securities transfer instrument is a securities transfer instrument that —

(a) provides the transfer of securities that were issued by the prescribed entity before the original instruments and were not the subject of the original instrument or another supplemental securities transfer instrument; or

(b) makes provision of a kind that a securities transfer instrument may make under paragraph 2(1)(b) of this Schedule (whether or not in connection with a transfer that was the subject of the original instrument).

(4) The possibility of making a supplemental securities transfer instrument in reliance on subparagraph (2) does not prevent the making of a new instrument under section 43P (and not in reliance on subparagraph (2)).

(5) Except as otherwise provided by this Part, Part A of this Schedule applies with respect to a supplemental securities transfer instrument in the same way as it applies with respect to an original instrument.

Part C - Reverse Securities Transfer Instrument

11. Power to make Reverse Securities Transfer Instruments.

(1) This Part applies if the Statutory Administrator has made a securities transfer instrument under section 43P (original instrument) providing for the transfer of securities issued by a prescribed entity (original transferred securities) to another entity (original transferee).

(2) The Statutory Administrator may make one or more reverse securities transfer instruments in respect of original transferred securities held by the original transferee.

(3) A reverse securities transfer instrument is a securities transfer instrument that —

(a) provides for the transfer of original transferred securities held by the original transferee to the transferor under the original instrument; and

(b) makes any other provision for the purpose of, or in connection with, the transfer of original transferred securities (whether or not the transfer was the subject of that instrument).

(4) The Statutory Administrator must not make a reverse securities transfer instrument without the written consent of the original transferee unless the original transferee is a bridge institution or an asset management vehicle.

(5) Nothing in this subparagraph prevents the making of a supplemental securities transfer instrument under Part B of this Schedule in respect of securities that have been the subject of a reverse securities transfer instrument.

(6) Except as otherwise provided by this Part, Part A of this Schedule applies with respect to a reverse securities transfer instrument in the same way as it applies with respect to an original instrument.

THIRD SCHEDULE

(section 43P(6))

PROPERTY TRANSFER INSTRUMENTS

Part A – General

1. Interpretation.

In this Schedule —

"prescribed entity" means —

(a) a bank under statutory administration;

(b) a holding company of a bank under statutory administration;

(c) an affiliated operational entity of a bank under statutory administration;

(d) a bridge institution to which —

(i) securities issued by an entity mentioned in paragraph (a), (b) or (c) have been transferred by a securities transfer instrument; or

(ii) assets, rights or liabilities of such an entity have been transferred by a property transfer instrument; or

(e) an asset management vehicle to which assets, rights or liabilities mentioned in section 43P(2) have been transferred by a property transfer instrument.

2. Property transfer instrument.

(1) A property transfer instrument is an instrument that —

(a) provides for the transfer of assets, rights or liabilities of a prescribed entity; and

(b) makes any other provision for the purpose of, or in connection with, the transfer of assets, rights or liabilities of a prescribed entity (whether or not the transfer was the subject of that instrument).

(2) A property transfer instrument may relate to —

(a) all assets, rights and liabilities;

(b) all assets, rights and liabilities subject to specified exceptions;

(c) specified assets, rights or liabilities; or

(d) assets, rights or liabilities of a specified description.

3. Procedure.

As soon as practicable after making a property transfer instrument in respect of a prescribed entity, the Bank must —

(a) send a copy to—

(i) the transferor;

(ii) the transferee; and

(iii) the Minister;

(b) publish a copy of the instrument on its internet website;

(c) arrange for the publication of a copy of the instrument on the internet website (if any) of the prescribed entity; and

(d) cause notice of the making of the instrument to be published –

(i) in the Gazette; and

(ii) in the Gazette to maximize the likelihood of the notice coming to the attention of persons likely to be affected.

4. Effect of property transfer instrument.

(1) A transfer of assets, rights or liabilities and any other provision contained in a property transfer instrument takes effect by operation of this Act.

(2) A transfer takes effect at the time, or on the date, specified in the property transfer instrument.

(3) Subject to any condition imposed under subparagraph (4), a transfer takes effect despite any restriction arising under contract or legislation or in any other way.

(4) A property transfer instrument may make a transfer subject to such conditions as the Statutory Administrator determines, provide for a transfer to be a conditional or a specified event or situation —

(a) occurring or arising; or

(b) not occurring or arising.

(5) A property transfer instrument may include provision dealing with the consequences of breach of a condition imposed under subparagraph (4).

(6) Consequences mentioned in subparagraph (5) may include any of the following —

(a) automatic vesting in the original transferor;

(b) an obligation to effect a transfer back to the original transferor;

(c) provision making a transfer or anything done in connection with a transfer void or voidable.

(7) If a property transfer instrument makes provision in respect of assets held on trust (however arising), it may also make provision about —

(a) the terms on which the assets are to be held after the instrument takes effect, which provision may remove or alter the terms of the trust but only to the extent that the Statutory Administrator thinks it necessary or expedient for transferring —

(i) the legal or beneficial interest of the transferor in the assets; or

(ii) any powers, rights or obligations of the transferor in respect of the assets;

or

(b) how any powers, provisions and liabilities in respect of the assets are to be exercisable or have effect after the instrument takes effect.

(8) Provision may not be made under subparagraph (7)(a) that affects the beneficial interest of a client in the client's assets held on trust, however arising.

(9) In subparagraph (7), a reference to the transferor is a reference to the transferor under the property transfer instrument.

(10) Nothing in paragraph 4 affects the right of a person to make, as a beneficiary under a trust or a party to a contract, a claim against a creditor or shareholder who is or was the trustee under the trust or a counterparty to the contract prior to the appointment of a statutory administrator if any assets, rights or liabilities that are or were the subject of the trust or contract are affected by a property transfer instrument.

(11) A transfer of an interest in land under a property transfer instrument does not extinguish, affect, vary, diminish or postpone any priority of that interest, whether under any Act or in equity.

(12) The Statutory Administrator must register or cause to be recorded in the Registry —

(a) a copy of the property transfer instrument under which an interest in land is transferred;

(b) a copy of an instrument that states whether any condition imposed on the transfer under subparagraph (4) is satisfied; and

(c) a copy of an instrument that evidences an automatic vesting in the original transferor in consequence of a breach of such condition.

(13) The production of the instruments mentioned in subparagraph (12)(a) and (b) is conclusive evidence for proving and deducing title in favour of the transferee. However, in the case of an automatic vesting in the original transferor, the production of the instruments mentioned in subparagraph (12)(a), (b) and (c) is conclusive evidence for proving and deducing title in favour of the original transferor.

(14) Notwithstanding the provisions of any other law, the vesting of an interest in land under a property transfer instrument does not –

(a) constitute an acquisition, disposal, assignment, transfer or parting with possession of that interest;

(b) constitute an assignment or under lease of, or an agreement to assign or underlet, that interest;

(c) constitute an assignment, transfer, devolution, parting with possession, dealing with or other disposition of that interest or in any instrument concerning or affecting that interest;

(d) operate as a breach of covenant or condition against alienation;

(e) give rise to any forfeiture, damages or other right of action; or

(f) invalidate or discharge any contract or security interest.

(15) In this paragraph —

"Registry" has the meaning ascribed to it by section 2 of the Registration of Records Act (*Ch. 187*);

"restriction" includes —

(a) any restriction, inability or incapacity affecting what can and cannot be assigned or transferred (whether generally or by a particular person); and

(b) a requirement for consent (however described);

"transfer" means a transfer of assets, rights or liabilities under a property transfer instrument.

5. Application to the Court.

(1) The Statutory Administrator may, if of the opinion that a transferee has breached a condition of a transfer imposed under subparagraph 4(4) of this Schedule, apply to the Court for an order under subparagraph (2).

(2) On an application under subparagraph (1), the Court may, if satisfied that the transferee has breached a condition mentioned in that subparagraph, make any order that it thinks fit, including in order that the transferee effects a transfer back to the original transferor.

6. Transferable property.

A property transfer instrument may transfer any assets, rights or liabilities of a prescribed entity including, in particular —

(a) assets, rights or liabilities acquired or arising between the making of the instrument and the transfer date;

(b) rights or liabilities arising on or after the transfer date in respect of matters occurring before that date;

(c) assets outside The Bahamas;

(d) rights or liabilities under a non-Bahamian law; and

(e) rights or liabilities arising under an Act to which the prescribed entity is entitled or subject.

7. Continuity.

(1) A property transfer instrument may provide —

(a) for a transfer to be, or to be treated as, a succession; and

(b) for a transferee to be treated for any purpose connected with the transfer as the same person as the transferor.

(2) A property transfer instrument may provide for agreements made or other things done by, or in relation to, a transferor to be treated as made or done by, or in relation to, the transferee.

(3) A property transfer instrument may provide for any (including legal proceedings) that relates to anything transferred and is in the process of being done by, or in relation to, the transferor immediately before the transfer date to be continued by, or in relation to, the transferee.

(4) A property transfer instrument that transfers, or enables the transfer of, a contract of employment may include provision about continuity of employment.

(5) A property transfer instrument may modify references (express or implied) to a transferor in an instrument or other document.

(6) In so far as rights and liabilities in respect of anything transferred are enforceable after the transfer, a property transfer instrument may provide for apportionment between the transferor and the transferee to a specified extent and in specified ways.

(7) A property transfer instrument may enable the transferor and transferee by agreement to modify a provision of the instruments, but a modification —

(a) must achieve a result that could have been achieved by the instrument; and

(b) may not transfer (or arrange for the transfer of) assets, rights or liabilities.

(8) A property transfer instrument may permit or require —

(a) a transferor to provide a transferee with information and assistance; and

(b) a transferee to provide a transferor with information and assistance.

8. De-listing.

A property transfer instrument may provide for a listing of securities on a recognized stock exchange to be cancelled or dealings in securities on recognized stock exchanges to be suspended.

9. Removal of directors etc.

(1) A property transfer instrument may revoke the appointment of a person as a director, or as the chief executive officer or deputy chief executive officer, of a prescribed entity with effect from such date as may be specified in the instrument.

(2) The exercise of a power under subparagraph (1) does not affect the rights of any party to a contract of employment or services under which a director, chief executive officer or deputy chief executive officer is employed by, or acts for or on behalf of or under an arrangement with, a prescribed entity.

10. Licences.

(1) A licence in respect of anything transferred by a property transfer instrument continues to have effect despite the transfer.

(2) A property transfer instrument may expressly exclude the applicability of the provisions of subparagraph (1) to a specified extent.

(3) If a licence confers rights or imposes obligations, a property transfer instrument may apportion responsibility for the exercise of, or compliance with, those rights or obligations between the transferor and the transferee.

(4) In this paragraph, **"licence"** includes permission and approval and any other permissive document in respect of anything transferred.

11. Creation of liabilities.

(1) The provision that may be made by a property transfer instrument includes provision for the creation of liabilities.

(2) The provision may be framed by reference to an agreement that has been or is to be entered into, or anything else that has been or is to be done, by any person.

12. Insured Deposits.

(1) This paragraph applies if a property transfer instrument transfers an insured deposit and both the transferor and transferee are members of the deposit insurance fund under the Protection of Depositors Act, (*Ch. 317*).

(2) Any insured deposit held by a depositor with the transferee immediately before the transfer date continues to be an insured deposit.

(3) An insured deposit mentioned in subparagraph (2) is not affected by any increase in the number or number of deposits held by the depositor with the transferee as a result of a transfer caused by the property transfer instrument.

(4) Any insured deposit held by a depositor with the transferor immediately before the transfer date that is transferred by the property transfer instrument (transferred insured deposit) continues to be an insured deposit for the period of six months beginning on the transfer date, even if it matures on or after the transfer date and is renewed with the transferee.

(5) Notwithstanding the provisions of sub-paragraph (4), where the transferred insured deposit has an original maturity date that is after the expiry of the period of six months beginning on the transfer date, it continues to be an insured deposit until it first matures after the transfer date.

(6) Subparagraph (4) has effect despite the number or amount of deposits held by the depositor with the transferee immediately before the transfer date.

(7) This paragraph has effect notwithstanding any provision to the contrary in the Protection of Depositors Act (*Ch. 317*).

13. Non-Bahamas property.

(1) This paragraph applies if a property transfer instrument transfers non- Bahamian property.

(2) The transferor and the transferee must each take any necessary steps to ensure that the transfer is effective as a matter of the law of the jurisdiction where the property is located (if it is not otherwise so effective).

(3) Until the transfer is effective as a matter of non-Bahamian law, the transferor must —

(a) hold the asset or right for the benefit of the transferee (together with any additional asset or right accruing by operation of the original asset or right); or

(b) discharge the liability on behalf of the transferee.

(4) If the Statutory Administrator determines that, despite any steps taken by the transferee or the transferor, it is not possible for the transfer of certain non-Bahamian property to be effective under the law of the jurisdiction where the property is located or (if the property consists of rights or liabilities) the law under which it arises —

(a) subparagraph (3) ceases to apply; and

(b) the provisions of the property transfer instrument relating to that property are void.

(5) The Statutory Administrator must give written notice of any determination under subparagraph (4) to the transferor and the transferee.

(6) The transferor must meet any expenses of the transferee in complying with this paragraph.

(7) The transferor must comply with any directions of the Bank in respect of the obligations under subparagraphs (2) and (3).

(8) A direction under subparagraph (7) may expressly exclude the applicability of the provisions of subparagraph (2) or (3) to a specified extent.

(9) An obligation imposed by or under this paragraph is enforceable as if created by contract between the transferor and transferee.

14. Incidental provision.

(1) A property transfer instrument may include incidental, consequential or transitional provisions.

(2) In relying on subparagraph (1), a property transfer instrument —

(a) may make provision generally or only for specified purposes, cases or circumstances; and

(b) may make different provision for different purposes, cases or circumstances.

Part B – Supplemental Property Transfer Instrument

15. Supplemental property transfer instrument.

(1) This Part applies if the Statutory Administrator has made a property transfer instrument under section 43P (original instrument).

(2) The Statutory Administrator may make one or more supplemental property transfer instruments.

(3) A supplemental property transfer instrument is a property transfer instrument that —

(a) provides for assets, rights or liabilities to be transferred from the transferor under the original instrument (whether accruing or arising before or after the original instrument); or

(b) makes provision of a kind that a property transfer instrument may make under paragraph 2(1)(b) of this Schedule (whether or not in connection with a transfer that was the subject of the original instrument).

(4) The possibility of making a supplemental property transfer instrument in reliance of subparagraph (2) does not prevent the making of a new instrument under section 71 (and not in reliance on subparagraph (2)).

(5) Except as otherwise provided by this Part, Part A of this Schedule applies with respect to a supplemental property transfer instrument in the same way as it applies with respect to an original instrument.

