



**FINANCIAL INSTITUTIONS (AMENDMENT)
ACT, 2011**

(Act 23 of 2011)

I assent



J. A. Michel
President

22nd December, 2011

AN ACT to amend the Financial Institutions Act, 2004.

ENACTED by the President and the National Assembly.

**1. This Act may be cited as the Financial Institutions
(Amendment) Act, 2011.**

Short title

Amendment of
Act of 1994

2. The Financial Institutions Act, 2004 is amended as follows—

(a) in section 2—

(i) by inserting between the definition of “credit” and “debt security” the following definition—

“Credit Information System” means a Credit Information System established under the Central Bank of Seychelles Act, 2004;

(ii) by repealing the words and definition of “non-resident”;

(iii) by repealing the words and definition of “offshore banking business”;

(b) in section 3—

(i) by repealing in subsection (1) the words “offshore banking business” and repealing paragraph (b) and renumbering paragraph (c) as (b);

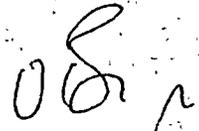
(ii) by repealing in subsection (2) the words “, offshore banking business”;

(c) in section 6 by adding after subsection (1) paragraph (i) the following—

“(j) any risks or corporate activities which may affect the applicant or the international standing and good repute of Seychelles;

- (v) by repealing section 73;
 - (w) in section 74 by repealing the brackets and figures "(3) and (4)" and substituting therefor the word, bracket and figure "and(3)";
 - (x) in section 75 by repealing in subsection (1) the comma and words "offshore banking licence".
 - (y) by repealing the letter "R" and substituting therefor the letters "SCR" where ever it appears in this Act.
 - (z) by repealing the words "Commissioner of Taxes" and substituting therefor the words "Revenue Commissioner" wherever it appears in the Act;
- (aa) by repealing Schedule 6.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 13th December, 2011.



Veronique Bresson
Clerk to the National Assembly

- (k) any other criteria as the Central Bank considers relevant";
- (d) in section 9 by repealing in subsection (6) the figure "(6)" and substituting therefor the figure "(5)";
- (e) in section 10—
 - (i) by inserting in subsection (3) between the words "a" and "licence" where it occurs in the second place the word "banking" and by repealing the word "licence" where it occurs in the third place and substituting the word "annual" and by repealing the words "the licence shall cease to be valid at the beginning of the year for which the fee is due" and substituting therefor the words "the bank shall be subject to an additional charge of 1 percent of the annual fee, per day";
 - (ii) by adding after subsection (3) the following new subsection —

"(4) With exception of the year in which a licence is granted, where the holder of a bureau de change licence fails to pay the annual fee prescribed under subsection (1) before the beginning of the year for which the annual fee is due, the bureau de change shall be subject to an additional charge of 10 percent of the annual fee, per day.";
- (f) in section 12 —
 - (i) by repealing in subsection (1) the word "No" and substituting therefor "A" and

repealing the comma (,) after the word "shall" and inserting between the words "shall," and "without" the word "not";

(ii) by inserting in subsection (1) paragraph (a) between the words "is" and "doing" the words "incorporated, registered or";

(iii) by repealing in subsection (2) the word "No" and substituting therefor "A" and repealing the comma (,) after the word "shall" and inserting between the words "shall," and "without" the word "not" and inserting between the words "is" and "doing" the words "incorporated, registered or";

(g) in section 13 by adding in subsection (1) after paragraph (i) the following—

"(j) fails to pay the annual fee or charges within 14 days after the due date.";

(h) in section 31—

(i) by repealing section 31 and substituting therefor the following—

"Restriction on payment of dividend

31. A local financial institution shall not pay any dividend on its shares and a foreign financial institution shall not transfer overseas any profits earned in Seychelles, unless the Central Bank is satisfied, that—

(a) all capitalised expenses and items of expenditure not represented by

instruments issued under section 9(1) and regulations made under section 69 of this Act commits an offence and upon conviction is liable to a fine of SCR 400,000.";

(iii) by repealing the words "punishable on conviction with" and substituting therefor the words "and upon conviction is liable to" where ever it appears in this section.

