

**BELIZE:**

**DOMESTIC BANKS AND FINANCIAL INSTITUTIONS  
(AMENDMENT) (NO.2) BILL, 2023**

**ARRANGEMENT OF CLAUSES**

1. Short title.
2. Amendment of section 2.
3. Repeal and replacement of section 29.
4. Insertion of new sections 29A and 29B.
5. Amendment of section 57.
6. Amendment of section 129.
7. Insertion of new Schedule III.

**BELIZE:**

**BILL**

**for**

**AN ACT** to amend the Domestic Banks and Financial Institutions Act, Chapter 263 of the Substantive Laws of Belize, Revised Edition 2020, to amend the measures for single borrower limits among banks and financial institutions; to improve measures for mergers and acquisitions among other banks and financial institutions; and to provide for matters connected therewith or incidental thereto.

*(Gazetted .....2023).*

**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:

Short title.

**1.** This Act may be cited as the

**DOMESTIC BANKS AND FINANCIAL INSTITUTIONS  
(AMENDMENT) (NO. 2) ACT, 2023,**

CAP. 263.

and shall be read and construed as one with the Domestic Banks and Financial Institutions Act, which, as amended, is hereinafter referred to as the principal Act.

Amendment of section 2.

**2.** The principal Act is amended in section 2 by inserting the following terms and their corresponding definitions in their proper alphabetical sequence—

“**acquisition**” means the act of acquiring, directly or indirectly, whether by purchase, assignment or by any other means whatsoever, of any shares, assets, or liabilities of a licensee and, where the context so requires, any form of the term “acquisition” including “acquired” “acquires” or “acquiring” shall be construed accordingly and an acquisition of shares may be of a minority or a majority of the shares in the acquired licensee.

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**“consolidation”** means an amalgamation or joining of one or more entities where such constituent entities cease to exist and are replaced by a new successor entity;

**“merger”** means an amalgamation or joining of one or more entities, so that one such constituent entity shall continue in existence as the surviving entity;”.

**3.** The principal Act is amended by repealing section 29 and replacing it with the following—

Repeal and replacement of section 29.

“Acquisition and holding of shares, assets, and liabilities.

**29.—(1)** No person shall, acting directly or indirectly, alone or acting together with one or more affiliates or relatives or related parties, acquire or hold any share in a local licensee—

(a) who has had any judgment (including a consent judgment) made against him or any penalty or fine imposed upon him by any court or other competent judicial authority in any country in any matter involving fraud, deception, dishonesty or breach of trust; or

(b) who is not a fit and proper person pursuant to section 5.

(2) No person shall, acting directly or indirectly, alone or together with one or more affiliates or relatives or related parties, without prior written approval of the Central Bank, acquire—

(a) more than ten percent of any class of voting shares of a local licensee;

(b) exercise of control, in any manner, over any voting shares of a local licensee where such acquisition would give the person exercise of control over more than ten percent of—

(i) any class of voting shares;

(ii) the total votes attached to all outstanding voting shares; or

(c) control of a local licensee;

(d) an ownership interest, including without limitation through merger or consolidation, in an entity which holds (directly or indirectly) shares in a local licensee where this would result in a change in the beneficial

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ownership of ten percent or more of the shares or voting rights in a licensee.

(3) No person who has obtained the written approval of the Central Bank pursuant to paragraph (2)(a) or (c) shall increase that shareholding, by ten percent or more of any class of voting shares without the prior written approval of the Central Bank.

(4) Any person seeking written approval of the Central Bank pursuant to sub-section (2) or (3) shall submit to the Central Bank an application containing such information and in such form as the Central Bank may specify.

(5) In determining whether to approve the application of the proposed acquirer, the Central Bank shall take into account such relevant matters including, without limitation—

- (a) the criteria set out in Schedule III;
- (b) the size and concentration of economic power in the combination of the proposed acquirer and the licensee, holding company or the financial holding company of the licensee; and
- (c) whether the business or a part of the business of the acquirer, licensee, holding company, or financial holding company of the licensee has failed or is being conducted in an unlawful or unsound manner or is otherwise in an unsound condition.

(6) In considering the criteria referred to in sub-section (7), the Central Bank shall take into account, without limitation—

- (a) the combined market share in Belize of the licensee and any financial entity affiliated with the licensee, the proposed acquirer, and any financial entity that is affiliated with the proposed acquirer; and
- (b) whether the size of, and concentration of economic power in, the combination of the proposed acquirer and the licensee will prevent or lessen substantially, or is likely to prevent or lessen

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substantially, competition in the financial services industry in Belize.