Part C – Reverse Property Transfer Instrument

16. Reverse property transfer instrument.

(1) This Part applies if a Statutory Administrator has made a property transfer instrument under section 43Q (original instrument) providing for the transfer of assets, rights or liabilities of a prescribed entity (original transferred assets, rights or liabilities) to another entity (original transferee).

(2) The Statutory Administrator may make one or more reverse property transfer instruments in respect of original transferred assets, rights or liabilities held by the original transferee.

(3) A reverse property transfer instrument is a property transfer instrument that —

(a) provides for the transfer of original transferred assets, rights or liabilities held by the original transferee to the transferor under the original instrument; and

(b) makes any other provision for the purpose of, or in connection with, the transfer of original transferred assets, rights or liabilities (whether or not the transfer was the subject of that instruments).

(4) The Statutory Administrator must not make a reverse property transfer instrument without the written consent of the original transferee unless the original transferee is a bridge institution or an asset management vehicle.

(5) Nothing in this paragraph prevents the making of a supplemental property transfer instrument under Part B of this Schedule in respect of assets, rights or liabilities that have been the subject of a reverse property transfer instrument.

(6) Except as otherwise provided by this Part, Part A of this Schedule applies with respect to a reverse property transfer instrument in the same way as it applies with respect to an original instrument.

ANNEX 2

BANKS AND TRUST COMPANIES REGULATION (AMENDMENT) BILL, 2025

1. Short title.

This Act, which amends the Banks and Trust Companies Regulation Act, 2020 (No. 22 of 2020), may be cited as the Banks and Trust Companies Regulation (Amendment) Act, 2025.

(1) This Act shall come into force on such date as the Minister may appoint by Notice published in the Gazette.

2. Amendment of Section 2 of the principal Act.

Section 2 of the principal Act is amended by -

(a) the deletion of the following definitions —

(a) **“asset management vehicle”**

(b) **“Stabilization option”**;

(c) **“Financial and Corporate Service Provider**”;

(b) the insertion, in the appropriate alphabetical order, of the following new term and definition —

"**affiliated operational entity"** has the meaning assigned in section 2 of the Central Bank of The Bahamas,

(c) the deletion of the term **"bridge institution"** and its definition, and the substitution of the following new term and definition —

"bridge institution" means a company that is—

(a) incorporated under the Companies Act (*Ch. 308*);

(b) limited by shares;

(c) wholly or partially owned by the Government or a licensee [**which is owned by bailed-in creditors where the capital is funded by bail-in]**;

(d) created for receiving a transfer, and effecting a timely disposal of the assets, rights and liabilities of a bank under statutory administration; and

(e) licensed under this Act;"

(d) the deletion of the term "**Domestic Systemically Important Institution"** or **"DSII**" and its definition, and the substitution of the following new term and definition —

"Domestic Systemically Important Bank" or **"DSIB"** means a bank licensed under this Act and which reported total consolidated domestic liabilities of such amount as the Governor may determine by notice, to the Bank for the preceding financial year of that bank; **".**

(e) the deletion of the term **"licence"** and its definition, and the substitution of the following new term and definition —

"licence" means a licence granted under section 9 or deemed to be so granted in accordance with that section;"

(f) the deletion of the following definitions:

(i) "Money Transmission Agent";

(ii) "Money Transmission Business"; and

(iii) "Money Transmission Service Provider" ;

(g) the insertion in the appropriate alphabetical order of the following new definition—

"non-active financial institution" means a financial institution which is in voluntary liquidation or has otherwise ceased to conduct the business for which it is licensed or registered under this Act."

3. Amendment of Section 3 of the principal Act.

Section 3 of the principal Act is repealed and replaced by the following—

"Subject to section 6(4), the provisions of this Act shall, unless the context otherwise requires, apply mutatis mutandis to Private Trust Companies, Qualified Executive Entities and Registered Representatives."

4. Amendment of Section 4 of the principal Act.

Section 4 of the principal Act is amended—

(a) in subsection (1)-
  (ii) by the deletion of paragraph (b);
  (iii) in paragraph (c) by the deletion of the words "banking business, trust business, money transmission business or is authorised by the law of The Bahamas to carry on such respective business," and the substitution of the words— "banking business or trust business ".
  (iv) by re-lettering paragraph "(c)" as paragraph "(b)"; and
  (v) by re-lettering paragraph (d) as paragraph (c).

(b) in subsection (5)—
  (i) in the chapeau, by the deletion of the words "banking or trust business, money transmission business, or the business of acting as a Registered Representative," and the substitution of the words "banking or trust business or the business of acting as a Registered Representative".
  (ii) in paragraph (c) by the deletion of the words and symbol ", money transmission service provider".

5. Repeal and replacement of Section 5 of the principal Act.

Section 5 of the principal Act is repealed and replaced by the following new section—

"**5. Prohibition against carrying on banking or trust business without a licence.**

No person shall carry on —

(a) a banking business; or

(b) a trust business, from within The Bahamas, whether or not such business is carried on in The Bahamas unless it is in possession of a valid licence granted by the Bank to carry on such business."

6. Repeal and Replacement of Section 11 of the principal Act.

The principal Act is amended by

(a) the deletion of the heading "MONEY TRANSMISSION BUSINESSES AND AGENTS" and the substitution of the following new heading

"AGENCY BANKING";

(b) the repeal of section 11 and the substitution of the following-

" **11. Appointment of Agents**

(1) A bank or a bank and trust company which is desirous of providing payment services to customers through an agent, shall prior to engaging an agent, obtain the written approval of the Central Bank to appoint an agent.

(2) An application made pursuant to subsection (1) shall —

(a) be in writing and contain such information and particulars as may be prescribed;

(b) be accompanied by such references, as may be prescribed.

(3) In considering an application made under subsection (1), the Bank shall have regard to such matters as may be prescribed by regulation."

7. Repeal and Replacement of Section 12 of the principal Act.

Section 12 of the principal Act is repealed and replaced by the following.

"12. Liability of banks

Where a bank or a bank and trust company conducts business through an agent, the bank or bank and trust company, as the case may be, shall be liable for the acts or omissions of the agent insofar as such acts or omissions relate to that business."

8. Amendment of section 14 of the principal Act.

Section 14 of the principal Act is amended in paragraph (a) of subsection (1) by the deletion of the numbers and words "12 or".

9. Amendment of section 29 of the principal Act.

Section 29 of the principal Act is amended–

(a) in paragraph (a) of subsection (1), by the insertion immediately after sub-paragraph (v) of the following new sub-paragraph -

"(vi) if, in the case of a bank that is placed under statutory administration, the Bank determines that the bank cannot be rehabilitated or restructured,";

(b) by the deletion of paragraph (f) of subsection (1) and the substitution of the following -

"(f) on such terms and conditions as the Bank may specify, appoint a statutory administrator of –

(i) a bank,

(ii) a holding company of a bank under statutory administration, where the holding company is also licensed by the Bank, or

(iii) an affiliated operational entity,

who meets the qualifications established by the Bank including fit and proper person criteria required to be met by directors and officers of banks, to manage the entities listed at (i) through (iii) on its behalf;";

(c) in paragraph (g) of subsection (1) -

(i) by the deletion of sub-paragraphs (v) and (vi);

(vi) in sub-paragraph (iv) by the insertion immediately after the semi-colon of the word "and"; and

(vii) by re-lettering sub-paragraph "(vii)" as sub-paragraph "(v)".

10. Amendment of Section 30 of the principal Act.

Section 30 of the principal Act is amended in subsection (1) by the deletion of the words and symbol "or money transmission agent,"

11. Amendment of Section 31 of the principal Act.

Section 31 of the principal Act is amended by the deletion of—

(a) the symbol and words ", money transmission service provider"; and
(b) the words "or money transmission agent".

12. Repeal and replacement of Part VI of the principal Act.

Part VI of the principal Act is repealed and replaced by the following -

"**PART VI – LICENSING OF BRIDGE INSTITUTIONS**

35. Licensing of body corporate as Bridge Institution.

(1) Upon the incorporation of a body corporate by the Bank pursuant to section 28(3) of the Central Bank of The Bahamas Act, 2020 the Bank shall grant a licence to the body corporate to carry on the business of a bridge institution.

(2) The Bank may exempt the bridge institution from such requirements, or grant such approvals, under this Act as may be necessary to facilitate the carrying on of its licensed business.

(3) The Bank shall publish notice of the grant of a licence pursuant to subsection (1) in the *Gazette*.

(4) A company incorporated pursuant to section 28 of the Central Bank of The Bahamas Act, may be designated as a bridge institution for a period of two years.

(5) Notwithstanding subsection (4), the Minister may, by Order, grant up to three extensions, not exceeding twelve months each, during which a company referred to in subsection (4) may continue to be designated as a bridge institution.

(6) The Government may hold —

(a) any shares of a bank under statutory administration that the Government acquires in the course of a sale or other disposition of its shares of the bridge institution or that a bridge institution acquires in the course of a sale or other disposition of its assets.

(b) the shares for a period of no more than five years from the day on which they are acquired and may dispose of them.

(7) The Minister may, by order, extend the period referred to in subsection (6)(b) if general market conditions so warrant.

(8) A company's licence as a bridge institution terminates if —

(a) the Government is no longer a shareholder; or

(b) the bridge institution is amalgamated with a body corporate that is not a bridge institution.

(9) If a bridge institution's licence has not terminated under subsection (8), the bridge institution's board of directors shall take all necessary steps to dissolve the bridge institution if —

(a) all or substantially all of the bridge institution's assets have been sold or otherwise disposed of; and

(b) all or substantially all of its liabilities have been assumed or discharged.

(10) If the Bank considers that substantially all of the transfers of assets, rights and liabilities or shares or other securities of a bank to a bridge institution have been substantially completed, the Bank shall apply for a winding-up order under the Companies Act (*Ch. 308*) in respect of the bank.

(11) An employee or officer of the Bank shall not receive remuneration or benefits from a bridge institution for being a director or officer of that bank.

(12) If a bridge institution becomes the employer of employees of a bank, the bridge institution is not liable in respect of a liability, including one as a successor employer —

(a) that is in respect of the employees or former employees of the bank or a predecessor of the bank or in respect of a pension plan for the benefit of those employees or former employees; and

(b) that exists before the bridge institution becomes the employer or that is calculated by reference to a period before the bridge institution becomes the employer.

(13) Subsection (12) does not affect the liability of a successor employer other than the bridge institution.

(14) The Bank may give directions to the board of directors of a bridge institution.

(15) The board of directors of a bridge institution, shall ensure that the directions are implemented in a prompt and efficient manner and shall, after implementing a direction, notify the Bank without delay that it has been implemented.

(16) The Bank may give directions to the board of directors of a bridge institution to make, amend or repeal any bye-law.

(17) The board of directors of a bridge institution may, with the prior approval of the Bank, vary or repeal any bye-law.

(18) For the purposes of subsections (16) and (17), bye-law means a bye-law of the bridge institution.

(19) Any action or other civil proceeding before a judicial or quasi-judicial body and any arbitration, to which a bridge institution may become a party by virtue of acquiring an asset or assuming a liability of a bank under statutory administration shall be stayed for a period of 90 days from the day on which the bridge institution acquires the asset or assumes the liability.

(20) The bridge institution may waive the stay referred to in subsection (19).

(21) Without prejudice to section 101 of the Central Bank of The Bahamas Act, 2020, the following persons shall not have any rights over or in relation to assets, rights or liabilities which have been transferred to the bridge institution —

(a) shareholders of the bank under statutory administration;

(b) creditors of the bank under statutory administration, or

(c) other third parties whose assets, rights or liabilities have not been transferred.

(22) The bridge institution, and the members of its senior management, shall not owe any legal duty or responsibility to shareholders or creditors of the bank under statutory administration and shall have no

liability to such shareholders or creditors for acts or omissions in the discharge of their legal duties."

13. Repeal and replacement of section 73 of the principal Act.

Section 73 of the principal Act is repealed and replaced as follows-

"73. Central Bank may publish action.

The Bank may, if satisfied that the circumstances so warrant, at any time make public and publish notice of any action it has taken under paragraphs (a) through (f) of subsection (1) of section 29, section 30 or under section 75(4), 76(2) or 76(5)."

14. Amendment of section 74 of the principal Act

Section 74 of the principal Act is amended by the deletion of subsection (2) and the substitution of the following new subsection—

"(2) For the purposes of this section, "regulated function" includes —

(a) serving as a director of a licensee or a Registered Representative;
(b) serving as an officer of a licensee or a Registered Representative;
(c) acting as the auditor of a licensee or a Registered Representative; and
(d) performing any other function in or for a licensee or a Registered Representative which requires approval, supervision or monitoring by the Bank."

15. Amendment of section 75 of the principal Act.

Section 75 of the principal Act is amended —

(i) by the repeal of subsection (1) and the substitution of the following new subsection—

"(1) The Bank shall, where it proposes to make a prohibition order, issue a warning notice to all interested parties including —

(a) the individual affected by the proposed order; and
(b) if the Bank deems fit, the relevant licensee or Registered Representative."

(ii) by the repeal of paragraph (e) in subsection (5) and the substitution of the following new paragraph—

"(e) if the Bank deems fit, be delivered to the relevant licensee or Registered Representative."

16. **Amendment of section 76 of the principal Act**

Section 76 of the principal Act is amended by the repeal of subsection (2) and the substitution of the following new subsection—

"(2) The Bank shall —

(a) where it decides to grant an application for variation or revocation of a prohibition order, give the applicant and if the Bank deems fit, the relevant licensee or Registered Representative, a written notice of the Bank's decision; and

(b) where the Bank proposes to refuse such application, issue to the applicant and, if the Bank deems fit, the relevant licensee or Registered Representative, a written warning notice."

17. Amendment of section 85 of the principal Act

Section 85 of the principal Act is amended by the repeal of subsection (6) and the substitution of the following new subsection:

"(6) The Bank may, if the Bank considers it appropriate to do so, waive the payment of

(a) the whole or a part of an amount of levy that is payable by a DSIB; or

(b) the whole or a part of a fee that is payable by a non-active financial institution that is licensed or registered by the Bank under this Act."

18. Amendment of the Second Schedule of the principal Act.

The Second Schedule of the principal Act is amended by the repeal of sub-paragraphs (w) and (x) of paragraph 2.

19. Repeal of the Third Schedule of the principal Act.

The Third Schedule of the principal Act is hereby repealed.

20. Repeal of the Fourth Schedule of the principal Act.

The Fourth Schedule of the principal Act is hereby repealed.

21. Repeal of the Banks and Trust Companies (Money Transmission Business) Regulations, 2008.

The Banks and Trust Companies (Money Transmission Business) Regulations, 2008 are repealed.