(s) in section 69 by adding after paragraph (b)(ii) the following new paragraph—

"(c) prescribing fees or charges for services provided by financial institutions.";

(t) by repealing section 71 and substituting therefor the following—

"Non-application of Act

71. Except where it is otherwise expressly provided in this Act or any other written law the provisions of this Act in whole or in part shall not apply to persons prescribed by regulations."

(u) in section 72—

(i) by repealing in subsection (1) the word "only";

(ii) by repealing in subsection (1) the words "by accepting a sum of money amounting to one third of the maximum fine but not exceeding the maximum fine specified for the offence" and substituting therefor the words "as prescribed by regulations.";

- (m) contravenes or fails to comply with prudential requirements pursuant to sections 27, 28, 29(1), 29(2), 30, 31, 32 and 33 commits an offence and upon conviction is liable to a fine of SCR 400,000;
- (n) contravenes or fails to comply with accounts, audit and information requirements pursuant to sections 35, 36, 37, 39 and 41 commits an offence and upon conviction is liable to a fine of SCR 400,000;
- (o) fails or unreasonably delays to notify the Central Bank pursuant to sections 9(4), 9(5) and 11(3), or to obtain a written approval of the Central Bank pursuant to sections 4(3), 11(1), 12 (5), 43(1) and 57 commits an offence and upon conviction is liable to a fine of SCR 40,000;
- (p) fails to comply with measures taken by the Central Bank pursuant to section 53 commits an offence and upon conviction is liable to a fine of SCR 400,000;
- (q) fails to comply with prohibitions specified in sections 55 and 56 commits an offence and upon conviction is liable to a fine of SCR 40,000;
- (r) contravenes or fails to comply with statutory directions and

- tangible assets have been written off,
- (b) the payment of dividend or any other transfer from profits will not cause the bank to be in contravention of the requirement in capital adequacy, reserve fund, liquidity or any other prudential requirement deemed relevant or likely to impair the future capital adequacy or liquidity of the bank; and
- (c) provisions have been made in respect of impaired credits.”
- (i) in section 36 by repealing in subsection (8) the figure “5” and substituting therefor the figure “4”;
- (j) in section 38—
 - (i) by repealing in subsection (2) the figure “5” and substituting therefor the figure “4”;
 - (ii) by adding after subsection (2) the following new subsection—
 - “(2)(A) A financial institution shall submit draft audited reports and financial statements and consult the

Central Bank not later than 3 months after the end of the financial year.”;

- (k) in section 41 by repealing the words “, and any guidelines the Central Bank may issue in this regard.” and substituting therefor the words “in any directions issued by the Central Bank.”
- (l) in section 43 by repealing in subsection (4) paragraph (a) the bracket and figure (1) and substituting therefor the brackets, figures and word “(2) and (3)”;
- (m) in section 45—
 - (i) by repealing the word “No” and substituting therefor the word “An” and inserting between the words “shall” and “ask” the word “not”;
 - (ii) by repealing the marginal note and substituting therefor the words “Bribery and collusion”;
- (n) in section 50 by adding after subsection (4)(b) the following—
 - “(c) the obligations of the Central Bank to disseminate information to participating institutions of the Credit Information System.”;
- (o) in section 51 by repealing in subsection (1) the words “with local or foreign supervisory authorities. The exchange of such information may include confidential information,” and substituting therefor the words “with foreign or local supervisory authorities, foreign or local

public sector agencies or law enforcement agencies when required by law,” and repealing the words “at the local or foreign supervisory authority.” and substituting therefor the words “with the foreign or local supervisory authorities, public sector agencies or law enforcement agencies.”

- (p) in section 56 subsection (3) by repealing the words “or to conduct offshore banking business”;
- (q) by repealing section 58;
- (r) in section 63—
 - (i) by adding in subsection (1) after paragraph (l) the following—
 - “(m) fails to obtain a written approval from the Central Bank pursuant to sections 12(1), 12(2), 12(4) and 46(1) commits an offence and upon conviction is liable to a fine of SCR 40,000.”
 - (ii) by adding in subsection (2) after paragraph (j) the following—
 - (k) fails to comply with section 8 of this Act commits an offence and upon conviction is liable to a fine of SCR 40,000;
 - (l) contravenes or fails to comply with reserve fund requirements pursuant to section 24 commits an offence and upon conviction is liable to a fine of SCR 400,000;