

BELIZE:

INTERNATIONAL BANKING (AMENDMENT) ACT, 2020

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No. 1 of 2020

I assent,

(SIR COLVILLE N. YOUNG)

Governor-General

10th January, 2020

AN ACT to amend the International Banking Act, Chapter 267 of the Substantive Laws of Belize, Revised Edition 2011; to improve the measures for supervision and oversight of international banks; to enhance procedures for intervention in the affairs of and other resolution action in relation to international banks; and to provide for matters connected therewith or incidental thereto.

(Gazetted 18th January, 2020.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows—

1. This Act may be cited as the

INTERNATIONAL BANKING (AMENDMENT)
ACT, 2020,

Short title.
CAP. 267.
10 of 2012.
49 of 2017.

and shall be read and construed as one with the International Banking Act, which, as amended, is hereinafter referred to as the principal Act.

Amendment of
section 2.

2. Section 2 of the principal Act is amended by inserting next after the definition of “affiliate” the following—

Amendment of
section 2.

““borrower group” includes—

- (a) a family group comprising an individual and his spouse, parents, children and dependants of the individual;
- (b) a company in which the family group indicated in paragraph (a) has controlling interest;
- (c) a company in which the family group indicated in paragraph (a) has a substantial investment;
- (d) a group of companies which has a common shareholder with substantial investment;
- (e) a group of companies which has a common controlling interest;
- (f) a group of persons in which the credit worthiness, ability to generate funds or the future viability of each, depends on one or other members of the group;
- (g) a group of persons in which one member has power directly or indirectly to control the other members;
- (h) two or more borrowers, whether individuals, companies, other incorporated bodies or unincorporated bodies, whether on a joint or separate basis, who, in the opinion of the

Central Bank, are interrelated through common ownership, control or management;

- (i) any other group of persons whose relationship with each other is such that it may, in the opinion of the Central Bank, lead to a conflict of interest or other regulatory risk; ”.

3. Section 4 of the principal Act is amended by deleting the word “offshore” wherever it appears and substituting the word “international”.

Amendment of section 4.

4. Section 6 of the principal Act is amended by deleting the word “offshore” and substituting the word “international”.

Amendment of section 6.

5. Section 7 of the principal Act is amended by inserting next after subsection (2) the following as subsection (2A)–

Amendment of section 7.

“(2A) In determining, for the purposes of subsection (2), the matter of fitness and propriety of any individual to hold, or be the beneficial owner of, shares in the applicant as a prospective licensee or to be a director or officer of the applicant as a prospective licensee, the Central Bank may consider such of the following as the Central Bank considers appropriate–

- (a) the probity of the individual;
- (b) the background, experience, integrity, competence and soundness of judgment of the individual;
- (c) whether the individual is of good repute, having regard to the person’s character, honesty and integrity and whether the person has been convicted of an offence under the provisions of this Act, the Central Bank of Belize Act, the Domestic Banks and Financial

Institutions Act or Money Laundering & Terrorism (Prevention) Act or otherwise, for an offence involving dishonesty, fraud, deception, or breach of trust;

- (d) the diligence with which the individual is fulfilling or is likely to fulfil the responsibilities of the position in question;
- (e) whether the individual is of sound and stable financial background having regard to matters such as whether the person has been adjudicated bankrupt and whose bankruptcy still subsists;
- (f) whether the interest of depositors or potential depositors of the licensee are, or are likely to be, in any way threatened by the individual holding the position;
- (g) whether the individual has been a director of, or was directly involved in management of a bank or financial institution whether situated in Belize or otherwise whose registration or licence has been cancelled or revoked; or
- (h) any other matters that the Central Bank considers appropriate.”.

Amendment of section 10.

6. Section 10 of the principal Act is amended by deleting the word “offshore” wherever it appears and substituting the word “international”.

Amendment of section 15.

7. Section 15 of the principal Act is amended by deleting the word “offshore” wherever it appears and substituting the word “international”.

Insertion of new section 18A.

8. The principal Act is amended by inserting next after section 18 the following as section 18A–

“Statutory
reserve.
Act No. 11 of
2012.

18A.–(1) Subject to the provisions of subsection (2), section 38 of the Domestic Banks and Financial Institutions Act, shall apply to international banks as it applies to licensees under that Act.

(2) The abovementioned section shall be read–

- (a) in the case of a foreign licensee, as though references to the “foreign licensee” or “licensee” were references to the business, operations and undertaking in Belize, of the international bank that is a foreign licensee;
- (b) as though references to the fully-paid up capital or fully-paid up assigned capital of a licensee were references to the fully paid up and unimpaired capital and reserves of the licensee;
- (c) with such other similar changes as the Central Bank considers fit.”.