(7) Where the market share of assets of—

- (a) the entity being acquired, or the entity whose assets or liabilities or both, are being acquired, amounts to 15% or more; or
- (b) the entity acquiring the shares, assets, and or liabilities of another entity amounts to 25% or more,

the Central Bank in determining whether to approve the proposed acquisition, shall take into account the public interest, which shall include, without limitation—

- (i) the interest of the financial services industry in Belize;
- (ii) the interest of consumers of financial services in Belize; and
- (iii) paragraphs *H* and *I* in Schedule III.

(8) The Central Bank may refuse to accept an application which does not contain all information required under sub-section (4).

(9) Subject to sub-section (5), after due consideration of the matters referred to in sub-section (7), the Central Bank shall—

- (a) approve the proposed acquisition subject to such conditions, requirements or restrictions as the Central Bank deems appropriate and may at any time, add to, vary or revoke any condition; or
- (b) refuse to approve the proposed acquisition.

(10) Where the Central Bank refuses to approve the proposed acquisition pursuant to an application submitted under section 29,

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the applicant(s) may appeal against the decision under section 129(j).

(11) Where the proposed acquisition has been approved by the Central Bank, from the date that the acquisition takes effect, the Central Bank may grant a transitional period for the applicant or licensee, as may be applicable, to comply with the provisions of sections 57 (1) and (2), 58 (1) and (2), 59 (1) and 66 of the Act, subject to such terms and conditions as may be specified in the approval.

(12) A person who contravenes sub-section (10) or (11) or who breaches any condition requirement or restriction attached to an approval under sub-section (5)(c) or (7)(c), commits an offence against this Act or any regulations made hereunder and is liable on summary conviction to a fine not exceeding twenty five thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, and, if the offence is a continuing offence, to a further fine not exceeding ten thousand dollars for every day during which the offence continues.

(13) Where the Central Bank is of the opinion that the interests of a group of two or more persons are so interrelated that they should be considered as a single unit, the total shareholdings in the local licensee of that group shall be combined and deemed to be the holdings of a single person for purposes of this section.

(14) A person who has received the approval of the Central Bank under sub-section (9) shall at all times during which the person holds the investment, control or increased investment, continue to be a fit and proper person pursuant to section 5.

(15) In every case where—

- (a) the provisions of sub-section (1), (2) or (3) have been violated, including through the acquisition of shares or other means of control in other corporate bodies, entities or business enterprises in or outside of Belize;
- (b) the information submitted in the application is false or misleading or incomplete;
- (c) the “fit and proper person” requirements of this Act have not been satisfied or have ceased to be satisfied;

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- (d) there is a contravention of any of the conditions imposed under sub-section (9); or
- (e) the Central Bank would not have granted its approval under this section had it been aware, at that time, of circumstances relevant to the shareholder's application for such approval, the Central Bank may, by written directive, require the shareholder in question to divest all or a specified proportion of the shares held by that person in the local licensee.

(16) The Central Bank shall notify the local licensee and the shareholder in writing of any divestment order that the Central Bank proposes to make under sub-section (15) and shall afford them an opportunity within fourteen days after the date of the notice, or within any longer period that the Central Bank may allow, to make representations to the Central Bank in relation to the matter.

(17) Where the Central Bank is of the opinion that the public interest may be prejudiced by the shareholder continuing to exercise any shareholder rights attached to the shares to be divested (including, but not limited to, the right to attend or vote at meetings of the shareholders) during—

- (a) the period for making representations specified in sub-section (16);
- (b) the period preceding the decision of the Appeal Board where an appeal has been taken to the Appeal Board pursuant to sub-section (19);
- (c) the period preceding the decision of the High Court where an application has been made to the High Court by the Central Bank pursuant to sub-section (21); or
- (d) the period preceding the decision of the Court of Appeal or the Caribbean Court of Justice where an appeal has been made to the Court of Appeal or the Caribbean Court of Justice against a decision of the High Court made under sub-section (21), the Central Bank may make an order prohibiting the shareholder from exercising any such rights until final determination of the matter.

(18) The Central Bank shall without delay, notify the shareholder and the local licensee of a divestment order made under

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sub-section (15). The divestment order shall specify a reasonable period within which the shareholder shall take steps as are necessary to divest the shares.

(19) The shareholder may appeal the matter to the Appeal Board within thirty days after the date of receipt of a notice of the divestment order under sub-section (18), or within any longer period that the Appeal Board may allow.

(20) The Appeal Board may dismiss the appeal or set aside the divestment order.