ANNEX 3

PROTECTION OF DEPOSITORS (AMENDMENT) BILL, 2025

1. Short title.

This Act, which amends the Protection of Depositors Act, 1999 may be cited as the Protection of Depositors (Amendment) Act, 2025.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended by---

(a) the deletion of paragraph (b) of the definition of "institution" and the substitution of the following—

(b) a co-operative credit union registered under The Bahamas Co-operative Credit Unions Act, 2015 (No. 9 of 2015);";

(b) the insertion in the appropriate alphabetical order of the following terms and definitions -

"**asset management vehicle"** means a company that is—

(a) incorporated under the Companies Act (*Ch. 308*);

(b) limited by shares;

(c) wholly or partially owned by the Government or a bank which is owned by bailed-in creditors where the capital is funded by bail-in; and

(d) created for receiving some or all of the assets, rights and liabilities of a bank under statutory administration or a bridge institution;

"**pertinent financial institution"** means a bank or a co-operative credit union registered under the Bahamas Co-operative Credit Unions Act, 2015, that is the subject of a resolution measure;

"**resolution** means, unless the context otherwise requires, the process for addressing an institution that has ceased, or is likely to cease, to be viable

that involves the application of one or more resolution measures and the performance of related functions;

"**resolution measure**" refers to a power that may be exercised in relation to a pertinent financial institution pursuant to Part IXA of the Central Bank of The Bahamas Act, 2020.

"**systemically important institution**" or **"SII**" means a bank or a co-operative credit union registered under the Bahamas Co-operative Credit Unions Act, 2015, which reported total consolidated domestic liabilities of such amount as the Governor may determine by notice, to the Bank for the preceding financial year;".

3. Amendment of section 3A of the principal Act.

Section 3A of the principal Act is amended in paragraph (a) of subsection (1) by the insertion of the words "up to the maximum insurance coverage under this Act, by—

(a) paying insured depositors when a member institution is liquidated; and
(b) contributing resources to the resolution of member institutions",

immediately after the word "deposits".

4. Amendment of section 15 of the principal Act.

Section 15 of the principal Act is amended—

"(a) in paragraph (e) by the deletion of the words "due or";
(b) by the deletion of paragraph (g) and the substitution of the following—

"(g) on the advice of the Bank —
(i) to levy authorized contributions and premia on member institutions;
(ii) to accumulate, manage and to invest so far as possible, in government and quasi government instruments and short term deposits, funds collected, and any other type of instrument or investment as the Board may approve;
(iii) to borrow by the issuance and sale of bonds, debentures, notes or any other evidence of indebtedness or otherwise against the guarantee of the government in accordance with applicable law and procedure;
(iv) to borrow moneys from the Bank, provided that the government guarantees the repayment in writing; and

(v) to withdraw moneys from the Fund in accordance with Part IVA to support a resolution measure undertaken in relation to a member institution; "

5. Insertion of new sections 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H and 15I into the principal Act.

The principal Act is amended by the insertion, immediately after section 15, of the new sections 15A to 15I as follows —

"15A. The Bank may make loans to the Corporation

(1) The Corporation may request the grant of a loan from the Bank to support a resolution measure.

(2) The Bank may, after consultation with the Minister and subject to the provisions of this Act and the Central Bank of The Bahamas Act (Ch.), grant a loan to the Corporation of such amount and upon such terms and conditions as the Bank may determine.

(3) A loan to the Corporation made pursuant to subsection (2) shall not be given unless the Government guarantees the repayment in writing in accordance with the Public Debt Management Act (No. 6 of 2021).

(4) A loan to the Corporation made pursuant to subsection (2) shall be repaid from the assets of the member institution in resolution or, from extraordinary levies imposed by the Corporation on member institutions or on a specified class of such institutions.

(5) Where a request has been made to the Bank under subsection (1), the Minister shall, lay before Parliament a report prepared in accordance with the Public Debt Management Act (No. 6 of 2021) .

(6) For the purpose of assisting the Minister with the preparation of the report to Parliament, the Bank shall provide the Minister with such information as the Minister may reasonably require to prepare the report.

(7) Where a request has been made to the Bank under subsection (1), the Corporation shall as soon as practicable, publish a notice of that fact in the *Gazette* and otherwise as it shall determine.

15B. Permitted Purposes of the Loan Proceeds

(1) The Deposit Insurance Corporation must, at the Minister's direction, apply the proceeds of the loan granted pursuant to section 15A(2) for one or more of the following purposes:

(a) to pay the operating costs of a bridge institution or an asset management vehicle;

(b) to discharge a guarantee for, or an obligation under an agreement to share, a liability of the bank under statutory administration, a group company of a bank under statutory administration, a bridge institution or an asset management vehicle or a person to whom any asset or business of the bank has been transferred;

(c) to pay the costs incurred in the making of a transfer instrument in respect of a bank under statutory administration pursuant to the resolution measure;

(d) to make or provide a loan, advance, overdraft or other credit facility to the bank under statutory administration or a group company of a bank under statutory administration, a bridge institution or an asset management vehicle;

(e) to pay any other costs reasonably incurred in the resolution measure, such as interest costs, legal cost, cost of any advisory services, and the cost of an independent valuation of the bank under statutory administration;

(f) to make any payment of compensation due under section 43JJ of the Central Bank of The Bahamas Act, 2020 and associated costs;

(g) to pay the remuneration and expenses of an independent valuer appointed under section 43P(11) of the Central Bank of The Bahamas Act, 2020 and any person appointed to assist the independent valuer pursuant to section 43JJ(5) of the Central Bank of The Bahamas Act, 2020;

(h) to pay the remuneration and expenses of a statutory administrator appointed under the Central Bank of The Bahamas Act, 2020 and any person appointed to assist the statutory administrator pursuant to section 43I(3) of the Central Bank of The Bahamas Act, 2020;

(i) to provide capital to the bank under statutory administration or a group company of a bank under statutory administration, a bridge institution or an asset management vehicle;

(j) such other purposes in support of the resolution measure as may be prescribed by regulations made under section 15I;.

(2) The Minister may only give a direction to the Corporation under subsection (1) on a recommendation of the Bank.

(3) In determining whether to make a recommendation to the Minister to direct the Deposit Insurance Corporation to apply the loan proceeds as prescribed under subsection (1), the Bank must have regard to all of the following:

(a) whether losses are imposed on shareholders and unsecured creditors of the bank under statutory administration;

(b) whether assets of the bank can be sold; or

(c) whether private sector funding can be obtained by the bank.

(4) The Bank may only make a recommendation to the Minister under subsection (2) to apply the proceeds of the loan to provide capital to a bank under statutory administration

(a) if the Bank is of the view that the provision of the capital is necessary for the orderly resolution of the bank under statutory administration; and

(b) after the Bank has taken into account whether appropriate losses have been imposed on shareholders and unsecured creditors of the bank under statutory administration.

(5) Where a direction has been made to the Corporation under subsection (1), the Bank must, as soon as practicable, publish a notice of that fact in the *Gazette* .

(6) The proceeds of a loan paid pursuant to subsection 15A may not be used to meet —

(a) expenses incurred by the Bank in performing functions under, or otherwise carrying out duties under Part IXA of the Central Bank of The Bahamas Act, 2020; or

(b) general operational expenses incurred by the Bank unrelated to a matter mentioned in subsection (1).

15C Recovery of sums withdrawn

(1) Where proceeds of a loan have been applied pursuant to section 15A, the Deposit Insurance Corporation may recover the sum or sums used in one or both of the following ways:

(a) by making a claim for all or part of that sum or those sums from the bank under statutory administration;

(b) by imposing a levy, in accordance with section 15E and the regulations made under section 15I for that section, on financial institutions that have been prescribed by regulations made under section 15I as belonging to the same

category as the bank under statutory administration (called in this Part levy payers).

(2) In addition to the purpose in subsection (1), the Minister may direct the Corporation to impose a levy, in accordance with section 15E and the regulations made under section 15I on levy payers for the purpose of meeting any shortfall in the amount of the levy collected to make good the amount loaned to the Corporation pursuant to section 15A, or for any other prescribed purpose.

(3) The Minister may only give a direction under subsection (2) on a recommendation of the Bank.

(4) The Bank must, as soon as practicable after the Minister has given a direction under subsection (2), publish a notice in the *Gazette*, of the direction.

15D Claim from bank under statutory administration

(1) Where the Deposit Insurance Corporation makes a claim pursuant to section 15C(1)(a), the sum claimed is recoverable as a debt due from the bank under statutory administration to the Deposit Insurance Corporation, payable at such time and in such manner as the Corporation shall determine.

(2) Any sum recovered from the bank under statutory administration must be paid to the Deposit Insurance Corporation.

15E Computation and notice of levy

(1) Where the Deposit Insurance Corporation imposes a levy pursuant to section 15C(1)(b) or (2), the Deposit Insurance Corporation must, in accordance with the regulations made under section 15I for the purpose of this section -

(a) compute the amount of levy payable by every levy payer; and

(b) give a written notice to the Minister and the Bank of the amount of levy payable by every levy payer.

(2) Upon receipt of the notice mentioned in subsection (1), where the levy is to be imposed on a similar financial institution, the Deposit Insurance Corporation must give each similar financial institution a written notice stating –

(a) the amount of the levy;

(b) the date by which the levy is to be paid;

(c) the manner of payment of the levy; and

(d) such other matters as may be prescribed by regulations made under section 15I.

(3) The notice under subsection (2) may require the levy payer to pay an amount of levy regularly over a period of time.

(4) The Deposit Insurance Corporation may, at any time, vary a notice made pursuant to subsection (2) and give the notice of the variation to every person to whom the initial notice was given, and each reference in section 15F to a notice given to a person under this section includes a reference to the notice of the variation given to the person under this subsection.

15F. Payment of levy by similar financial institutions

(1) This section applies where a notice under section 15E(2) is given to a levy payer that is a similar financial institution.

(2) The levy payer must pay to the Deposit Insurance Corporation on or before the date of payment specified in the notice, the amount of the levy specified in the notice.

(3) If the levy payer fails to comply with subsection (2) —

(a) the Corporation may, by written notice to the levy payer, impose on it such late payment fee as may be prescribed by regulations made under section 15I; and

(b) the levy payer must pay to the Corporation the late payment fee together with the amount of the unpaid levy on or before the date specified in the notice under paragraph (*a*), and in the manner specified in the notice.

(4) The late payment fee under subsection (3) must not exceed the amount of the unpaid levy.

15G Recovery, refund and remission of levies and late payment fees, etc

(1) The levy imposed on a person under section 15E(2), and any late payment fee imposed on the person under section 15F(3), are both recoverable as a debt due from that person to the Corporation.

(2) All levies and late payment fees collected or recovered are to be paid to the Corporation.

(3) Where a levy payer has paid an amount of levy that is in excess of the amount imposed on the levy payer under a notice under section 15F, the Corporation must make a withdrawal from the fund to refund the excess amount to the levy payer.

(4) In any particular case other than the one to which subsection (3) applies, the Corporation may, with the approval of the Minister—

(a) make a withdrawal from the fund to refund in whole or in part any levy paid by a levy payer; or

(b) remit in whole or in part any levy payable by a levy payer.

15H Use of loan proceeds to repay the Bank, and etc.

(1) The Minister may, from time to time, direct the Corporation to repay the Bank all or any part of a loan made under section 21(5) of the Central Bank of The Bahamas Act, 2020, together with any interest on such loan, from the proceeds of the loan granted to the Corporation pursuant to section 15A(2).

(2) Any balance from the proceeds of the loan granted pursuant to section 15A(2) that neither the Bank nor the Minister intends to use for a purpose mentioned in section 15B must be used to repay any funds used to support a resolution measure and, to that end, must be paid —

(a) out of the said loan balance; and

(b) into the account from which loan proceeds were paid.

(3) For the purposes of subsection (2)(b), if monies were paid to the Corporation from more than one account, the money must be paid into those accounts in proportion to the amounts paid from those accounts.

(4) Interest, by reference to prevailing market rates, may be charged to the Corporation on the outstanding principal amount of monies until repaid under subsection (2).

15I Regulations

(1) The Bank may make regulations for all or any of the following purposes —

(a) for or with respect to providing for the auditing of the disbursement of the proceeds of any loan granted to the Corporation;

(b) generally for carrying out the purposes and provisions of this Act and for prescribing anything that may be required to be prescribed under this Act.

(2) Without limiting subsection (1), regulations may be made in relation to the imposition and recovery of a levy and late payment fee under sections 15E, 15F and 15G and in particular in relation to one or more of the following:

(a) the levy payers on and from whom the Corporation may impose and recover the levy;

(b) the classification of the levy payers mentioned in paragraph (*a*) for the purpose of imposing different amounts of the levy;

(c) the manner in which the amount of the levy for each class of levy payers is to be determined;

(d) the amount of the late payment fee;

(e) the manner and date of payment of the levy and late payment fee; and

(f) such other matters as the Bank considers necessary for the computation, imposition and recovery of the levy or late payment fee."

6. Amendment of section 16 of the principal Act.

Section 16 of the principal Act is amended—

(a) in subsection (1), by the insertion of the words: "or registration cancelled", immediately following the words "banking licensed revoked";

(b) in subsection (3) by the deletion of the words "due or" immediately before the words "past due";

7. Repeal and replacement of section 21 of the principal Act.

Section 21 of the principal Act is repealed and replaced as follows —

"21. Examination of Member Institutions.

(1) The Central Bank shall, notwithstanding any other Act of Parliament, examine on behalf of the Corporation the affairs of each member institution at the times that the Corporation may require to enable the Corporation to assess —

(a) the reliability of depositor records;
(b) whether a member institution has the information technology systems and data necessary to produce such records; and
(c) risks to the financial system.

(2) Where an examination under subsection (1) is made, such costs incurred in relation thereto as in the opinion of the Bank are extraordinary shall be borne by the Corporation.

(3) Where the Bank conducts an examination under subsection (1) in respect of a member institution it shall make all examinations or inspections that it considers necessary to –

(a) provide, by way of a rating or any other means, an assessment of the safety and soundness of the member institution, including its financial condition;
(b) comment on the operations of the member institution;
(c) if the member institution is a systemically important institution, provide an assessment of its capacity to absorb losses that it is required to maintain by the Bank.

(4) Where the Bank conducts an examination under subsection (1) in respect of a member institution it shall provide written reports to the Corporation on the matters referred to in subsections (1) (a) to (c) and (3)(a) to (c) within such time as may be agreed with the Corporation.

(5) The Corporation is entitled to all information obtained by or produced by or for the Bank pursuant to this section, whether in the course of conducting the examination or inspection or otherwise, regarding the affairs of the member institution or any of its affiliates or of any person dealing with the member institution or any of its affiliates.

(6) Without limiting subsection (3), the Bank shall provide the Corporation with any information that it considers relevant to any matter referred to in any of paragraphs subsections (1)(a) to (c) and (3)(a) to (c) or to any report provided under subsection (4).