9. Section 21A (3) of the principal Act is amended by deleting the words “one year” wherever it appears and substituting the words “ninety days”.

Amendment of
section 21A.

10. Section 21B of the principal Act is amended–

Amendment of
section 21B.

(a) in subsection (1), by–

- (i) deleting the word “bank” and substituting the word “licensee”; and
- (ii) deleting the words “a licensee” and substituting the words “the licensee”;

- (b) by deleting subsection (2) and substituting the following–

“(2) Except with the permission in writing of the Central Bank, the aggregate amount of all loans, advances and extensions of credit granted by a licensee to a person shall not exceed twenty-five per centum of the fully paid-up and unimpaired capital and reserves of the licensee, without regard to the limitations under subsection (1).”; and

- (c) in subsection (3)(b), by deleting the definition of “person” and substituting the following–

““person” includes a borrower group.”.

Amendment of
section 21C.

11. Section 21C of the principal Act is amended–

- (a) by deleting the word “bank” wherever it appears and substituting the word “licensee”;
- (b) by inserting next after subsection (1) the following as subsection (1A)–

“(1A) A licensee shall not make or permit to be outstanding secured loans, advances or extensions of credit to, guarantees on behalf of, or investments in the securities of a related party or a related group in an aggregate amount that exceeds fifteen per centum of the licensee’s unimpaired capital and reserves.”; and

- (c) by inserting next after subsection (3) the following as subsection (4)–

“(4) Subject to the prior approval in writing of the Central Bank, the limitations contained in the

preceding subsections shall not apply to loans, advances or extensions of credit by a licensee to a related party that is a domestic bank and a subsidiary of the licensee.”.

12. Section 21D (2) of the principal Act is amended–

Amendment of section 21D.

- (a) by deleting the word “bank” wherever it appears and substituting the word “licensee”; and
- (b) in subsection (2) by inserting next after the words “failure to comply” the words “, and the licensee in breach of the prescribed limitation is liable to a deduction from its unimpaired capital and reserves of the amount that exceeds the prescribed limitation” .

13. The principal Act is amended by inserting next after section 21D the following as Part IIIA–

Insertion of new Part IIIA.

“PART IIIA

Central Bank Support

Central Bank transactions with licensees.

21E.–(1) The Central Bank may purchase from, sell to, and rediscount on behalf of licensees bills of exchange, promissory notes and other credit instruments bearing at least the endorsement of a bank or other financial institution specified in subsection (2), maturing within ninety days from the date of rediscount or acquisition by the Central Bank and issued or made for the purpose of financing–

- (a) the importation or exportation of goods and products;
- (b) the trading of goods and products within Belize;

- (c) the storage of goods and products which are not perishable and which are duly insured or deposited under conditions assuring their preservation in warehouses approved for the purposes of the Customs Regulation Act, or in other places approved by the Central Bank; or
- (d) industrial or agricultural production in Belize.

(2) A bank or other financial institution referred to in subsection (1) is one that is duly licensed, regulated and subjected to examinations by an established banking or financial services regulatory or supervisory body.

(3) Notwithstanding subsection (1) the Central Bank may require the credit instruments accepted by it under this section to be secured by a pledge, hypothecation or assignment of the related products or crops.

Loans, etc. by
the Central
Bank

21F. –(1) The Central Bank may grant loans or advances for fixed periods not exceeding six months to licensees that pledge the following as collateral security for such loans and advances–

- (a) credit instruments specified in section 21E;
- (b) negotiable securities of the Government of Belize.

(2) Notwithstanding subsection (1), the Central Bank may, with the approval of the Minister, grant loans and advances therein referred to, for such longer period as may be approved by the Minister. ”.

14. Section 24 (1) of the principal Act is amended by deleting from paragraph (a) the words “ section 7 of the Banks and Financial Institutions Act, Cap. 263” and substituting the words “ section 19 of the Domestic Banks and Financial Institutions Act”.

Amendment of section 24.

Amendment of section 24.

15. Section 25 of the principal Act is amended–

Amendment of section 25.

(a) in subsection (1), by deleting the words “The Minister may, on recommendation from the Central Bank,” and substituting the words “The Central Bank, with the approval of the Minister, may”; and

(b) by inserting next after subsection (2) the following–

“(3) The Central Bank may, in its absolute discretion, where it considers it appropriate to do so, give prior notification of its intention to revoke a licence.”.