(21) In the event that a shareholder—

- (a) fails to appeal to the Appeal Board pursuant to sub-section (19) within the time period or any extension there of referred to in that sub-section; or
- (b) has taken such an appeal to the Appeal Board, and the appeal has been dismissed, and the shareholder fails to comply with a divestment order made under sub-section (15), the Central Bank may, without prejudice to any other remedy available under this Act or any other law, apply to the High Court for such Orders as may be necessary for enforcing the divestment order.

(22) Without limiting the generality of sub-section (21), the Order of the High Court may include an Order conferring on the Registrar of the Court authority to do any act or take any step necessary to secure compliance with the divestment order.

(23) Any person who acquires—

- (a) any share of,
- (b) exercise of control over any share of,
- (c) a substantial investment in, or (d) control of,

a local licensee or increases a shareholding in a local licensee in contravention of this section, or does not comply with any condition of the Central Bank imposed under sub-section (7) or an order or directive of the Central Bank made under sub-section (15), commits an offence and is liable, in addition to any other penalty provided for in this Act or any other law, to pay on summary conviction a penalty not exceeding ten thousand dollars for every day the offence



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continues or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.

(24) The authority conferred on the Central Bank under this section shall be in addition to and shall not derogate from any other authority, power or duty conferred on the Central Bank under this Act or any other law.

(25) A local licensee shall by notice in writing require its registered shareholders to submit, within such time and in such form as may be specified by the local licensee, the names of the ultimate beneficial owners of the shares registered in their names.

(26) Where a local licensee has reason to believe that the registered owner of any of its shares has transferred or agreed to transfer to any other person ownership or control of any of the rights associated with the shares (including, but not limited to, the right to attend or vote at meetings of shareholders), the local licensee may, by notice in writing, require any such shareholder or other person to submit to the local licensee within such time and in such form as may be specified—

- (a) a statement disclosing the particulars of any such transfer or agreement to transfer; and
- (b) copies or particulars of any agreement, transfer form, correspondence, writing or other document in the possession, control or knowledge of the person relative to such transfer or agreement to transfer.

(27) Any person who fails to comply with the requirements of a notice issued under sub-section (25) or (26) or who provides inaccurate, incomplete or misleading information or documentation in response thereto commits an offence and is liable, in addition to any other penalty provided for in this Act or any other law, to pay on summary conviction a penalty not exceeding ten thousand dollars for every day the offence continues or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.

(28) Where a penalty has been imposed under sub-section (27) and, in the absence of a stay of execution of the penalty by a competent authority or the proper filing of an appeal against the penalty, the fine has not been paid or the period of imprisonment commenced within 90 days of the imposition of the penalty, the Central Bank may apply to the High Court for an order for the

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disposal of shares on such terms and conditions as the High Court deems appropriate.”

Insertion of new sections 29A and 29B.

**4.** The principal Act is amended by inserting immediately after section 29, the following new sections—

“Mergers . **29A.**—(1) Except with the prior written approval of the Central Bank, no licensee shall merge or consolidate with any other licensee, with an international bank licensed under the International Banking Act or with any other entity whatsoever.

(2) An application for approval under sub-section (1) shall be made in writing, jointly, by all the constituent companies proposing to merge or consolidate and submitted to the Central Bank together with a copy of the agreement(s) governing the merger or consolidation, and such further information as the Central Bank may require.

(3) A merger or consolidation agreement submitted to the Central Bank pursuant to sub-section (2), shall not be amended without the prior written approval of the Central Bank.

(4) In determining whether to approve a proposed merger or consolidation, the Central Bank shall take into account such relevant matters including, without limitation—

- (a) the terms of the merger agreement and any amendments thereto;
- (b) the criteria set out in Schedule III as it applies to the proposed surviving or new consolidated company;
- (c) the size and concentration of economic power in the proposed surviving company or new consolidated company; and
- (d) whether the business or a part of the business of:
  - (i) any of the constituent companies; or
  - (ii) any affiliate of a constituent company

has failed or is being conducted in an unlawful or unsound manner or is otherwise in an unsound condition.

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(5) In considering the criteria referred to in subsection (4)(c), the Central Bank shall take into account, without limitation—

- (a) the size of the proposed surviving company or new consolidated company in terms of any combined market share that will be serviced or controlled by the proposed surviving or new consolidated company in Belize;
- (b) the size of any of the affiliates of the proposed surviving company or new consolidated company; and
- (c) whether such size and concentration will prevent or lessen substantially, or is likely to prevent or lessen substantially, competition in the financial services industry in Belize.