(7) The Bank shall without delay inform the Corporation if, at any time, whether in the course of conducting an examination or inspection or otherwise, there comes to the attention of the Bank any change in the circumstances of the member institution that might materially affect the position of the Corporation as an insurer.

(8) If requested to do so by the Corporation, the Bank shall review within the time specified by the Corporation, the correctness of the returns made by the member institution on which its premiums are based and through which its premium classification is in part determined.

(9) For the purpose of carrying out its functions under this Act, the Bank, shall subject to the provisions of section 30, be entitled at all reasonable times —

(a) to have access to such books, records, vouchers, documents, cash and securities of any member institution ;

(b) to call upon the manager or any officer of any member institution for such information or explanation;

(c) to call upon the auditors of any member institution for such auditor's reports, working papers, information or explanation;

(d) to require that the auditor of a member institution report to the Bank on the extent of the procedures of the auditor in the examination of the annual financial statements and may require that the auditors enlarge the scope of that examination or direct that any other particular procedure be performed in any particular case; or

(e) to require that the auditor make a particular examination relating to the adequacy of the procedures adopted by the member institution for the safety of its creditors and shareholders, or any other examination, at the expense of the member institution, as considered necessary by the Bank,

as the Bank may reasonably require for the purpose of enabling it to perform its functions under this Act.

(10) The Corporation may, following consultation with the Bank, in writing, authorize any other person to assist the Bank in the performance of its functions under this Act.

(11) Where any person —

(a) fails to comply with any requirement made by the Bank pursuant to subsection (9), within the period determined by the Bank, or within such further period as the Bank may determine; or

(b) knowingly or intentionally supplies false or misleading information to the Bank;

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment and in the case of a continuing offence to a fine not exceeding two thousand dollars for each day during which the offence continues.

8. Insertion of new sections 22, 22A, 22B, 22C, 22D, 22E, 22F, 23 and 24

The principal Act is amended by the insertion of the following new sections immediately after section 21:

"22. The Corporation may impose general penalties

(1) The Corporation may, on the advice of the Bank, order the payment of such penalty as may be prescribed by regulations if satisfied that any person has committed a violation of a specified provision of this Act, or of a specified provision of a regulation or a bye-law made under this Act.

(2) The Corporation shall, where it makes an order under this Part —

(a) specify in the order the —

(i) name of the person believed to have committed a violation;

(ii) nature of the violation which the person is believed to have committed; and

(b) give a copy of the order to the person named in the order.

(3) An order made under this Part may be enforced in the same manner as an order of the court.

(4) A penalty paid or recovered under this Part is payable to and shall be remitted to the Corporation.

22A Designated violations and fixed penalties.

(1) The Corporation may make regulations —

(a) designating, as a violation that may be proceeded with under sections 22 to 24 the contravention of a specified provision of this Act, or of a specified provision of a regulation or a bye-law made under this Act;

(b) classifying each violation as a minor violation, a serious violation or a very serious violation;

(c) fixing, in accordance with subsection (3), a penalty, or a range of penalties, in respect of any violation;

(d) generally for carrying out the purposes and provisions of sections 22 to 23.

(2) The Corporation may, pursuant to subsection (1) designate as a violation the contravention of a specified provision of this Act, or of a specified provision of a regulation or a bye-law made under this Act;

(3) The maximum penalty fixed for a violation shall be —

(a) for a violation committed by an individual, in the case of —

(i) a minor violation, two thousand five hundred dollars;

(ii) a serious violation, five thousand dollars; and

(iii) a very serious violation, ten thousand dollars;

(b) for a violation committed by a member institution, in the case of —

(i) (aa) a minor violation that consists of a late filing by a member institution that is a credit union, one thousand dollars; and

(bb) all other minor violations, ten thousand dollars;

(ii) a serious violation, fifty thousand dollars; and

(iii) a very serious violation, one hundred thousand dollars.

(4) A minor violation shall, where it consists of a late filing and is continued on more than one day, constitute a separate violation for each day during which it is continued.

(5) Except if a penalty is fixed pursuant to subsection 22A(1)(c) the Corporation, on the advice of the Bank, shall determine the amount of the penalty by taking into account —

(a) the degree of intention or negligence on the part of the person who committed the violation;

(b) the harm done by the violation;

(c) the history of the person or member institution that committed the violation having regard to any prior violation or conviction under this Act within the five year period immediately before the violation;

(d) whether the member institution or person concerned brought the violation to the attention of the Corporation;

(e) the seriousness of the violation;

(f) whether or not the violation was inadvertent;

(g) the efforts, if any, made to rectify the violation and to prevent a recurrence;

(h) the potential financial consequences to the member institution or person concerned, and to third parties including customers and creditors of the member institution, of imposing a penalty;

(i) the penalties imposed by the Corporation in other cases; and

(j) any other criteria as may be prescribed by regulation.

(6) For the purposes of this section, subsection (5) does not apply to a penalty fixed under subsection (1)(c).

22B. The Corporation must make an election.

(1) The Corporation, where a violation described in section 22 or 22A may be proceeded with as a violation or as an offence —

(a) shall elect to proceed with the matter in one manner only; and

(b) on completion of the proceeding in the manner elected pursuant to paragraph (a), is precluded from proceeding in the other manner.

(2) Where the Corporation elects to proceed with a contravention as a violation, this shall not preclude the Corporation from exercising any of its other powers under this Act or any other written law.

22C. Procedure for imposition of penalty on making of election.

(1) Every contravention that is designated under section 22A(2)(a) constitutes a violation and the person who commits the violation is liable to a penalty determined in accordance with section 22A(5).

(2) If the Corporation is satisfied that a person has committed a violation, the Corporation may issue, and shall cause to be served on the person, a written notice of violation.

(3) A notice of violation shall contain the —

(a) name of the person believed to have committed the violation;

(b) nature of the violation;

(c) penalty that the Corporation intends to impose;

(d) right of the person within thirty days after the notice is served, or within such longer period as the Corporation may specify in the notice, to pay the penalty or to make representations to the Corporation with respect to the violation;

(e) manner in which the person may make representations pursuant to paragraph (d); and

(f) warning that the person will, where payment or representations are not made in accordance with the notice, be deemed to have committed the violation and the Corporation may impose a penalty in respect of it.

22D. Determination of responsibility and penalty.

(1) A person who pays in full the penalty proposed in a notice under section 22C is deemed to have committed the violation and all proceedings in respect of such violation terminates upon such payment.

(2) Where a person makes representations in accordance with a notice under section 22C, the Corporation —

(a) shall decide on a balance of probabilities whether such person committed the violation; and

(b) may subject to any regulations made pursuant to section 22A(1)(c), do either one of the following —

(i) where the Corporation decides a violation has been committed, by order impose the penalty proposed or a lesser penalty;

(ii) where the Corporation decides a violation has not been committed, impose no penalty.

(3) A person who does not pay the penalty or make representations in accordance with a notice under section 22C is deemed to have committed the violation and the Corporation may subject to any regulations made pursuant to section 22A(1)(c) or a regulation made pursuant to this Act or any other written law —

(a) by order impose the penalty proposed or a lesser penalty; or

(b) impose no penalty.

22E. Publication of penalties.

The Corporation may, where it imposes a penalty on a person and subject to the advice of the Bank, publish in such manner as it deems appropriate a statement of the violation in respect of which the penalty is imposed.

22F. Remission.

(1) The Corporation may remit all or part of a penalty imposed under section 22, including interest on such penalty.

(2) A remission may be conditional or unconditional.

23. Time limits.

(1) A document appearing to have been issued by the Corporation, certifying the day on which the subject matter of any proceedings by the Corporation became known to the Corporation —

(a) is admissible in evidence without proof of the signature or official character of the person appearing to have signed such document; and

(b) in the absence of evidence to the contrary, is proof of the matter asserted in such document.

(2) The Corporation shall not commence proceedings in respect of a violation--

(a) in the case of a minor violation, later than six months after the subject-matter of the proceedings become known to the Corporation; or

(b) in the case of a serious violation or a very serious violation, later than six years after the subject-matter of the proceedings became known to the Corporation.

24. Appeal.

(1) A person may appeal to the Supreme Court from any decision of the Corporation imposing a penalty in respect of a serious violation or a very serious violation under 22A.

(2) Subject to subsection (3), an appellant under subsection (1) must —

(a) make his appeal on motion; and

(b) within twenty-one days after the day on which the Corporation imposed the penalty, serve on the Attorney-General a notice in writing signed by the appellant or his counsel and attorney of the intention to appeal and the general grounds for the appeal.

(3) A person desiring to appeal a decision of the Corporation under subsection (1) may, upon notice to the Attorney-General, apply to the Supreme Court for leave to extend the time within which the notice of appeal may be served and the Supreme Court, upon the hearing of such application, may extend the time prescribed under subsection (2)(b) as the Supreme Court deems fit.

(4) The Attorney-General shall upon receiving a notice of appeal transmit to the Registrar of the Supreme Court without delay a copy of the Corporation's decision and all papers relating to the appeal.

(5) Notwithstanding subsection (4), the Attorney-General shall not be compelled to disclose any information if the Attorney-General considers that the public interest would suffer by such disclosure.

(6) The Registrar of the Supreme Court shall set an appeal down for hearing on such day, and shall cause notice of the same to be published in such manner, as the Supreme Court may direct.

(7) The appellant at the hearing of an appeal —

(a) before commencing his case, must state all the grounds of appeal on which the appellant intends to rely; and

(b) must not, except by leave of the Supreme Court, go into any matters not raised by the stated grounds of appeal.

(8) The Supreme Court may adjourn the hearing of the appeal and may upon the hearing thereof confirm, reverse, vary or modify the decision of the Corporation or remit the matter with the opinion of the Supreme Court thereon to the Corporation."

9. Insertion of new Part IVA and sections 26 to 26B in the principal Act.

The principal Act is amended by the insertion immediately following section 25 of the new PART IVA and sections 26, 26A and 26B as follows—

"PART IVA
POWERS OF THE CORPORATION TO PROVIDE RESOLUTION FUNDING"

26. Fund to support resolution measures

(1) The Bank may, [following consultation with the Minister] make a determination that an amount is to be paid out of the Fund for the purposes of supporting a resolution measure undertaken for a member institution and other matters relating to the measure.

(2) The amount to be paid out of the Fund must not exceed the amount of compensation that would have been paid out of the Fund to the insured depositors of the member institution under Part II, after taking into account any amounts that the Corporation would have been repaid from or out of the assets of the member institution.

(3) Where the Bank determines that an amount is to be paid out of the Fund for the purposes mentioned in subsection (1), the Bank must immediately give a written notice to the Corporation of its determination and consult with the Corporation.

(4) The notice mentioned in subsection (3) must be in such form and contain such information as may be agreed between the Bank and the Corporation.

(5) The Corporation must, as soon as practicable upon receiving the notice mentioned in subsection (3), publish a notice in the Gazette to the effect that a payment is to be made from the Fund for the purposes mentioned in subsection (1)

26A. Funding for transfer of deposits

(1) Notwithstanding the provisions of section 26 where the Bank decides to transfer some or all of the assets and liabilities of a member institution under resolution to a purchaser or a bridge institution, the Corporation may contribute funds to the resolution of the member institution only if the value of the institution's liabilities is greater than the value of the assets.

(2) In making such contribution to resolution as set forth in subsection (1) the Corporation shall be subject to the following conditions:

(a) the depositors whose deposits are transferred continue to have access to their deposits;

(b) except in the case of the resolution of a member institution which is a systemically important institution, the contribution of the Corporation shall not be greater than the cost to the Corporation of paying insured depositors in the event of liquidation as determined by the Corporation; and

(c) the contribution of the Corporation shall not be greater than [fifty] percent of the minimum target size of the Fund.

26B. Regulations for this Part

The Bank may, in consultation with the Corporation and with the approval of the Minister, make regulations for the purpose of section 26 and 26A(2)(b), including for the following matters:

(a) the procedure for making payments out of or to the Fund;

(b) the manner of determining, for the purposes of section 26 and 26A(2)(b), the amounts that the Corporation would have been repaid from or out of the assets of the member institution."

10. Amendment of section 30 of the principal Act

Section 30 of the principal Act is amended in subsection (3)—

(a) by the deletion of paragraph (c) and the substitution of the following —

"(c)(i) the Minister, or any officer of the Ministry of Finance authorized in writing by the Minister;" and

(ii) a regulatory authority in The Bahamas,

for the purposes relating to contingency planning, preparing for or carrying out resolution in respect of a member institution as well as any other aspects of financial stability or financial crisis preparedness and management."

ANNEX 4

PROTECTION OF DEPOSITORS (AMENDMENT) BYE-LAWS, 2025

Arrangement of Bye-laws

Section

1. Citation.....2
2. Amendment of bye-law 4A of the principal Bye-laws.....2
3. Amendment of bye-law 11 of the principal Bye-laws.....3
4. Revocation of bye-law 12 of the principal Bye-laws.....3
5. Revocation of bye-law 18 of the principal Bye-laws.....3
6. Amendment of bye-law 19 of the principal Bye-laws.....3

ANNEX 4

PROTECTION OF DEPOSITORS (AMENDMENT)
BYE- LAWS, 2025

In exercise of the powers conferred by section 28 of the Protection of Depositors Act (*Ch. 317*), the Corporation, on the recommendation of the Bank, makes the following bye-laws —

1. Citation.

These Bye-laws, which amend the Protection of Depositors Bye-laws, may be cited as the Protection of Depositors (Amendment) Bye-laws, 2025.

2. Amendment of bye-law 4A of the principal Bye-laws.

Bye-law 4A of the principal Bye-laws are amended as follows —

(a) by the deletion of the paragraph (1) and the substitution of the following—

"(1) The Corporation may, by notice in writing to an institution, cancel a certificate of insurance where —

(a) an institution's licence or registration to carry on its business operations has been revoked or cancelled by the Bank, as the case may be; or

(b) the Bank confirms in writing that by reason of insolvency, an institution has ceased to accept deposits;

(c) the Bank has appointed a statutory administrator of the institution."

(b) in paragraph (2), by the deletion of the words ", subject to paragraphs (3)(a)";

(c) by the deletion of paragraphs (3), (4) and (5);

(d) by the deletion of paragraph (8) and the substitution of the following—

"(8) Notwithstanding the cancellation of a certificate of insurance, the amount of any insured deposit on the date of cancellation, less any subsequent withdrawals therefrom, shall continue to be separately insured for a period of six months where--

(i) it is re-deposited in another member institution which holds one or more pre-existing deposits for the depositor; and

(ii) the aggregate amount of the deposits referred to in subparagraph (i) exceed the maximum coverage for insured deposits under section 6(2) of the Act;

(e) by the insertion, immediately after paragraph (8), of the new paragraph (8A) as follows —

"(8A) One month prior to the expiry of the period of six months specified in paragraph (8), the member institution shall inform the depositor of the imminent termination of the separate insurance coverage.";.