16. Section 27 of the principal Act is amended–

Amendment of section 27.

(a) by repealing subsection (1) and substituting the following–

“(1) If in the opinion of the Central Bank, a licensee is carrying on his business in a manner detrimental to the public interest or to the interest of depositors, creditors and other customers, or has insufficient assets to cover his liabilities,

or is contravening any of the provisions of this Act, or regulations thereunder, the Central Bank may take one or more of the following measures from time to time as may seem to the Central Bank to be necessary—

- (a)* revocation of the licence under section 25, with the Minister’s approval;
 - (b)* impose new conditions upon the licence or amend or revoke existing conditions;
 - (c)* require the removal or substitution of any director or officer of the licensee;
 - (d)* at the expense of the licensee, appoint a person, who, in its opinion, has adequate training and experience, to advise the licensee on the proper conduct of its affairs and to report to him thereon within such time as maybe specified; or
 - (e)* require the licensee forthwith to take such measures as Central Bank may consider necessary in relation to the licensee’s business.”;
- (b)* in subsection (2), by deleting the word “he” and substituting the word “it”; and
- (c)* by inserting next after subsection (2) the following subsections—

“(3) Where action is taken under subsection (1) the licensee shall not, without the consent of the Central Bank, make any payment, directly or indirectly, to or for the benefit of any person who is or was an officer or a related party of the licensee.

(4) For the purposes of this section, the following persons shall be treated as being related parties of a given licensee (“L”) and the licensee with them, and shall be so treated, notwithstanding that at the relevant time any of the persons in question, not being individuals, had not yet come into existence or had ceased to exist–

- (a) an affiliate of L;
- (b) any company that together with L constitute a group;
- (c) an individual who is a director, manager or a person who has control of L or any partner or any immediate relative of such director, manager or person;
- (d) the ultimate holding company of L;
- (e) substantial shareholders of L;
- (f) the ultimate beneficial owners of any substantial shareholding in L, whether under a trust or other legal arrangement or through any direct or indirect shareholding; and
- (g) any other person identified by the Central Bank to be a person who should be treated as connected to L by virtue of that person’s relationship with L.

(5) A company is the holding company of a company that is its immediate, intermediate or ultimate subsidiary whether the holding company holds that other company’s shares on trust or is the beneficial owner of the shares.”.

Amendment of section 28.

17. Section 28 of the principal Act is amended by deleting the words “Part X of the Banks and Financial Institutions Act, Cap.263” and substituting the words “Part XIII of the Domestic Banks and Financial Institutions Act”.

Insertion of new section 34A.

18. The principal Act is amended by inserting immediately after section 34 the following as section 34A–

“Statutory administration. Act No. 11 of 2012.

34A.–(1) Subject to the provisions of subsection (2), Part X of the Domestic Banks and Financial Institutions Act, shall apply to international banks as it applies to licensees under that Act.

(2) The abovementioned Part shall be read–

(a) as though the references in section 86 (1) (h) to sections 75, 80 and 82 were references respectively to sections 30, 32 and 33 of this Act;

(b) as though the references in section 98 (2) (b) to sections 19 and 106 were references respectively to sections 25 and 38 of this Act.”.

Amendment of section 38.

19. Section 38 of the principal Act is amended by deleting the words “Part VIII of the Banks and Financial Institutions Act, Cap.263” and substituting the words “Part XI of the Domestic Banks and Financial Institutions Act”.

Amendment of section 39.

20. Section 39 of the principal Act is amended by deleting the words “Part IX of the Banks and Financial Institutions Act, Cap.263” and substituting the words “Part XII of the Domestic Banks and Financial Institutions Act”.

21. The principal Act is amended by deleting the term “Banks and Financial Institutions Act” wherever it appears and substituting the term “Domestic Banks and Financial Institutions Act”.

Amendment of term.

22.-(1) This section applies to an international bank that, immediately prior to the commencement of this Act, was licensed under the principal Act (hereinafter referred to as an “existing licensee”) and whose operations are at that date not compatible with section 18A or 21C (1A) or both.

Transitional provision.

(2) An existing licensee shall not be regarded as being non-compliant with any of the provisions specified in subsection (1) during the period of six months after the commencement date; however the existing licensee shall, within that period, submit in writing to the Central Bank a programme for bringing the existing licensee into compliance within such period as may be agreed with the Central Bank, or as the Central Bank may specify.

23. This Act comes into force on a date appointed by the Minister by Order published in the *Gazette*.

Commencement.