(6) Where the market share of assets of any licensee participating in a merger or consolidation constitutes 15% or more, the Central Bank in determining whether to approve the proposed merger or consolidation, shall take into account the public interest, which shall include, without limitation—

- (a) the interest of the financial services industry in Belize;
- (b) the interest of consumers of financial services in Belize; and
- (c) paragraphs *H* and *I* in Schedule III.

(7) After due consideration of all relevant matters the Central Bank shall—

- (a) approve the proposed merger or consolidation subject to such conditions, requirements, or restrictions as the Central Bank deems appropriate; or
- (b) refuse to approve the proposed merger or consolidation.

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(8) Where the Central Bank refuses to approve the proposed merger or consolidation, pursuant to an application submitted under section (29), the applicant may appeal the decision under section 129(k).

(9) Where the proposed merger or consolidation has been approved by the Central Bank, from the date that the merger takes effect the Central Bank may grant a transitional period for the surviving or consolidated company to comply with the provisions of sections 57 (1), 57(2), 58 (1) and (2), 59 (1) and 66 of the Act, subject to such terms and conditions as may be specified in the approval.

(10) A person who contravenes sub-section (1) or (2) or who breaches any condition or restriction attached to an approval to merge or consolidate, commits an offence against this Act or any regulations made hereunder, is liable on summary conviction to a fine not exceeding twenty five thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, and, if the offence is a continuing offence, a further fine not exceeding ten thousand dollars for every day during which the offence continues.

Vesting  
Order for  
mergers and  
acquisitions.

**29B.**– (1) Where an application for merger or consolidation which may require that assets and/or liability be transferred to the acquiring entity, has been approved by the Central Bank, the applicant for the purpose of effecting the transfer and the vesting of the acquisition, shall make an application to the House of Representatives for a Vesting Order to be enacted. The notice of application shall be published in the Gazette and in at least two daily newspapers published and circulated in Belize.

(2) Upon the making of such an application, the House of Representatives may, make an order under this Part called a “Vesting Order”, transferring to and vesting to the applicant or acquirer, as from the appointed day, and thereupon all such existing property, rights, liabilities, and obligations as are intended by the agreement governing the merger or consolidation, from the licensee being acquired to the entity acquiring the interest.

(3) No transfer or vesting effected by a Vesting Order shall–

- (a) operate as a breach of covenant or condition against alienation;
- (b) give rise to any forfeiture; or
- (c) invalidate or discharge any contract or security.”

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5. The principal Act is amended in section 57– Amendment of section 57.
- (a) in sub-section (2)–
    - (i) by deleting the phrase “Except with the permission in writing of the Central Bank, the” and replacing it with the word “The”;
    - (iii) by deleting the word “all”.
  - (b) in sub-section (4)–
    - (i) in the chapeau–
      - (aa) by deleting the dash occurring after the word “for”;
      - (bb) by inserting immediately after the word “for”, the phrase “any amount in excess of the limit prescribed under sub-section (2) in the case of a local bank, or of the assigned capital and reserves, in the case of a foreign bank.”
    - (ii) by repealing paragraphs (i) and (ii);
  - (c) in sub-section (5), by repealing paragraphs (b) and (d).
6. The principal Act is amended in section 129– Amendment of section 129.
- (a) in paragraph (f), by deleting the phrase “section 29 (10)” and replacing it with the phrase “section 29(15)”;
  - (b) in paragraph (j), by deleting the full stop and replacing it with a semi colon;
  - (c) by inserting immediately after paragraph (j), the following–
    - “(k) to refuse to approve an application for an acquisition made under section 29;
    - (l) to refuse to approve an application for a merger or consolidation made under section 29A;

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may appeal the decision to the Appeal Board.”

Insertion of new  
Schedule III.

**7.** The principal Act is amended by adding immediately after Schedule II, the following new Schedule III–

“SCHEDULE III

[sections 29A (4) (b) and 29(B) (3)(a)]

**A. Legislative Requirements**

1. The regulatory framework governing mergers and acquisitions involving licensees and international banks is governed generally by the following pieces of legislation–

(a) the Domestic Banks and Financial Institutions Act and Practice Directions;

(b) the International Banking Act and Circulars;

(c) the Credit Unions Act;

(d) the Foreign Exchange Act and Directions; and

(e) the Money Laundering and Terrorism (Prevention) Act and accompanying guidelines;

**B. Terms and Conditions**

1. Conditions may be applied to any approval issued by the Central Bank as they allow the Central Bank to impose certain terms, conditions, requirements, and restrictions in order to strengthen its supervision and oversight, or further mitigate some identified risk. The Central Bank would discuss the conditions to be imposed and their rationale with the applicants.