(f) by the deletion of paragraph (10);

3. Amendment of bye-law 11 of the principal Bye- laws.

Bye-law 11 of the principal Bye-laws is amended by the deletion of the words "owed or";

4. Revocation of bye-law 12 of the principal Bye- laws.

Bye-law 12 of the principal Bye-laws is revoked.

5. Revocation of bye-law 18 of the principal Bye- laws.

Bye-law 18 of the principal Bye-laws is revoked.

6. Amendment of bye-law 19 of the principal Bye-laws.

Bye-law 19 of the principal Bye-laws is amended in paragraph (2) by the deletion of the words "two years" and the substitution therefore of the words "six months".

Made this day of A.D., 2025

Chairman
Deposit Insurance Corporation

ANNEX 5

DRAFT PROTECTION OF DEPOSITORS (ADMINISTRATIVE MONETARY PENALTIES) REGULATIONS, 2025

Arrangement of Sections

Section

1. Citation……2

2. Interpretation……2

3. Designated Violations……2

4. Classification……2

5. Penalties for late or erroneous filings……2

SCHEDULE (REGULATIONS 3-5)

PROTECTION OF DEPOSITORS (ADMINISTRATIVE MONETARY PENALTIES) REGULATIONS, 2025

In exercise of the powers conferred by section 22A of the Protection of Depositors Act, 1999, the Deposit Insurance Corporation makes the following regulations —

1. Citation

These Regulations may be cited as the Protection of Depositors (Administrative Monetary Penalties) Regulations, 2025.

2. Interpretation

In these Regulations —

"Central Bank" means the Central Bank of The Bahamas preserved and continued pursuant to section 3 of the Act;

"co-operative credit union" has the meaning ascribed in section 2 of The Bahamas Co-operative Credit Unions Act, 2015;

"member institution" has the meaning ascribed in section 2 of the Act*;*

"the Act" means the Protection of Depositors Act, 1999*.*

3. Designation of violations.

(1) Pursuant to section 22A of the Act the contravention by a person of a provision of the Act or of a regulation or bye-law set out in column 3 in respect of an item in the *Schedule* is designated a violation of such Act or of the regulation or bye-law respectively

(2) A violation set out in the *Schedule* may be proceeded with pursuant to section 22 of the Act.

4. Classification.

A violation shall be classified as a minor, serious or very serious violation, as set out in column 4 of the *Schedule*.

5. Penalties for late or erroneous filings.

(1) Subject to paragraph (2), where a member institution commits a violation which consists of a late filing and is classified as a minor violation under item 10 of the Schedule, the penalty shall be two hundred and fifty dollars.

(2) A minor violation referred to in paragraph (1) committed by a member institution that is continued for more than one day shall, pursuant to subsection (4) of section 22A of the Act, be subject to a penalty in respect of each of the separate violations that result from the continuation and such penalty shall be —

(a) two hundred and fifty dollars a day for each additional day during which the violation continues, up to an aggregate maximum penalty of:-

(i) ten thousand dollars, in the case of a large member institution; or

(ii) one thousand dollars, in the case of a small member institution.

(3) Subject to the provisions of the Act, the Corporation, may impose the following penalties in respect of a member institution that commits a minor violation that consists of an erroneous filing:

(a) where the error is identified by the Corporation, a penalty of one thousand dollars;

(b) where the error is identified by the member institution, a penalty of five hundred dollars.

(4) For the purposes of these Regulations—

(a) "**large member institution**" means a bank, bank and trust company or trust company that is licensed under the Banks and Trust Companies Regulation Act, 2020 to conduct business with the general public.

(b) "**small member institution**" means a co-operative credit union registered under the Bahamas Co-operative Credit Unions Act, 2015.

SCHEDULE (Regulations 3-5)
ADMINISTRATIVE MONETARY PENALTIES

Column 1	Column 2	Column 3	Column 4
Item	**Description of the Violation**	**Provisions of the Act, Regulation or Bye-law**	**Classification of the violation**
PROTECTION OF DEPOSITORS ACT 1999			
1	Failure of a person (other than the Central Bank of The Bahamas) to provide the Corporation with his written report of examination.	21(5)	Serious
2	Failure by a member institution to provide the Central Bank with access to its books, records, vouchers documents, cash and or securities.	21(9)(a)	Very Serious
3	Failure to provide the Central Bank with such information or explanation, within the time frame required by the Central Bank, as the Central Bank may reasonably require for the purpose of enabling it to perform its functions.	21(9)(b), (c) or (d)	Serious
4	Failure by a person prescribed in section 30(1) to maintain the confidentiality of information relating to the affairs of the Bank, or of any person, that such prescribed person has been acquired in the performance or exercise of their duties or functions under the Act.	30(1)	Serious

PROTECTION OF DEPOSITORS BYE-LAWS 1999			
5	Failure of a member institution to display a certificate of insurance in all of its offices	Bye-law 4	Minor
6	Failure of a member institution to display signs and logos issued by the Corporation in all of its offices and branches; and on its website and mobile applications	Bye-law 4B(2)	Minor
7	Failure of a member institution to prominently display on its website or on any printed and promotional material relating to a financial product offered by the institution, a statement indicating whether or not that financial product or facility is insured pursuant to the Act.	Bye-law 4B(3)	Minor
8	Failure of a member institution to disclose in the manner prescribed, that it is a member of the Deposit Insurance Fund.	Bye-law 4B(4)(a) and (b)	Minor
9	Failure of a member institution to disclose information about the Corporation in the manner prescribed.	Bye-law 4B(4)(c)	Minor
10	Failure of a member institution to submit returns to the Corporation, on time.	Bye-law 8(1)	Minor
11	Failure of a member institution to provide a depositor with prescribed documents or information in the manner or within the time specified.	Bye-law 8A(1)	Minor
12	Failure of a member institution to issue an oral or written warning statement regarding an instrument which is an ineligible deposit.	Bye-law 8B(1), (2) or (3)	Minor

13	Failure of a member institution to comply with any prescribed requirement.	Bye-law 8C (2)(a) through (g)	Serious
14	Failure of a member institution to store the information required by bye-law 8C(2), electronically.	Bye-law 8C (3)	Serious
15	Failure of a member institution to provide information required by the Corporation, on time.	Bye-law 8C (4)	Minor

ANNEX 6

PAYMENT SYSTEMS (AMENDMENT) BILL, 2025

1. Short title.

This Act, which amends the Payment Systems Act, 2012 (No. 7 of 2012), may be cited as the Payment Systems (Amendment) Act, 2025.

2. Amendment of section 2 of the principal Act.

The principal Act is amended in section 2:

(a) by the insertion in the appropriate alphabetical order of the following new terms and accompanying definitions:

"Electronic money" means electronically stored monetary value as represented by a claim on the issuer, which is issued on receipt of funds for the purpose of making payment transactions and which is accepted as a means of payment by persons other than the issuer, and includes monetary value stored magnetically or in any other tangible or intangible device (such as a SIM card or software)."

"payment institution" means an entity that is licensed pursuant to the Payment Instruments (Oversight) Regulations, 2017 to provide payment services.

"payment services" means services enabling deposits and withdrawals, execution of payment transactions, the provision of money transmission business, and any other services which are incidental to money transmission and shall include the issuance of electronic money and electronic money instruments;

"Securities Commission" means The Securities Commission of The Bahamas established under section 10 of the Securities Industry Act;

(b) by the deletion of the definition of **"payment instrument"** and the substitution of the following —

"payment instrument" means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment or transfer money and includes, but is not limited to, cheques, funds transfers initiated by any paper or paperless device (such as automated teller machines, point of sale, internet, telephone, mobile

phones), payment cards, including those involving storage of electronic money;

(c) by the deletion of the definition of "regulatory laws" and the substitution of the following:

"regulatory laws" means the Banks and Trust Companies Regulation Act, 2020 and The Bahamas Co-operative Credit Unions Act, 2015".

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended—

(a) in subsection (1)(b) by the deletion of the words "the Banks and Trust Companies Regulation Act," and the substitution of the words "the regulatory laws";
(b) in subsection (2) by the deletion of the words "Banks and Trust Companies Regulation Act" and the substitution therefore of the words "regulatory laws".

4. Repeal and Replacement of section 4 of the principal Act.

Section 4 of the principal Act is repealed and replaced by the following:

"4. Oversight powers of Central Bank.

(1) The Central Bank may, in the exercise of its functions and powers pursuant to paragraphs (h), (m) and (n) of subsection (2) of section 5 of the Central Bank Act, in relation to the establishment and oversight of a national payment system -
(a) determine general or individual standards and guidelines for approved systems, designated systems, payment instruments and payment services;
(b) determine licensing and regulatory requirements for—
(i) electronic money issuers; and
(ii) payment institutions
(c) establish and perform control and audit procedures; and
(d) impose administrative sanctions.

(2) The Bank shall, in the exercise of the powers granted by or referred to in subsection (1), be guided by the Principles for Financial Market Infrastructure 2012 issued by the Committee on Payments and Market Infrastructures, applicable to the safety and efficiency of payment systems as amended or replaced from time to time."

5. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended by—

(a) the insertion of the following paragraph immediately after paragraph (a)
"(b) the interests of consumers;"

(b) by the re-lettering of paragraph (b) as paragraph (c).

6. Insertion of new section 22A in the principal Act.

The principal Act is amended by the insertion immediately after section 22 of the following new section—

"22A Confidentiality of reports of the Bank.

(1) Any person who has, by any means, access to a report or other information or document produced by the Bank upon examination or inspection of a participant or clearing house of an approved system, by reason of his acting or having acted in any of the following capacities —

(a) a director, officer, employee, agent, auditor or adviser of a participant or of a clearing house of a designated system;

(b) a receiver or liquidator of a participant or of a clearing house of a designated system or as an employee, agent or adviser of such receiver or liquidator;

shall not communicate the report or other information or document or any part thereof to any person not referred to in paragraphs (a) or (b) without the prior written permission of the Bank.

(2) The Bank may grant permission under subsection (1) subject to such conditions as it may determine.

(3) If any person receives a report or any part of a report or other information or document referred to in subsection (1), knowing or having reasonable grounds to believe, that such report or other information or document or part thereof was communicated to him in contravention of this section, that person shall be guilty of an offence unless he proves —

(a) that the report or other information or document or part thereof, as the case may be, was communicated to him contrary to his intention; and

(b) where the communication was effected in any written form, that he has conveyed or has taken reasonable steps to convey the report or other information or document or part thereof, as the case may be, to the Bank.

(4) Any person guilty of an offence under this section, shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment."

7. Repeal and replacement of Part VIII of the principal Act.

The principal Act is amended by—

(a) the deletion of the heading ""PART VIII – LICENSING REGIME FOR ISSUE OF ELECTRONIC MONEY" and the substitution of the following—
"PART VIII – LICENSING REGIME FOR ELECTRONIC MONEY ISSUERS AND PAYMENT INSTITUTIONS"

(b) the repeal of sections 26, 27, 28 and 29 and the substitution of the following new sections 26, 27, 28 and 29—

"26. Licence required to issue electronic money and for payment institutions.

(1) Any person, other than a bank, bank and trust company, or trust company that is licensed, or a co-operative credit union that is registered, as the case may be, under the regulatory laws, who is desirous of carrying on the business of —
(a) an electronic money issuer; or
(b) a payment institution, in or from within The Bahamas,

shall make application to the Central Bank for the grant of a licence.

(2) An application made pursuant to subsection (1) shall —
(a) be in writing and contain such information and particulars as may be prescribed by regulations; and
(b) be accompanied by such number of references, as may be prescribed by regulations.

(3) In considering an application made under subsection (1), the Bank shall have regard to such matters as may be prescribed by regulations.

(4) The provisions of this section shall not apply to the Central Bank.

27. Eligibility requirements.

The Bank shall by regulation prescribe the following —
(a) the category of persons eligible to apply for the grant of a licence to-
(i) issue electronic money, or
(ii) carry on the business of a payment institution;
(b) the prudential and other requirements and criteria applicable to eligible applicants under paragraphs (a) (i) and (ii); and
(c) the persons or category of persons exempted from the requirement to obtain a licence to issue electronic money or to carry on the business of a payment institution.

28. Grant of licence by the Central Bank.

Where the Central Bank grants and issues a licence pursuant to an application made under section 26, it may at any time---

(a) impose such terms and conditions on the licence as the Bank sees fit; and

(b) issue written directions requiring a person licensed under section 26 to cease or refrain from committing an act or pursuing a course of conduct that is an unsafe or unsound practice, or that is in contravention of any law in The Bahamas or elsewhere, or to perform a remedial act, or to do anything required to be done

29. Prohibition against unlicensed business operations

Any person who —

(a) issues electronic money or carries on the business of a payment institution without the grant of a licence by the Central Bank;

(b) is in breach of any terms and conditions imposed or fails to comply with a directive issued by the Bank,

commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars and, in the case of a continuing offence, to a fine not exceeding one thousand dollars for each day or part of a day during which the offence continues."

8. Amendment of section 31 of the principal Act.

Section 31 of the principal Act is amended—

(a) in subsection (2) by the deletion of paragraphs (a), (b), (c), (d) and (e) and the substitution of the following:

"(a) a clearing house;

(b) a participant or indirect participant in a system; or

(c) a person reasonably believed to have information relevant to an enquiry by the Bank."

(b) in subsection (3) by the deletion of paragraphs (a), (b), (c), (d), (e) and (f), and the substitution of the following new paragraphs:

"(a) a clearing house;

(b) a participant or indirect participant in a system; or

(c) a person reasonably believed to have information relevant to an enquiry by the Bank."

(c) in subsection (7) by the repeal of paragraphs (b) and (d).

9. Repeal and Replacement of section 42 of the principal Act.

Section 42 of the principal Act is repealed and replaced by the following:

"42. Memoranda of Understanding.

(1) The Central Bank may, for the purpose of facilitating the discharge of its functions under this or any other Act, enter into memoranda of understanding with -

(a) the clearing house of a system; or

(b) the Securities Commission.

(2) Without prejudice to the generality of subsection (1), the memorandum of understanding concluded under paragraph (b) of subsection (1) may, in respect to a securities settlement system specified by the Central Bank, enable the Bank and the Securities Commission to –

(a) request the other to provide information; and

(b) take any significant action empowered under this Act, the Securities Industry Act or any other Act on a recommendation from, or after consultation with, the other.

(3) The powers of the Central Bank and the Securities Commission prescribed under subsection (2) may be exercised only when such power is necessary for –

(a) ensuring the safety and efficiency of an arrangement to facilitate or control payments in connection with transactions in securities; and

(b) facilitating and maintaining synchronization of transfers of cash and securities made in respect of transactions in securities.