2. The types of terms and conditions that may be included may seek to give the Central Bank the ability to, inter alia—
  - (a) assess the implications of any proposed merger and or acquisition from both a micro and macro view point;
  - (b) request information to determine the condition of any entity within the group;
  - (c) restrict certain intra-group transactions;
  - (d) impose special reporting requirements; and
  - (e) examine the affairs of unregulated entities within the financial group to assess the risk that the entity can pose to the group.

**C. Substantial and Controlling Shareholder**

1. Approval is required to become a controlling shareholder of a licensee where—
  - (a) the voting rights attached to the aggregate of any voting shares of the body corporate controlled or beneficially owned by the person, who either alone or with one or more affiliates or relatives or related parties and by any entity controlled by the person exceed ten per cent of the voting rights attached to all of the outstanding voting shares of the body corporate;
  - (b) the aggregate of any shares of the body corporate controlled or beneficially owned by the person, who either alone or with one or more affiliates or relatives or related parties and by any entity controlled by the person represents ownership of greater than ten per cent of the shareholders' equity of the body corporate;
  - (c) have the power to ensure that the business of the licensee is conducted in accordance with its wishes;

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(d) the power to participate in the financial and operating policy decisions of an entity; and

(e) have the power to elect directors of the licensee.

**D. Financial soundness risk assessment**

1. Includes an assessment of inter alia, asset quality, funding, debt, deposit liabilities, capital, liquidity, earnings, and profitability;
2. Determine the financial soundness and risks of the entities being merged, the proposed merged entity, and the controlling and significant shareholders of the proposed merged entity;
3. Determine whether the financial institution would have adequate capital to meet regulatory requirements and its own internal capital targets or requirements, taking into account its risk profile, following any material change in its structure;
4. Determine whether the dividend policy of the applicant or acquirer or the proposed dividend policy for the entity being merged or acquired would impact its ability to meet regulatory capital requirements or its own internal capital targets;
5. Determine the source of funds for the purchase price of the shares of the entity being acquired;
6. Whether the nature of the financing would result in the applicant or acquirer or the parties to the merger or acquired being overleveraged; and



7. Determine whether the sale or transfer of assets would weaken the viability of the licensee in the long-term.

**E. Corporate governance risk assessment (Fit and Proper)**

1. Every person who is, or is to be, a director, controlling shareholder, significant shareholder, acquirer, director, or officer of the licensee must be a fit and proper person to hold the particular position which he holds or is to hold;
2. In determining whether an individual is a fit and proper person to hold any particular position, regard shall be made to his probity, to his competence and soundness of judgment for fulfilling the responsibilities of that position, to the diligence with which he is fulfilling or likely to fulfill those responsibilities and to whether the interests of depositors or potential depositors of the licensee are, or are likely to be, in any way threatened by holding that position; and
3. Without prejudice to the generality of the foregoing provisions, regard may be made to the previous conduct and activities in business or financial matters of the individual in question and to any evidence that he has:
  - (a) been convicted of an offence involving fraud or other dishonesty or violence;
  - (b) contravened any provision made by or under an enactment appearing to the Central Bank to be designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of discharged or undischarged bankrupts;
  - (c) engaged in any business practices appearing to the Central Bank to be deceitful or oppressive or otherwise improper (whether

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- unlawful or not) or which otherwise discredit his method of conducting business;
- (d) an employment record which leads the Central Bank to believe that the person carried out an act of impropriety in the handling of his employer's business; and
  - (e) engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment.
4. In determining whether a company is a fit and proper person to be a controlling shareholder or significant shareholder, regard shall be made to, but not limited by, the following criteria:
- (a) whether the directors of the company have satisfied the fit and proper criteria set out in paragraphs (1) to (3);
  - (b) whether the company has been found guilty of insider trading or fraud involving trading in securities by local or foreign authorities;
  - (c) whether the company has been convicted of an offence under this Act;
  - (d) whether in the opinion of the Central Bank the company has not carried on its business in a prudent manner;
  - (e) whether in the opinion of the Central Bank the company is insolvent or is likely to become insolvent;
  - (f) whether the company has suspended or is about to suspend payment in respect of, or is unable to meet its obligations, as they fall due;
  - (g) whether in the opinion of the Central Bank the affairs of the company or any associated person are being conducted in a manner prejudicial to the soundness of the financial institution in question or the financial system of Belize; and
  - (h) any other matter which the Central Bank may prescribe.

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5. Examines the organizational structure of the financial institution and applicant or acquirer of the financial institution or the merged or acquired entity, paying particular attention to the reporting lines of control functions (e.g. internal audit, risk and compliance) within the financial institution; and
  
6. Examines the pre- and post-merger group structure. The group structure and accompanying documentation must clearly illustrate all the entities in the group, identify their main activities, indicate whether the entity is regulated or not and if regulated, specify the name of the regulator, and indicate the percentage of shareholding held.

**F. A business risk assessment**

1. The rationale for the merger or acquisition. Is it sound and informed by appropriate due diligence and risk analysis of current, emerging, and future risks and prospects;
  
2. The business plan and strategy for the merged or acquired entity and the impact on the group;
  
3. Whether the 3 to 5 year projected pro-forma financial statements reflect the business plan and strategy for the merged or acquired entity;
  
4. The due diligence report and feasibility studies conducted by the applicant(s) for the merger or acquisition;
  
5. The impact of the proposed merger or acquisition on the interests of depositors or the financial system;
  
6. The nature of products / services to be offered by the merged or acquired entity;

7. The key risks of the acquired or merged entity and policies for the mitigation of those risks,  
  
e.g. credit, market, operational, liquidity, anti-money laundering, and technology / cyber; and
8. The corporate governance and code of ethics policies are also reviewed.

**G. Information technology risk assessment**

1. Determine whether the Information Technology (IT) systems of the entities to be merged or acquired are compatible and can be easily integrated. If not, what are the IT plans and the timeframe for it to be addressed? What are the potential implications for regulatory reporting?
2. Determine whether there is a plan to ensure that data is migrated correctly.
3. Determine if consolidated reporting and risk assessments can be supported by the IT system?
4. Determine whether data is always kept safe (confidentiality and integrity of the data).
5. Determine if the IT System is able to provide management with information that is accurate, timely and relevant to manage the institution's risks. The system should be integrated with minimal manual intervention, and the risks emanating within various departments should be consolidated in the management reports.

6. The IT System should also be able to serve the needs of its customers adequately.

**H. Market concentration / public interest risk assessment**

1. The impact of the merger or acquisition on concentrations and competition. What is the proposed market share that the merged entity or the applicant or acquirer would control post-merger or acquisition; and
2. Whether the entity being acquired market share of assets is a minimum of fifteen percent or the market share of assets of the entity acquiring the shares, assets, and or liabilities of another entity is twenty-five percent or more.

**I. Financial Stability (contagion risk assessment)**

1. A comprehensive interconnectedness and contagion analysis should be performed pre- and post- merger or acquisition;
2. In determining whether sufficient consideration has been given to potential interconnectedness the following should be considered—
  - (a) scope and potential threat to systemic stability;
  - (b) mapping of Interbank Exposures;
  - (c) mapping of Cross-Sectoral Exposures;
  - (d) mapping of Cross-Border Exposures;

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- (e) calculation of the expected capital or liquidity shortfall of individual institutions; and
  - (f) Other sources of systemic risk such as (natural disasters, pandemics, climate change, or global affairs).
- 3. The use of stress testing along with the contagion analysis to form a view of systemic risks in the financial system, pre- and post-merger or acquisition; and
- 4. The supervisory process could be aided by knowledge regarding where the economy is with regard to the business and credit cycles and how markets have been performing overall.

### **J. A legal and regulatory risk assessment**

- 1. The draft constituent documents (association, memorandum of association, certificate of incorporation / continuance / bylaws / annual returns) for the merged entity, the applicant or acquirer, and the entity to be merged or acquired;
- 2. The terms and conditions of the proposed share purchase agreement / sale agreement / acquisition agreement. For example, whether these agreements were made subject to receiving regulatory approval;
- 3. Letters of approval/ no objection from other domestic or foreign regulators, as relevant;
- 4. Regulatory examination reports;
- 5. The history of compliance and non-compliance of all applicants in respect of matters such as governing legislation, guidelines and

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supervisory directives. Cross-border supervisory issues with other regulators would also be assessed;

6. International anti-money laundering / countering the financing of terrorism databases (e.g. World Check, United Nations terrorist lists, etc.); and
7. Whether the resulting post acquisition group structure is supervisable.