(4) No memorandum of understanding entered into pursuant to subsection (1) may —

(a) call for assistance beyond that which is provided for by this Act; or

(b) relieve the Central Bank of any of its functions or duties under this Act."

10. Amendment of section 43 of the principal Act.

Section 43 of the principal Act is amended in subsection (2) by---

(a) the insertion of the word "of" in the chapeau immediately after the word "consultant";

(b) the deletion of paragraphs (a) and (b) and the substitution of the following:

"(a) a participant or clearing house;

(b) an electronic money issuer;

(c) a payment institution."

(c) the repeal of sub-paragraphs (i) and (ii) and the substitution of the following:

"(i) compliance by the participant, clearing house, electronic money issuer or payment institution, as the case may be, with the requirements of this Act ; and

(ii) the accuracy and correctness of any information provided to the Bank by the participant, clearing house, electronic money issuer or payment institution, as the case may be;"

11. Amendment of section 45 of the principal Act.

Section 45 of the principal Act is amended in subsection (1) by -

(a) the deletion of the full stop immediately following paragraph (e) and the substitution of the word and symbol "; and"

(b) the insertion of the following new paragraph immediately following paragraph (e)—

"(f) to revoke a licence granted to an electronic money issuer or a payment institution pursuant to Regulation 9(1) of the Payment Instruments (Oversight) Regulations, 2017."

12. Amendment of section 46 of the principal Act.

Section 46 of the principal Act is amended in subsection (1) by--

(a) the deletion of the word "and" immediately following paragraph (b);

(b) the deletion of the full stop immediately following paragraph (c) and the substitution of the word and symbol "and;"

(c) the insertion of the following new paragraph immediately following paragraph (c)—

"(d) any payment institution."

13. Amendment of section 47 of the principal Act.

Section 47 of the principal Act is amended by the insertion immediately following subsection (3) of the following new subsection (3A)—

"(3A) Without prejudice to the generality of subsection (1), the Bank may make regulations for or with respect to payment institutions, including but not limited to regulating, prescribing and providing for the following matters--

(a) the standards to be maintained by a payment institution; and

(b) all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act."

ANNEX 7

PAYMENT INSTRUMENTS (OVERSIGHT) (AMENDMENT) REGULATIONS, 2025

In exercise of the powers conferred upon the Central Bank of The Bahamas by section 47 of the Payment Systems Act (No. 7 of 2012), the Central Bank hereby makes the following Regulations -

1. Citation.

These Regulations may be cited as the Payment Instruments (Oversight) (Amendment) Regulations, 2025.

2. Amendment of regulation 2 of the principal Regulations.

Regulation 2 of the principal Regulations is amended in paragraph (1) by—

(a) the deletion of the definition of "electronic money" and the substitution of the following new definition —

"**Electronic money**" means electronically stored monetary value as represented by a claim on the issuer, which is issued on receipt of funds for the purpose of making payment transactions and which is accepted as a means of payment by persons other than the issuer, and includes monetary value stored magnetically or in any other tangible or intangible device (such as a SIM card or software);

(b) the deletion of the definition of "money transmission service provider" and the substitution of the following new definition —

"**money transmission service provider**" means any person licensed pursuant to these regulations to carry on a money transmission business;

(c) the deletion of the definition of "payment institution" and the substitution in the appropriate alphabetical order of the following new definition—

"**Payment Institution**" means any entity that provides payment services but for the purposes of these regulations, does not include-

(a) a bank or a bank and trust company, [trust company] licensed pursuant to the Banks and Trust Companies Regulation Act, 2020 (Act No. 22 of 2020);

(b) a co-operative credit union which is registered pursuant to The Bahamas Co-operative Credit Unions Act, 2015;"

(d) the deletion of the definition of "Payment Services" and the substitution of the following new definition—

"Payment Services" means services enabling deposits and withdrawals, execution of payment transactions, the provision of money transmission business, and any other services which are incidental to money transmission and shall include the issuance of electronic money and electronic money instruments;"

(e) the deletion of the definition of "payment service provider" and the substitution of the following new definition—

"Payment Service Provider" means-

(a) a payment institution;

(b) a bank or a bank and trust company, [a trust company] that is licensed pursuant to the Banks and Trust Companies Regulation Act, 2020 (Act No. 22 of 2020) or a co-operative credit union that is registered pursuant to The Bahamas Co-operative Credit Unions Act, 2015;

(c) an Electronic Money Issuer; and

(d) any other provider licensed to provide payment services under any other written law."

3. Amendment of regulation 3 of the principal Regulations.

Regulation 3 of the principal Regulations is amended-

(a) in paragraph (1)—

(i) by the deletion of the words and symbol ", a co-operative credit union or a money transmission service provider" and the substitution of the following words— "or a co-operative credit union";

(ii) by the deletion of the words and symbols "(Chapter 308)" and the substitution of the words and symbols *"(Ch. 308)"*.

(b) In sub-paragraph (c) of paragraph (3) by the deletion of the words "regulation 8" and the substitution of the words "regulation 7".

4. Amendment of Regulation 5 of the principal Regulations

Regulation 5 of the principal Regulations is amended in sub-paragraph (a)(i) by the insertion of the words and symbols *"(Ch. 308)"* immediately following the word "Act".

5. Amendment of Regulation 6 of the principal Regulations

Regulation 6 of the principal Regulations is amended—

(a) in sub-paragraph 5(c) by the deletion of the word "First";

(b) In paragraph (10) by—

(i) the deletion of subparagraph (a) and the substitution of the following:

"(a) An applicant for a licence to provide payment services must make a deposit of such amount as may be specified by the Central Bank, in a trust account at an entity approved by the Bank."

(ii) by the insertion in subparagraph (b) immediately after the words "shall be refunded if the" of the words "applicant, after being licensed as a".

6. Amendment of regulation 7 of the principal Regulations.

Regulation 7 of the principal Regulations is amended in paragraph (1) by the deletion of sub-paragraph (e).

7. Amendment of regulation 9 of the principal Regulations.

Regulation 9 of the principal Regulations is amended in paragraph (1) by—

(i) the insertion immediately after subparagraph (g) of the following new subparagraphs:

" (h) no longer meets, or is unlikely to continue to meet, any condition, criteria, category or requirements for the grant of a licence; or

(i) is in breach of any terms or conditions imposed or directions issued by the Central Bank;"

(ii) in paragraph (2) by the deletion of the word "applicant" and the substitution of the words "payment institution".

8. Amendment of regulation 10 of the principal Regulations.

Regulation 10 of the principal Regulations is amended by the deletion of paragraph (4) and the replacement thereof with the following new paragraph —

"(4) A payment institution's head office must be located in The Bahamas and a payment institution shall not, without the prior written approval of the Central Bank establish such head office outside of The Bahamas."

9. Amendment of regulation 12 of the principal Regulations.

Regulation 12 of the principal Regulations is amended in paragraph (1) by the deletion of sub-paragraph (c) and the replacement thereof with the following new sub-paragraph—

"(c) put in place a system to maintain accurate and complete records comprising of —

(i) transactions executed by the payment service users for a minimum of five years from the date of the transaction;

(ii) a general ledger, posted at least once per month, containing all assets, liabilities, capital, income and expense accounts;

(iii) settlement sheets received from its agents;

(iv) bank statements and bank reconciliation records; and

(v) such other records as the Central Bank may specify by notice."

10. Amendment of regulation 15 of the principal Regulations.

Regulation 15 of the principal Regulations is amended—

(a) in paragraph (1)—

(i) by the deletion from sub-paragraph (a) of the word "agents(s)" and the substitution of the words "proposed agents";

(ii) by the deletion from sub-paragraph (d) of the word "that";

(iii) by the insertion in sub-subparagraph (d)(i) of the word "that" immediately before the words "the agent"; and

(iv) by the insertion in sub-subparagraph (d)(iii) of the word and symbol *"(Ch. 308)"* immediately after the word "Act";

(b) by the insertion immediately following paragraph (5) of the following new paragraph (6):

"(6) Where a bank or bank and trust company licensed or a co-operative credit union that is registered, as the case may be, pursuant to a regulatory law appoints as its agent a person that is not licensed or registered under a regulatory law, the agent shall be subject to the provisions of these regulations."

11. Amendment of regulation 17 of the principal Regulations.

Regulation 17 of the principal Regulations is amended by—

(a) the insertion of the following new paragraphs (5) and (6) immediately after paragraph (4):

"(5) A payment institution shall within fourteen days of the appointment of its external auditors, notify the Central Bank of the appointment.

(6) The external auditors of a payment institution shall be chartered accountants or certified public accountants."

(b) the re-numbering of paragraphs (5), (6), (7), (8), (9) and (10) as paragraphs (7), (8), (9), (10), (11) and (12) respectively.

12. Amendment of regulation 20 of the principal Regulations.

Regulation 20 of the principal Regulations is amended in subparagraph (2)(c) by the deletion of the following words "in order to satisfy itself that the provisions of these Regulations, the relevant anti-money laundering and countering the financing of terrorism laws or any other written law administered by the Central Bank is being complied with and that the payment service provider is in a sound financial position" and the substitution of the words "in order to satisfy itself that the provisions of these Regulations, the Act, or any other written law administered by the Central Bank or relating to compliance with anti-money laundering or countering the financing of terrorism and proliferation financing are-being complied with and that the payment institution is in a sound financial position".

13. Insertion of new regulation 20A in the principal Regulations

The principal Regulations are amended by the insertion of the following new regulation immediately following regulation 20.

"20A. Confidentiality of reports of the Bank.

(1) Any person who has, by any means, access to a report or other information or document produced by the Bank upon examination or inspection of a payment institution or electronic money issuer by reason of his acting or having acted in any of the following capacities —

(a) a director, officer, employee or agent, auditor or adviser of a payment institution or electronic money issuer;

(b) a receiver or liquidator of a payment institution or an electronic money issuer;

shall not communicate the report or other information or document or any part thereof to any person not referred to in paragraphs (a) or (b) without the prior written permission of the Bank.

(2) The Bank may grant permission under paragraph (1) subject to such conditions as it may determine.

(3) If any person receives a report or any part of a report or other information or document referred to in paragraph (1), knowing or having reasonable grounds to believe, that such report or other information or document or part thereof was communicated to him in contravention of this Regulation, that person shall be guilty of an offence unless he proves —

(a) that the report or other information or document or part thereof, as the case may be, was communicated to him contrary to his intention; and

(b) where the communication was effected in any written form, that he has conveyed or has taken reasonable steps to convey the report or other information or document or part thereof, as the case may be, to the Bank.

(4) Any person guilty of an offence under this Regulation, shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

14. Revocation of regulation 21 of the principal Regulations.

Regulation 21 of the principal Regulations is revoked.

15. Amendment of the First Schedule of the Principal Regulations.

The First Schedule of the principal Regulations is amended by the deletion of the word “First” from the heading.

16. Revocation of the Second Schedule to the principal Regulations.

The Second Schedule of the principal Regulations is revoked.

ANNEX 8

CENTRAL BANK OF THE BAHAMAS (ADMINISTRATIVE MONETARY PENALTIES) REGULATIONS, 2025

Arrangement of Sections

Section

1. Citation……

2. Interpretation……

3. Designated Violations……

4. Classification……

5. Penalties for late or erroneous filings……

SCHEDULE (REGULATIONS 3-5)

ANNEX 8

CENTRAL BANK OF THE BAHAMAS (ADMINISTRATIVE MONETARY PENALTIES) REGULATIONS, 2025

In exercise of the powers conferred by section 47(1) of the Central Bank of The Bahamas Act, 2020 (No. 24 of 2020), the Central Bank of The Bahamas makes the following regulations —

1. Citation

These Regulations may be cited as the Central Bank of The Bahamas (Administrative Monetary Penalties) Regulations, 2025.

2. Interpretation

In these Regulations —

"Central Bank" means the Central Bank of The Bahamas preserved and continued pursuant to section 3 of the Act;

"co-operative credit union" means a voluntary, cooperative, non-profit financial institution that may accept savings deposits and provide other financial services to members pursuant to the provision of the Bahamas Cooperative Credit Union Act, (Ch. 314A));

"Electronic money issuer" means a person that is licensed pursuant to regulation 6(5) of the Payment Instruments (Oversight) Regulations, 2017;

"financial institution" has the meaning ascribed in section 2 of the Act*;*

"licensee" means a person holding a licence under the provisions of the Banks and Trust Companies Regulation Act, 2020*;*

"payment institution" means an entity that is licensed pursuant to the Payment Instruments (Oversight) Regulations, 2017 to provide payment services;

"**payment services**" has the meaning ascribed in regulation 2 of the Payment Instruments (Oversight) Regulations, 2017;

"payment service provider" has the meaning ascribed in regulation 2 of the Payment Instruments (Oversight) Regulations, 2017;

"person" means a natural person or a company;

''Private Trust Company'' means a company incorporated under the provisions of the Companies Act (*Ch. 308*), or the International Business Companies Act (*Ch. 309*), which by its Memorandum and Articles of Association —

(a) acts as trustee only for a trust created or to be created by or at the direction of a Designated Person or an individual who is related by consanguinity or other family relationship to the Designated Person described within the Designating Instrument or, if there is more than one Designated Person so described, to a Designated Person, which Designated Person need not be named in such company's Memorandum and Articles of Association or Memorandum or Articles of Association;

(b) is required to appoint a Registered Representative;

(c) is not the subject of a notice of withdrawal made under section 14(1) of the Banks and Trust Companies Regulation Act, 2020 (No. 22 of 2020);

"Qualified Executive Entity" means an Executive Entity that is registered under the Executive Entities Act (Ch. 369E), which by its Charter and Articles--

(a) acts as trustee for a trust created or to be created by or at the direction only of a Designated Person or an individual who are related by consanguinity or other family relationships to the Designated Person described within the Designating Instrument or, if there is more than one Designated Person so described, to a Designated Person, which Designated Person need not be named in such Executive Entity's Charter and/or Articles except where the Designated Person is also the Founder of the Executive Entity;

(b) owns, manages and holds trust assets;
(c) is required to appoint a Registered Representative; and
(d) is not the subject of a notice of withdrawal made under section 14(1)(b) of the Banks and Trust Companies Regulation Act, 2020 (No. 22 of 2020);

''Registered Representative'' has the meaning ascribed in section 2 of the Banks and Trust Companies Regulation Act, 2020 (No. 22 of 2020);

"the Act" means the Central Bank of The Bahamas Act, 2020 (No. 24 of 2020).

3. Designation of violations.

(1) Pursuant to section 47 of the Act —

(a) the contravention by a person of a provision of an Act or of a regulation set out in column 3 in respect of an item in the *Schedule* is designated a violation of such Act or of the regulation respectively; and
(b) the non-compliance of a person with a direction issued or order made or any conditions or limitations imposed under a provision of an Act or a regulation set out in column 3 in respect of an item of the *Schedule* is designated a violation of such direction, order, conditions or limitations, respectively.