#### **K. Human resource and people risk analysis which considers–**

1. The pre- and post- merger or acquisition staffing plans, including any separation plans for staff;
2. Whether change management or integration plans have been developed to ensure the success of the merger or acquisition;
3. Whether sufficient consideration has been given to potential human resource issues such as employee anxiety or dissatisfaction as a consequence of the merger or acquisition;
4. Potential cultural or language barriers that may adversely impact the success of the merger or acquisition. Accordingly, where applicable, official translations of all relevant documents should be submitted to the Central Bank. Documents must be accompanied by official attestation as to their accuracy. This may include a requirement for an apostille or other formal declaration;
5. Whether there is key person risk; and

6. In addition, the Central Bank may consider such other factors as may be relevant to the particular transaction being undertaken. Accordingly, the documentation to be submitted with the application must be sufficiently clear to enable an adequate assessment of the key issues stipulated in this section, as applicable.

**L. Consolidated Supervision**

1. The financial group pre- and post- transaction must be structured in such a manner as to facilitate consolidated supervision of the entities in the group;
2. The laws of the home / host jurisdiction must permit consolidated supervision of all financial entities in the group by a home / host supervisor;
3. Where the financial institution is part of a mixed conglomerate group, the financial entities in the group must be appropriately ring-fenced from the non-financial entities in the group by the establishment of a financial holding company;
4. The complexity of the group structure and whether there are opaque structures in the group that may hinder transparency, access to information and consolidated supervision. For example, is the proposed structure indicative of a parallel owned banking group;
5. Whether language barriers may contribute to compliance issues or compromise the adequacy of regulatory reporting on a consolidated basis;
6. Whether there are legal barriers which address issues such as the sharing of information;



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7. Whether holding companies or financial entities in the group are located in jurisdictions sanctioned by the Financial Action Task Force or other similar international regulatory bodies for non-compliance with anti-money laundering or tax laws;
  
8. Both the DBFIA and the IBA contain provisions that would allow the Central Bank to require the restructuring of a group to facilitate consolidated supervision. The structure of the financial group should be transparent to enable easy identification of all significant and controlling shareholders and the ultimate beneficial owners; and
  
9. Where the licensee, financial holding company is part or will become part of a financial group after a merger or acquisition, the financial group must demonstrate its ability to maintain appropriate corporate governance, management, internal control and risk-management systems, including internal audit and compliance, in order to monitor and limit all the risk exposures within the risk tolerance levels approved by the board upon completion of the transaction.

### **M. Correspondent banking relationship**

1. Disruptive effects on domestic financial system and commercial services, cross-border trade finance, and electronic transfers and remittances, as these may undermine financial stability, and economic growth;
  
2. Determine the willingness of correspondent bank(s) to service merged entity; and
  
3. Any reduction in the availability of foreign exchange, which will possibly increase activity in the informal cash economy, increase the possibility of laundering money and terrorist financing.

**N. Foreign Exchange**

1. The merger or acquisition is compliant with the Exchange Control Regulations Act or the regulations made thereunder; and
2. The merger or acquisition does not threaten the availability and stability of foreign reserves.

**O. Prudential factors assessment**

1. The financial performance assessment with a focus on:
  - (a) Capital - the level of capital should be above the regulatory requirement and commensurate with the licensees business strategy and risk profile;
  - (b) Liquidity - should be above the regulatory requirement and are high-quality liquid assets;
  - (c) Credit Risk (asset quality) – should be in line with industry benchmarks set by the Central Bank and sound estimated credit loss methodologies; and
  - (d) Profitability- using the ratios such as gross profit margin, net profit margin, return on assets, return on equity and cash flow margin.
2. A pre- and post-merger or acquisition stress tests on the licensee's capital adequacy ratio, liquidity ratio, non-performing loan ratio, and income to determine if the licensee would remain resilient under all shock scenarios.

**P. Exposures to related parties**

1. A detailed list of assets and liabilities to be merged or acquired, clearly indicating all related party assets to be merged or acquired valued as at a date to be specified.

**Q. Vesting Orders**

1. The vesting of assets, rights, liabilities and obligations of one company in another company may occur to effect a merger or acquisition;
2. The applicant must inform the Central Bank at the time of the submission of the application whether they intend to apply to the House of Representatives for a vesting order;
3. Thereafter, the licensee is responsible for obtaining updates on the status of the application from the House of Representatives; and
4. A copy of the vesting order must be provided to the Central Bank within fourteen (14) days of receipt.