(2) A violation set out in the *Schedule* may be proceeded with pursuant to section 46 of the Act.

4. Classification.

(1) A violation shall be classified as a minor, serious or very serious violation, as set out in column 4 of the *Schedule*.

(2) The maximum penalty fixed for a violation shall be—

(a) for a violation committed by an individual, in the case of—

(i) a minor violation, two thousand five hundred dollars;

(ii) a serious violation, five thousand dollars; and

(iii) a very serious violation, ten thousand dollars;

(b) for a violation committed by a company, in the case of—

(i) a minor violation that consists of a late filing by a small supervised financial institution, one thousand dollars; and

(ii) all other minor violations, ten thousand dollars;

(iii) a serious violation, fifty thousand dollars; and

(iv) a very serious violation, one hundred thousand dollars.

5. Penalties for late or erroneous filings.

(1) Subject to paragraph (2), where a large or small supervised financial institution commits a violation which—

(a) consists of a late filing; and

(b) is classified as a minor violation under any of items, 7, 15,16, 18, 22 33, 38, 40, , 44, 60, 61, 62, 63, , 67, 68, , 70, 72, 73, 78, 79, , 85, 86, 89, 90, 91, 98, 99, 100, 101, 102, 103, 108, 109, , , 108, 111, 112, 113, 114, 119, 122, , 131, 136, 137, 138, 139, 140, 146, 148, 149, 151, 155, and 157 of the *Schedule*, the penalty shall be two hundred and fifty dollars.

(2) A minor violation referred to in paragraph (1) committed by a large or small supervised financial institution that is continued for more than one day shall, pursuant to subsection (4) of section 47 of the Act, be subject to a penalty in respect of each of the separate violations that result from the continuation and such penalty shall be —

(a) two hundred and fifty dollars a day for each additional day during which the violation continues up to an aggregate maximum penalty of--

(i) ten thousand dollars, in the case of a large supervised financial institution; or

(ii) one thousand dollars, in the case of a small supervised financial institution.

(3) The Central Bank may impose the following penalties in respect of a large or small supervised financial institution that commits a minor violation that consists of an erroneous filing:

(a) one thousand dollars in the case of a large supervised financial institution, where the error is identified by the Central Bank;

(b) five hundred dollars in the case of a small supervised financial institution, where the error is identified by the Central Bank;

(c) five hundred dollars in the case of a large supervised financial institution, where the error is identified by the large supervised financial institution; and

(d) two hundred and fifty dollars in the case of a small supervised financial institution, where the error is identified by the small supervised financial institution.

(4) For the purposes of these Regulations—

(a) "**large supervised financial institution**" means a licensee that is authorized by the Central Bank to conduct banking and or trust company business with the general public.

(b) "**small supervised financial institution**" means—

(i) a licensee that is a trust company that is authorized by the Central Bank to conduct trust business with specified persons only or to offer nominee services only;

(ii) a registered representative;

(iii) a co-operative credit union registered under the Bahamas Co-operative Credit Unions Act, (Ch. 314A); or

(iv) a payment institution licensed under the Payment Instruments (Oversight) Regulations, 2017.

SCHEDULE (Regulations 3-5)
ADMINISTRATIVE MONETARY PENALTIES

Column 1	Column 2	Column 3	Column 4
Item	**Description of the Violation**	**Provisions of the Act or Regulation**	**Classification of the violation**
CENTRAL BANK OF THE BAHAMAS ACT			
1	Failure to provide the Central Bank with information or documents in the format required, on time.	38(2), 39(1)	Serious
2	Failure by a person prescribed in section 43(1) to maintain the confidentiality of information relating to the affairs of the Bank, or of any person, that such prescribed person has been acquired in the performance or exercise of their duties or functions under the Act.	43(1)	Serious
BANKS AND TRUST COMPANIES REGULATION ACT			
3	Failure to obtain the Central Bank's approval to use or continue to use the words referred to in section 4(1)(a) or (b) of the Banks and Trust Companies Regulation Act, 2020 in the description or title under which a business is conducted or to make or continue to make a representation referred to in section 4(1)(c) of the Banks and Trust Companies Regulation Act, 2020.	Section 4(1)(a), 4 (1) (b)	Serious
4	Failure to obtain the Central Bank's approval to solicit or receive deposits from the public.	Section 4(1)(d)	Very Serious

5	Carrying on a business without being licensed by the Central Bank.	Sections 5	Very Serious
6	Failure to comply with the terms and conditions of an exemption granted by the Central Bank.	Sections 6(4)	Very Serious
7	Failure to forthwith notify the Central Bank in writing of any change in a licensee's principal office in The Bahamas.	Section 10(1)(a)	Minor
8	Failure to notify the Central Bank in writing of any change in the designated officers.	Section 10 (1) (b)	Very Serious
9	Carrying on the business of a Registered Representative without first being registered by the Central Bank.	Section 13(1)	Very Serious
10	Failure by a company which is a licensee under the Banks and Trust Companies Regulation Act, 2020 to obtain the prior approval of the Central Bank to issue, transfer or dispose of its shares, or any other securities of such licensee.	Section 15 (1)	Very Serious
11	Failure by a person to obtain the prior approval of the Central Bank to become a controller or an indirect controller of a licensee.	Section 15(3)	Very Serious
12	Failure of a controller or indirect controller of a licensee to comply with any condition subject to which approval to become a controller or indirect controller was granted.	Section 16(2)	Very Serious
13	Failure by a person to comply with a notice served on them by the Central Bank, objecting to them becoming a controller or indirect controller of a licensee.	Section 17(3)	Very Serious

14	Failure by a person to comply with any direction issued by the Central Bank pursuant to section 18(1).	Section 18(2)	Very Serious
15	Failure by a licensee to publish a true and full yearly statement of its accounts on time.	Section 20(1)	Minor
16	Failure by a licensee to provide a copy of its annual audited financial statements to the Central Bank on time.	Section 20(4)	Minor
17	Failure by a licensee to notify the Central Bank of an auditor's appointment on time.	Section 21(1)	Serious
18	Failure by a licensee to replace an auditor on the request of the Central Bank.	Section 21(2)	Minor
19	Failure of an auditor or former auditor to give notice to the Inspector pursuant to section 22(1)(b) and or 22(4) of the Banks and Trust Companies Regulation Act, 2020.	Section 22(1)(a)	Very Serious
20	Failure of an auditor or former auditor (of a licensee) to give notice to the Inspector if the auditor has or had become aware of any fact or matter that is likely to be of material significance for the of the Inspector's functions, as it relates to the licensee.	Section Section 22(2)	Very Serious
21	Failure of a licensee to notify the Central Bank of any material information that may negatively affect the fitness and propriety of a director or senior manager of the licensee.	Section 23(1)	Very Serious
22	Failure to furnish the Central Bank with information at the time or in the form specified.	Section 24(1)	Minor (if the violation relates to information required as part of periodic reports.) Serious (in any other case including cases

			involving repeated failures to furnish information)
23	Failure by a licensee to obtain the written approval of the Bank to establish a subsidiary, branch, agency or representative office outside of The Bahamas.	Section 26	Serious
24	Failure by a licensee to provide the Inspector with access to its books, records, vouchers documents, cash and or securities.	Section 28(2)(a)	Very Serious
25	Failure to provide the Inspector with such information or explanation, within the time frame required by the Inspector, as the Inspector may reasonably require for the purpose of enabling him to perform his functions under the Banks and Trust Companies Regulation Act, 2020.	Section 28(2)(b)	Serious
26	Failure by an auditor of a licensee to provide the Inspector with such auditor's reports, working papers, information or explanation within the time frame required by the Inspector, as the Inspector may reasonably require for the purpose of enabling him to perform his functions under the Banks and Trust Companies Regulation Act, 2020.	Section 28(2)(c)	Serious
27	The making of untrue statements by an auditor in an audit report or the omission of essential facts in such report or the failure of such auditor to request pertinent information from a licensee which is being or has been audited by the auditor or failure	Section 28(4)(c)	Very Serious

	by such auditor to report his findings to the Inspector.		
28	Failure by a licensee to comply with a direction of the Central Bank.	Section 29(1)(g)	Very Serious
29	Failure by a licensee to permit a foreign Supervisory Authority approved by the Inspector to conduct an inspection.	Section 32(2)	Very Serious
30	Making an unauthorised disclosure of a confidential report of examination.	Section 34(1) and (2)	Serious
31	Failure by an individual against whom a prohibition order has been issued to comply with the order.	Section 74(1)	Serious
32	Disclosure of information relating to (a) the identity, assets, liabilities, transactions or accounts of a customer of a licensee; or (b) any application by any person under the provisions of the Banks and Trust Companies Regulation Act, 2020 where such disclosure is made in contravention of section 77(1).	Section 77(1)	Very Serious
33	Failure by a licensee to transfer dormant account balances to the Central Bank on time.	Section 78(4)	Minor
34	Failure by a licensee to keep all records including all registers, signature cards, signing authorities and microfilm or electronically stored copies of such records relating to dormant account balances transferred to the Central Bank for the time required.	Section 78(8) or 78(9)	Serious
35	Failure by a licensee holding a dormant account as referred to in 78 (10) (a), to make a report to the Bank in the time or manner specified by the Bank.	Section 78(11)	Serious

36	Failure by licensee to expressly and specifically agree charges with customers.	Section 79	Serious
BANKS AND TRUST COMPANIES (ACQUISITION OF SHARES) REGULATIONS 2005			
37	Failure to apply for approval to acquire shares.	Regulation 3(1)	Serious
38	Failure by a licensee to notify the Inspector of the acquisition of three per cent or more of the issued share capital of a publicly traded licensee, on time.	Regulation 3(2)	Minor
BANKS AND TRUST COMPANIES (FOREIGN CURRENCY POSITION) REGULATIONS, 2005			
39	Failure by a licensee to maintain the larger of the sum of net short or long positions in all foreign currencies including all outstanding spot and forward foreign exchange contracts and all on and off balance sheet assets and liabilities of the licensee at the appropriate spot exchange rates, at ten percent or less of its capital base.	Regulation 3	Serious
40	Failure by a licensee to immediately notify the Inspector of a contravention of Regulation 3 in such form as the Inspector shall determine.	Regulation 4	Minor
41	Failure by a licensee to take any remedial action required to be taken by the Inspector to ensure compliance with regulation 3.	Regulation 5	Serious
BANKS AND TRUST COMPANIES (EQUITY INVESTMENTS) REGULATIONS, 2005			
42	Failure by a licensee to obtain the prior approval of the Bank to acquire or hold the shares, securities or other interests in a related party or to acquire, either directly or indirectly, more than five percent of the shares,	Regulation 3	Serious

	securities, or any other interests in any other person.		
BANKS AND TRUST COMPANIES (PAYMENT OF DIVIDENDS) REGULATIONS 2025			
43	Failure to obtain the prior approval of the Central Bank to declare or pay out dividends in the circumstances described in regulation 3 (1).	Regulation 3 (1)	Very Serious
44	Failure to file a Notice of Dividend Declaration with the Central Bank within the prescribed timeframe.	Regulation 4(1)	Minor
45	Failure of a Commercial bank To obtain prior approval from the Central Bank to declare or pay out dividends in the circumstances described in regulation 4 (3).	Regulation 4 (3)	Very Serious
46	Failure to comply with restrictions imposed by the Inspector in relation to the payment of dividends.	Regulation 5	Very Serious
BANKS AND TRUST COMPANIES (NEW APPOINTMENTS) REGULATIONS, 2005			
47	Failure by a licensee to obtain the prior approval of the Central Bank for the appointment or replacement of a director or executive officer or to provide the specified information in relation thereto.	Regulations 3 and 4	Serious
BANKS AND TRUST COMPANIES (LARGE EXPOSURES) REGULATIONS, 2006			
48	Incurring exposures on an aggregate basis to any individual counter-party or group of connected parties which exceed twenty-five percent of the licensee's capital base.	Regulation 3(1)	Serious
49	Holding non-capital investments in securities of a single issuer which exceed ten percent of the licensee's capital base.	Regulation 3(2)	Serious

50	Incurring exposures to related parties which in aggregate exceed fifteen percent of the licensee's capital base.	Regulation 4(1)	Serious
51	Incurring large exposures which in aggregate exceed eight hundred percent of the licensee's capital base.	Regulation 6	Very Serious
52	Failure to implement and maintain internal policies and internal limits and or to review internal policies.	Regulations 9 and 10	Serious
53	Failure by a licensee to report all large exposures to the Inspector when required by the Central Bank and in the manner required by the Inspector.	Regulation 11	Very Serious
54	Failure by a licensee to notify the Inspector of any breach of regulations 3, 4 or 6 pursuant to regulation 12.	Regulation 12	Very Serious
55	Failure by a licensee to provide the Inspector with particulars of any breach of regulations 3, 4 or 6 in the manner determined by the Inspector, within two working days after breaching the regulations.	Regulation 12	Very Serious
56	Failure by a licensee to take immediate action to bring the exposure, which results in a breach of regulations 3, 4 or 6, within established limits, within ten working days of the breach.	Regulation 12	Very Serious
57	Failure by a licensee to take any remedial action required by the Inspector to ensure compliance with regulations 3, 4 or 6.	Regulation 14	Very Serious
BANKS AND TRUST COMPANIES (PRIVATE TRUST COMPANIES and QUALIFIED EXECUTIVE ENTITIES) REGULATIONS 2025			
58	Failure by a Registered	Regulation 4, or 5	Very Serious

	Representative to certify that a trust company or an Executive Entity for which it provides services qualifies for an exemption, on time.		
59	Failure of a Registered Representative to restrict its business to the provision of Registered Representative services only.	Regulation 6	Very Serious
60	Failure by a Registered Representative to submit its annual Certification, on time.	Regulation 7(3)	Minor
61	Amendment by a Private Trust Company of its Memorandum or Articles of Association in a manner inconsistent with the definition of private trust company as set out in the Act.	Regulation 9(1)	Minor
62	Amendment by a Qualified Executive Entity of its Charter or Articles in a manner inconsistent with the definition of Qualified Executive Entity as set out in the Act.	Regulation 9 (2)	Minor
63	Failure by a Private Trust Company or Qualified Executive Entity to notify the Central Bank of amendments to prescribed documents on time.	Regulation 9 (3)	Minor
64	Failure by a Private Trust Company or Qualified Executive Entity to maintain prescribed documents.	Regulation 10 (1)	Serious
65	Failure by a Private Trust Company to have at least one Special Director where an officer of a licensee is not its Registered Representative.	Regulation 10(2)(a)	Serious
66	Failure by Qualified Executive Entity to have at least one Special Officer or Special Council Member	Regulation 10(2)(b)	Serious

	where an officer of a licensee is not its Registered Representative.		
67	Failure by a Qualified Executive Entity to notify the Inspector of the matters prescribed in regulation 10(4), on time.	Regulation 10 (4)	Minor
68	Failure by a Registered Representative to notify the Inspector that a private trust company or a qualified executive entity has ceased to meet the requirements of regulation 3(1), or to provide the Inspector with prescribed documents, on time.	Regulation 12(a) and or 12(b)	Minor
69	Providing the services of a Registered Representative without being registered by the Central Bank.	Regulation 13	Very Serious
70	Failure by a Registered Representative to advise changes in particulars provided in its application on time.	Regulation 14(3)	Minor
71	Failure by a Registered Representative to comply with a condition of its registration.	15	Very Serious
72	Failure by a Registered Representative to notify the Inspector of a prescribed change, or with prescribed documents, on time.	Regulation 16(1) and or 16(2)	Minor
73	Failure by a Registered Representative to display its Certificate of Registration.	Regulation 18	Minor
74	Failure of a Registered Representative to obtain the prior approval of the Bank before implementing material changes.	Regulation 19	Serious
75	Failure of a Registered Representative to be in possession of a Designating Instrument.	Regulation 20 (a)	Serious
76	Failure by a Registered Representative to reasonably satisfy itself that the Private Trust	Regulation 20(b)	Very Serious