**R. Application Documents**

1. Joint application from each company that is party to the merger or acquisition.
2. Financial Information
  - (a) Audited financial statements of the applicant(s) for the last 5 years, including the most recent financial year;
  - (b) Audited opening balance sheet where the former is not the case;

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- (c) At least a three (3) year projected Financial Statements (this should include: the statement of financial position, statement of comprehensive income, cash flow projections, with the relevant assumptions detailed);
- (d) Details of funding / financing of the transaction and evidence of the ability to financing the transaction and meet capital requirements;
- (e) Dividend policy of the applicant or acquirer;
- (f) Proposed dividend policy for the entity being acquired or merged; and
- (g) Report by an Actuary.

### 3. Governance Information

- (a) List of all nominal and beneficial shareholders of the entities to be merged or acquired;
- (b) Name of the ultimate beneficial owner(s) of the proposed merged company or acquired entity;
- (c) Personal bio-graphical report for each shareholder and director;
- (d) Statement of Affairs (Source of Wealth) for shareholders/ultimate beneficial owners;
- (e) Corporate governance policies or charter for the merged / acquired entity, including any group policies;
- (f) Pre- and post- merger or acquisition group structure; and
- (g) Copies of the Board resolution approving the transaction.

### 4. Business / Operational Information

- (a) At least a five (5) year Strategic Plan of the applicant or acquirer and the entity to be merged or acquired, which includes target dates;
- (b) At least a three (3) year Business plan(s) for the merged/ acquired entity. The business plan should inform the three (3) year

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projected pro-forma financial statements required to be submitted;

- (c) Detailed due diligence report or conducted for the transaction which clearly identifies strengths, weaknesses, opportunities, and threats to the transaction, including all material risks and risk mitigation strategies. The due diligence report should clearly identify and consider any market share / competition issues that may arise from the transaction;
- (d) Information Technology (IT) consolidation / integration plan;
- (e) Rationale on which the application for license is based;
- (f) Outsourced functions and arrangements;
- (g) Correspondent banking relationships arrangements;
- (h) List of material lawsuits brought in various jurisdictions, settlement agreements reached with other parties to claims and orders, awards and judgments made by courts and tribunals (if any);
- (i) The extent, if any, that there are or will be transactions with affiliated;
- (j) The existing or proposed contracts with related affiliates;
- (k) Listing of all products / services of the entity to be merged or acquired;
- (l) Key risk management policies pertaining to capital, credit, market, operational, anti-money laundering, liquidity, and technology risks;
- (m) Business continuity and recovery plans; and
- (n) Where the entity has an international rating, the independent assessment from an international rating agency.

### 5. Legal and Regulatory

- (a) Proposed Share Purchase / Sale Agreement / Acquisition Agreement;

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- (b) Signed Share Purchase / Sale Agreement / Acquisition Agreement;
- (c) Terms and Conditions of the agreements;
- (d) Pre and Post closing conditions;
- (e) Draft Vesting Order;
- (f) Certificate of Good Standing from Regulator/Supervisor (if foreign-owned bank);
- (g) Approval from regulator/supervisor (if foreign-owned bank);
- (h) Executed Vesting Order;
- (i) Copies of documents filed at the Companies Registry (post-approval/confirmation. This includes articles of association, memorandum of association, Certificate of Incorporation, and annual returns) for the merged entity, the applicant or acquirer and the entity to be merged or acquired; and
- (j) Copies of regulatory approvals / No objection letters from all jurisdictions or regulatory authorities for entities which are party to the transaction

6. Human resources and people

- (a) Proposed organizational and operational structure for the merged or acquired entity showing clearly the reporting lines of officers and control functions to the CEO and/or the Board;
- (b) Copies of the staff bulletins, press releases and other such information generated or to be issued relating to the transaction;
- (c) Where the Central Bank is satisfied that the scheme of merger or acquisition is ready to merge, the Central Bank shall direct the applicants to publish in the Gazette and in at least two daily newspapers circulated in Belize as may be approved by the Central Bank, a notice of intention to merge or acquire within twenty (20) business days of the date of such direction; and

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- (d) A copy of the proposed notice of intention of merger or acquisition to the Central Bank for approval to ensure the duration and content of the wording is appropriate.

7. Group Structure

- (a) Pre- and post- transaction group structure showing clearly the position of the merged or acquired entity in the group as well as all subsidiaries and affiliated companies and the percentage shareholding by the parent company of each entity in the group;
- (b) List (including description) of the business of the entities in the group and whether regulated in this jurisdiction or elsewhere and the name of the regulatory agency, where applicable;
- (c) List of the companies' divestments and acquisitions in the past 5 years;
- (d) Corporate Chart, which should clearly show the relationship of the licensee to parent company, subsidiary, and other affiliated companies, where applicable; and
- (e) Management staffing and operational structure.”