	Company or Qualified Executive Entity has been established for lawful purposes.		
77	Failure by a Registered Representative to reasonably satisfy itself that the Private Trust Company or Qualified Executive Entity shall operate as a private trust company as defined in section 2 of the Act.	Regulation 20(c)	Serious
78	Failure by a Registered Representative that acts as a Bahamas Agent of a Private Trust Company to enter into a service agreement with the private trust company to provide administrative services.	Regulation 21	Minor
79	Failure by a Registered Representative to obtain from the directors of a Private Trust Company or from the officers or council of a Qualified Executive Entity a duly completed Compliance Certificate on time.	Regulation 23	Minor
80	Failure by a Registered Representative to at all times maintain in The Bahamas copies of the documents specified in regulation 24(a) through (i).	Regulation 24	Very Serious
81	Failure by a Registered Representative to (i) verify the identities of persons listed in regulation 25(a)(i) through (x) and or (ii) make a suspicious transaction report to the Financial Intelligence Unit.	Regulation 25(a)and(b)	Very Serious
BANKS AND TRUST COMPANIES (TEMPORARY BUSINESS CONTINUITY OPERATIONS) REGULATIONS, 2009			
82	Carrying on exempted activities, without being registered or failing to apply for registration, on time.	Regulation 4(1)	Serious

83	Failure by a licensee to notify the Inspector of matters specified in regulation 5(1).	Regulation 5(1)	Serious
84	An exempt person (i) establishing a permanent place of business in The Bahamas; (ii) carrying on any banking or trust business in or from The Bahamas other than the exempted activities; (iii) holding itself out as carrying on any banking or trust business other than the exempted activities.	Regulation 5(2)(a)(b) and (c)	Very Serious
85	Failure by an exempt person to notify the Inspector of changes in the name, address and occupation of any required person on time.	Regulation 5(3)	Minor
86	Failure to comply with any conditions of an extension or series of extensions of the time in which exempted activity may be carried out.	Regulation 8(d)	Minor
BANKS AND TRUST COMPANIES (LIQUIDITY RISK MANAGEMENT) REGULATIONS, 2012			
87	Failure by a licensee to establish and maintain, a liquidity risk management strategy appropriate to the nature, scale and complexity of its activities.	Regulation 3	Serious
88	Failure by a licensee to implement its liquidity risk management strategy and or to review the strategy on a regular basis, and at a minimum, annually.	Regulation 4(a) and 4(b)	Serious
89	Failure by a licensee to implement its liquidity risk management strategy and or to review the strategy on a regular basis, and at a minimum, annually.	Regulation 5(1)	Minor
90	Failure by a licensee to notify the Inspector of any change to its risk management strategy, on time and to provide the Inspector with	Regulation 5(2)	Minor

	a copy of the revised risk management strategy.		
91	Failure by a licensee other than a licensee which is subject to section 18 and 19 of the Central Bank of The Bahamas Act to maintain a liquidity ratio of not less than twenty per cent.	Regulation 6(1)	Minor
92	Failure by a licensee to provide the Inspector with such particulars of its liquidity position, in such manner, frequency and form as may be specified by the Inspector.	Regulation 9(a)	Very Serious
93	Failure by a licensee to immediately inform the Inspector of any concerns it has about its current or future liquidity position as well as plans to address such concerns.	Regulation 9(b)	Very Serious
94	Failure by a licensee to take such remedial action as the Inspector directs to ensure compliance with paragraph (1) of regulation 6.	Regulation 11	Very Serious
THE BAHAMAS CO-OPERATIVE CREDIT UNIONS ACT, 2015 ("Co-operative Credit Unions Act")			
95	A person (other than a registered co-operative credit union) trading or carrying on a business using a name or title including the words "co-operative credit union" or "co-operative credit unions" or any abbreviation of them.	Section 3(2)	Serious
96	Failure to comply with co-operative principles.	Section 4(1)	Serious
97	Failure to comply with a direction of the Central Bank.	Section 5(3)	Very Serious
98	Failure to inform the Central Bank of any change in a co-operative credit union's address, on time.	Section 7(3)	Minor
99	Failure to prominently display certificate of registration.	Section 13	Minor

100	Failure to maintain and/or make available prescribed records.	Section 15	Minor
101	Failure to file annual unaudited financial statements with the Central Bank, on time.	Section 16(3)(a)	Minor
102	Failure to submit quarterly returns to the Central Bank, on time.	Section 16(3)(b)	Minor
103	Failure to submit an annual declaration to the Central Bank, on time.	Section 21	Minor
104	Failure to maintain a register of dormant accounts in the prescribed form.	Section 45(8)	Serious
105	Failure by a board of a credit union to provide the central Bank with access to the books, papers, records and other sources of information of the credit union, as specified by the Central Bank, on time.	Section 47(2)(g)	Serious
106	Failure to notify the Central Bank of any changes in the composition of the board or supervisory or credit committees of the credit union, on time.	section 47(2)(h)	Very Serious
107	Failure by a supervisory committee to immediately inform the Board of the co-operative credit union and the Central Bank in writing of any misappropriation or misdirection of the credit union's funds or securities or of any contravention of the Cooperative Credit Unions Act, or the credit union's bye-laws.	Section 83(1)	Serious
108	Failure by the Board of a co-operative credit union to notify the Central Bank of the appointment of the credit union's auditor, on time.	Section 86(1)	Minor
109	Failure by a co-operative credit union to submit to the Central Bank an annual audited statement	Sections 8 6(7)	Minor

	of accounts and a copy of the auditor's report, on time.		
110	Failure to provide an auditor of a credit union with access to the books, accounts, vouchers or documents of the credit union.	Section 86(8)	Very Serious
111	Failure of an auditor to give notice to the Central Bank pursuant to section 86(9).	Section 86(9)	Minor
112	Failure of an auditor to submit a written report of its findings to the Central Bank, on time.	Section 86(11)	Minor
113	Failure to submit a monthly return to the Central Bank on time.	Section 87(2)	Minor
114	Failure to submit a special return to the Central Bank, on time.	Section 87(3)	Minor
115	Failure to comply with the terms and conditions of an exemption granted by the Central Bank.	Section 87(5)(b)	Serious
116	Failure by a co-operative credit union to provide the Inspector with access to its books, accounts, vouchers or documents, including documents relating to any cash and or securities of the credit union and affiliated companies.	Section 88(3)(a)	Very serious
117	Failure to provide the Inspector with such information or explanation, within the time frame required by the Inspector, as the Inspector may reasonably require for the purpose of enabling him to perform his functions under the Cooperative Credit Unions Act.	Section 88(3)(b)	Serious
118	Failure by an auditor or former auditor of a co-operative credit union to provide the Inspector with such auditor's reports, working papers, information or explanation within the time frame required by the Inspector, as the Inspector may reasonably require	Section 88(3)(c)	Serious

	for the purpose of enabling him to perform his functions under the Cooperative Credit Unions Act.		
119	Failure to comply with a direction issued by the Central Bank.	Section 88(7)	Very serious
120	Disclosure of information relating to (a) the identity, assets, liabilities, transactions or accounts of a member of a co-operative credit union; or (b) any application by any person under the provisions of the Co-operative Credit Unions Act, where such disclosure is made without the express or implied consent of the member.	Section 120	Very serious

THE BAHAMAS CO-OPERATIVE CREDIT UNIONS REGULATIONS 2015 ("Co-operative Credit Unions Regulations")			
121	Failure to notify the Central Bank of inability to meet the statutory reserve allocation requirements under section 65 of the Act or to meet the statutory reserve allocation requirement specified by the Central Bank, on time.	Regulation 14(1)	Very Serious
122	Failure to obtain the prior approval of the Central Bank in the utilization or application of the statutory reserve for the purposes as described in regulation 14(4).	Regulation 14(4)	Very Serious
123	Failure to comply with any restrictions, terms or conditions of the Central Bank imposed in regards to the utilization or application of a credit union's statutory reserve.	Regulation 14(5)	Very Serious

124	Failure to maintain funds of no less than ten percent of its members' deposits in a liquidity deposit fund administered by the Apex Body.	Regulation 15(1)	Very Serious
PAYMENT INSTRUMENTS (OVERSIGHT) REGULATIONS, 2017			
125	Carrying on a business as a payment institution without being licensed by the Central Bank.	Regulation 3	Very Serious
126	Failure of an electronic money issuer to deposit electronic money in a custodian account as prescribed.	Regulation 5(e)	Serious
127	Engaging in any of the activities listed in Regulation 7(1) without being licensed, registered or approved.	Regulation 7(1)	Very Serious
128	Issuing a payment instrument in excess of B$15,000 or allowing such value to be transferred or funded using a payment instrument without the prior approval of the Central Bank.	Regulation 7(2)(a)(ii)	Serious
129	Commingling payment service users' funds with the funds of third parties.	Regulation 7(4)(a)	Serious
130	Failure of a payment institution to have its head office and registered office located within The Bahamas.	Regulation 10(4)	Very Serious
131	Failure by a payment institution to notify the Central Bank in writing of any change in the location of its head office or registered office, on time.	Regulation 10(5)	Minor

132	Failure of a payment service provider to set out the rights and responsibilities of users in contracts.	Regulation 12(1)(a)	Serious
133	Failure of a payment service provider to maintain accurate and complete transaction records of its payment service users at all or for the time stipulated in regulation 12(1)(c).	Regulation 12(1)(c)	Serious
134	Failure by a payment system provider to implement or maintain an adequate fraud and risk management framework.	Regulation 12 (1)(d)	Serious
135	Failure of a payment service provider to publish the terms and conditions for use of its payment instruments and devices.	Regulation 13(3)(a)	Serious
136	Failure of a payment service provider to provide the Central Bank with information on its agents, prescribed by Regulation 15(1).	Regulation 15(1)	Minor
137	Failure of a payment service provider to inform the Central Bank of substantial changes in its agency network, on time.	Regulation 15(2)	Minor
138	Failure of a payment service provider to keep a current list of agents on its website.	Regulation 15(3)	Minor
139	Failure of a payment service provider to ensure that its agents disclose that they are acting on the payment service provider's behalf.	Regulation 15(4)	Minor

140	Failure of a payment institution to publish its audited financial statements and annual reports and other information required by regulations17(1), 17(2) and 17(3), on time.	Regulations 17(1), 17(2) and 17(3)	Minor
141	Failure by a payment institution to replace an auditor at the request of the Central Bank.	Regulation 17(5)	Serious
142	Failure of an auditor or former auditor to give notice to the Central Bank pursuant to regulations 17(6) and 17(7).	Regulations 17(6) and 17(7)	Very Serious

THE BAHAMAS CAPITAL REGULATIONS 2022			
143	Failure of an SFI to maintain an internal capital adequacy assessment program (ICAA P) and implement and maintain adequate capital planning.	Regulation 5(1) (a) and (b)	Serious
144	Failure of a SFI to implement a process for capital planning to enable the SFI to assess its capital adequacy over a three-year period.	Regulation 5 (2) (a) and (b)	Serious
145	Failure of a SFI to maintain an ICAAP that meets the specificities of regulation 5 (3).	Regulation 5 (3)	Serious
146	Failure of a SFI to submit a copy of its ICAAP to the Central Bank, on time.	Regulation 5 (8)	Minor
147	Failure of a SFI to provide the Bank with its minimum capital adequacy ratio, on time.	Regulation 10 (6)	Minor

148	Failure of a SFI to provide the Bank with its capital recovery plan, on time.	Regulation 10(9)	Minor
149	Failure of a SFI to provide the Bank with its leverage ratio, on time.	Regulation 11(3)	Minor
150	Failure by a SFI to comply with any direction issued by the Central Bank pursuant to regulation 11(4).	Regulation 11(4)	Very Serious
151	Failure of a SFI to provide the Central Bank with its capital adequacy calculation on time.	Regulation 27	Minor
152	Failure of a SFI to notify the Central Bank where the SFI believes that (a) a material reduction in capital is likely; (b) a breach of any of its capital requirements is likely; or (c) a material reduction of its total regulatory capital or capital ratio is likely.	Regulation 28	Serious
EXCHANGE CONTROL REGULATIONS ACT			
153	Failure to comply with any order or direction given under the Act.	Section 4 (2)	Very Serious
EXCHANGE CONTROL REGULATIONS			
154	Failure to comply with a restriction or condition imposed by the Controller.	Regulation 35(4)	Very Serious
BAHAMIAN DOLLAR DIGITAL CURRENCY REGULATIONS, 2021			
155	Failure of a wallet provider to notify the Central Bank of any changes in any locations where it offers wallet services/the	Regulation 9 (8)	Minor

	establishment of any new location, within in seven days of the change.		
156	Failure of a wallet provider to establish and maintain (a) prescribed records; (b) procedures to protect and safeguard clients' assets against unauthorized data access by third parties; (c) a framework containing appropriate mitigation measures and control mechanisms to manage operational and security risks.	Regulation 11(1)	Serious
157	Failure of wallet provider to submit a report to the Central Bank at the prescribed intervals and in the correct form.	Regulation 11 (2)	Minor
158	Failure of wallet provider to cause an audit to be conducted annually.	Regulation 11(4)	Very Serious
159	Failure of a wallet provider to submit a certificate received from the auditor within 7 days following the audit, to the Central Bank, in the manner specified in the Schedule.	Regulation 11 (5)	Minor
160	Failure of a wallet provider to give the Central Bank immediate written notice of major operational and security incidents; or	Regulation 11 (7) (a)	Very Serious

161	Failure to perform a root cause analysis of any cybersecurity incident and submit the report in the prescribed form to the Central Bank.	Regulation 11 (7) (b)	Serious